

907 KAR 3:225. Specialty intermediate care (IC) clinic service and coverage policies and requirements.

RELATES TO: KRS 205.520(3)

STATUTORY AUTHORITY: KRS 194A.010(1), 194A.030(2), 194A.050(1), and 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 Medicaid program service and coverage policies and requirements regarding specialty intermediate care clinic services.

Section 1. Definitions.

- (1) "1915(c) home and community based services waiver program" means a Kentucky Medicaid program established pursuant to and in accordance with 42 U.S.C. 1396n(c).
- (2) "Audiologist" is defined by KRS 334A.020(5).
- (3) "Behavior Analyst Certification Board" means the nonprofit corporation:
 - (a) Established in 1998; and
 - (b) Known as the Behavior Analyst Certification Board®, Inc.
- (4) "Board certified behavior analyst" means an individual who is currently certified by the Behavior Analyst Certification Board as a certified behavior analyst.
- (5) "Clinical laboratory" means a medical laboratory pursuant to KRS 333.020(3).
- (6) "Department" means the Department for Medicaid Services or its designee.
- (7) "Developmental disability" means a severe chronic disability which:
 - (a) Is attributable to a mental or physical impairment or combination of mental and physical impairments manifested before the person attains the age of twenty-two (22);
 - (b) Is likely to continue indefinitely;
 - (c) Results in substantial limitations in three (3) or more areas of major life activity including:
 1. Self-care;
 2. Receptive and expressive language;
 3. Learning;
 4. Self direction;
 5. Mobility; and
 6. Capacity for independent living and economic sufficiency; and
 - (d) Requires individually planned and coordinated services of a lifelong or extended duration.
- (8) "Enrollee" means an individual who is enrolled with a managed care organization for the purposes of receiving Medicaid program or KCHIP program covered services.
- (9) "Epileptologist" means a physician who specializes in treating patients who have epilepsy.
- (10) "Federal financial participation" is defined in 42 C.F.R. 400.203.
- (11) "Functional assessment" means an assessment performed using evidenced-based tools, direct observation, and empirical measurement to obtain and identify functional relations between behavioral and environmental factors.
- (12) "Intellectual disability" means an individual has:
 - (a) Sub-average intellectual functioning;
 - (b) An intelligence quotient of seventy (70) or below;
 - (c) Concurrent deficits or impairments in present adaptive functioning in at least two (2) of the following areas:

1. Communication;
2. Self-care;
3. Home living;
4. Social or interpersonal skills;
5. Use of community resources;
6. Self-direction;
7. Functional academic skills;
8. Work;
9. Leisure; or
10. Health and safety; and

(d) Had an onset prior to eighteen (18) years of age.

(13) "Licensed psychological associate" means an individual who is currently licensed in accordance with KRS 319.064.

(14) "Licensed psychological practitioner" means an individual who is currently licensed in accordance with KRS 319.053.

(15) "Licensed psychologist" means an individual who is currently licensed in accordance with KRS 319.050.

(16) "Managed care organization" or "MCO" 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.

(17) "Medically necessary" means determined by the department to be needed in accordance with 907 KAR 3:130.

(18) "Mental illness" is defined by KRS 210.005(2).

(19) "Neurologist" means a physician who specializes in neurology.

(20) "Occupational therapist" is defined by KRS 319A.010(3).

(21) "Occupational therapist assistant" is defined by KRS 319A.010(4).

(22) "Ophthalmic dispenser" means an individual licensed to perform ophthalmic dispensing in accordance with KRS 326.030.

(23) "Ophthalmic dispensing" is defined by KRS 326.010(2).

(24) "Physical therapist" is defined by KRS 327.010(2).

(25) "Physical therapist assistant" means a skilled health care worker who:

(a) Is certified by the Kentucky Board of Physical Therapy; and

(b) Performs physical therapy and related duties as assigned by the supervising physical therapist.

(26) "Physical therapy" is defined by KRS 327.010(1).

(27) "Physician" is defined by KRS 311.550(12).

(28) "Physician services" means the practice of medicine or osteopathy provided by a physician.

(29) "Positive behavior support specialist" means an individual who:

(a) Provides:

1. Evidence-based individual interventions that assist a recipient with acquiring or maintaining skills for community living; and

2. Behavioral intervention to reduce maladaptive behaviors;

(b) Has a master's degree in a behavioral science and one (1) year of experience in behavioral programming; and

(c) Has at least one (1) year of direct services with individuals with an intellectual or developmental disability.

(30) "Practice of medicine or osteopathy" is defined by KRS 311.550(11).

(31) "Practice of psychology" is defined by KRS 319.010(6).

(32) "Psychiatrist" is defined by KRS 504.060(8).

(33) "Psychological services" means the practice of psychology.

- (34) "Psychotropic medication" means a medication that is prescribed to treat the symptoms of a psychiatric disorder.
- (35) "Recipient" is defined by KRS 205.8451(9).
- (36) "Rural health clinic" is defined by 42 C.F.R. 405.2401(b).
- (37) "Specialty intermediate care clinic" or "specialty IC clinic" means a clinic licensed pursuant to 902 KAR 20:410.
- (38) "Speech-language pathologist" is defined by KRS 334A.020(3).

Section 2. Conditions of Participation. A specialty intermediate care clinic service shall be provided by an individual:

- (1) Employed by a specialty intermediate care clinic; or
- (2) Working for a specialty intermediate care clinic via a contractual agreement.

Section 3. Eligible Population.

- (1) To be eligible to receive specialty IC clinic services, an individual shall:
 - (a) Be a recipient:
 - (b) Have a mental illness, intellectual disability, or developmental disability; and
 - (c) Meet the patient status criteria established in:
 - 1. 907 KAR 1:022, Section 4(4); or
 - 2. 907 KAR 1:022, Section 4(5).
- (2)
 - (a) A recipient shall be eligible to receive services stated in Section 5 of this administrative regulation:
 - 1. In accordance with the requirements established in Section 5 of this administrative regulation if the recipient is:
 - a. Eligible in accordance with subsection (1) of this section;
 - b. Receiving services via:
 - (i) A 1915(c) home and community services waiver program; or
 - (ii) An intermediate care facility for individuals with an intellectual disability;
 - and
 - 2. Not enrolled with a managed care organization; or
 - 3. In accordance with Section 6(3) of this administrative regulation.
 - (b) A recipient shall be eligible to receive services stated in Section 6 of this administrative regulation and in accordance with the requirements established in Section 6 of this administrative regulation if the recipient is:
 - 1. Eligible in accordance with subsection (1) of this section;
 - 2. Not receiving services via:
 - a. A 1915(c) home and community services waiver program; or
 - b. An intermediate care facility for individuals with an intellectual disability; and
 - 3. Enrolled with a managed care organization.

Section 4. General Requirements Regarding Services.

- (1)
 - (a) The department shall:
 - 1. Reimburse for a specialty IC clinic service if the service was:
 - a. Medically necessary; and
 - b. Provided:
 - (i) By a specialty IC clinic; and
 - (ii) To an individual who is eligible to receive specialty IC clinic services pursuant to Section 3(1) and either Section 3(2)(a) or 6(3) of this administrative regulation; or
 - 2. Not reimburse for a specialty intermediate care clinic service if the service does not:

- a. Meet the criteria established in subparagraph 1. of this paragraph; or
 - b. Comply with subsection (2) of this section.
- (b) A managed care organization shall:
- 1. Reimburse for a specialty IC clinic service if the service was:
 - a. Medically necessary; and
 - b. Provided:
 - (i) By a specialty IC clinic; and
 - (ii) To an individual who is eligible to receive specialty IC clinic services pursuant to Section 3(1) and (2)(b) of this administrative regulation; or
 - 2. Not reimburse for a specialty intermediate care clinic service if the service does not:
 - a. Meet the criteria established in subparagraph 1 of this paragraph; or
 - b. Comply with subsection (2) of this section.
- (2) Services provided at a specialty IC clinic shall comply with the requirements established in 42 C.F.R. 440.90.

Section 5. Specialty Intermediate Care Clinic Services for Recipients Who are Not Enrolled with a Managed Care Organization. The following shall be the covered specialty intermediate care clinic services for an individual who is not enrolled with a managed care organization and who is eligible in accordance with Section 3(1) and (2)(a) of this administrative regulation:

- (1) Dental services provided:
 - (a) By an authorized practitioner in accordance with 907 KAR 1:026; and
 - (b) In accordance with the limits established in 907 KAR 1:026;
- (2) Psychiatric services provided by a:
 - (a) Psychiatrist or physician in accordance with the psychiatric service limit established in 907 KAR 3:005; or
 - (b) Advanced practice registered nurse in accordance with the psychiatric service limit established in 907 KAR 1:104;
- (3) Psychological services provided by a licensed psychologist, licensed psychological practitioner, or licensed psychological associate;
- (4) Psychotropic medication management provided by an advanced practice registered nurse, physician, or psychiatrist;
- (5) Neurology services provided by a neurologist;
- (6) Epileptology services provided by an epileptologist;
- (7) Preventive health care;
- (8) Primary and sub-specialist medical assessment and treatment;
- (9) Occupational therapy provided:
 - (a) By an occupational therapist or occupational therapist assistant; and
 - (b) In accordance with the limits and requirements established in Section 6 of this administrative regulation;
- (10) Physical therapy provided:
 - (a) By a physical therapist or physical therapist assistant; and
 - (b) In accordance with the limits and requirements established in Section 6 of this administrative regulation;
- (11) Speech therapy provided:
 - (a) By a speech-language pathologist; and
 - (b) In accordance with the limits and requirements established in Section 6 of this administrative regulation;
- (12) Nutritional or dietary consultation;
- (13) Mobility evaluation or treatment;
- (14) Positive behavioral support services which shall:

- (a) Be the systematic application of techniques and methods to influence or change a behavior in a desired way;
- (b) Be provided to assist a recipient to learn a new behavior that is directly related to existing challenging behaviors or a functionally equivalent replacement behavior for identified challenging behaviors;
- (c) Include a functional assessment of the recipient's behavior which shall include:
 - 1. An analysis of the potential communicative intent of the behavior;
 - 2. The history of reinforcement for the behavior;
 - 3. The critical variables that preceded the behavior;
 - 4. The effects of different situations on the behavior; and
 - 5. A hypothesis regarding the motivation, purpose, and factors which maintain the behavior;
- (d) Include the development of a positive behavioral support plan which shall:
 - 1. Be developed by a behavioral support specialist;
 - 2. Be implemented by staff in all relevant environments and activities;
 - 3. Be revised as necessary at least once every six (6) months;
 - 4. Define the techniques and procedures used;
 - 5. Be designed to equip the recipient to communicate his or her needs and to participate in age-appropriate activities;
 - 6. Include the hierarchy of behavior interventions ranging from the least to the most restrictive;
 - 7. Reflect the use of positive behavioral approaches; and
 - 8. Prohibit the use of prone or supine restraint, corporal punishment, seclusion, verbal abuse, or any procedure which denies private communication, requisite sleep, shelter, bedding, food, drink, or use of a bathroom facility;
- (e) Include the provision of competency-based training to other providers concerning implementation of the positive behavioral support plan;
- (f) Include the monitoring of a recipient's progress which shall be accomplished through:
 - 1. The analysis of data concerning the frequency, intensity, and duration of behavior; and
 - 2. The reports of a provider involved in implementing the positive behavioral support plan;
- (g) Provide for the design, implementation, and evaluation of systematic environmental modifications;
- (h) Be provided by a behavioral support specialist; and
- (i) Be documented by a detailed staff note which shall include:
 - 1. The date of the service;
 - 2. The beginning and end time; and
 - 3. The signature, date of signature, and title of the behavior support specialist;
- (15) Audiology provided by an audiologist and in accordance with the following:
 - (a) The limits established in 907 KAR 1:038 for services provided to an individual under the age of twenty-one (21) years shall be the limits for audiology services provided in a specialty intermediate care clinic regardless of the recipient's age; and
 - (b) The restriction established in 907 KAR 1:038 of not covering audiology services for an individual who is at least twenty-one (21) years of age shall not apply to audiology services provided in a specialty intermediate care clinic;
- (16) Ophthalmic dispensing provided by an ophthalmic dispenser;
- (17) A prescribed drug covered in accordance with 907 KAR 23:010;
- (18) Medication consultation;
- (19) Medication management;
- (20) Seizure management;

- (21) Diagnostic services;
- (22) Clinical laboratory services;
- (23) Physician services in accordance with the limits and requirements established in 907 KAR 3:005; or
- (24) Laboratory services in accordance with the limits and requirements established in 907 KAR 1:028.

Section 6. Specialty Intermediate Care Clinic Services for Recipients Who are Enrolled with a Managed Care Organization.

(1) The following shall be the covered specialty intermediate care clinic services for an individual who is enrolled with a managed care organization and who is eligible in accordance with Section 3(1) and (2)(b) of this administrative regulation:

(a) Dental services provided in accordance with 907 KAR 1:026 except that a dentist who is employed by or under contract with a specialty IC clinic shall be authorized to provide the services;

(b) Physician services provided in accordance with 907 KAR 3:005 except that:

1. A physician who is employed by or under contract with a specialty IC clinic shall be authorized to provide the services; or

2. An advanced practice registered nurse who is employed by or under contract with a specialty IC clinic shall be authorized to provide the services;

(c) Psychiatric services provided in accordance with 907 KAR 3:005 except that:

1. A psychiatrist who is employed by or under contract with a specialty IC clinic shall be authorized to provide the services;

2. A physician who is employed by or under contract with a specialty IC clinic shall be authorized to provide the services; or

3. An advanced practice registered nurse who is employed by or under contract with a specialty IC clinic shall be authorized to provide the services;

(d) Behavioral health services in accordance with:

1. 907 KAR 1:054 except that:

a. A clinical psychologist who is employed by or under contract with a specialty IC clinic shall be authorized to provide the services; or

b. An advanced practice registered nurse who is employed by or under contract with a specialty IC clinic shall be authorized to provide the services;

2. 907 KAR 1:082 except that:

a. A clinical psychologist who is employed by or under contract with a specialty IC clinic shall be authorized to provide the services; or

b. An advanced practice registered nurse who is employed by or under contract with a specialty IC clinic shall be authorized to provide the services; or

3. 907 KAR 1:044 except:

a. That:

(i) A clinical psychologist who is employed by or under contract with a specialty IC clinic shall be authorized to provide the services;

(ii) A psychiatrist who is employed by or under contract with a specialty IC clinic shall be authorized to provide the services; or

(iii) An advanced practice registered nurse who is certified in the practice of mental health nursing and who is employed by or under contract with a specialty IC clinic shall be authorized to provide services as established in subsection (2)(b) of this section; and

b. For the following which shall not be covered if provided by a specialty IC clinic:

(i) Inpatient services;

(ii) Therapeutic rehabilitation services for adults;

- (iii) Therapeutic rehabilitation services for children; or
 - (iv) Services in a detoxification setting;
 - (e) Audiology services provided in accordance with 907 KAR 1:038 except that an audiologist who is employed by or under contract with a specialty IC clinic shall be authorized to provide the services;
 - (f) Ophthalmic dispensing provided by an ophthalmic dispenser in accordance with 907 KAR 1:038 except that an ophthalmologist who is employed by or under contract with a specialty IC clinic shall be authorized to provide the services;
 - (g) A prescribed drug covered in accordance with 907 KAR 23:010 except that a pharmacist who is employed by or under contract with a specialty IC clinic shall be authorized to provide the services;
 - (h) Preventive health care in accordance with 907 KAR 3:005 except that:
 - 1. A physician who is employed by or under contract with a specialty IC clinic shall be authorized to provide the services; or
 - 2. An advanced practice registered nurse who is employed by or under contract with a specialty IC clinic shall be authorized to provide the services;
 - (i) Occupational therapy in accordance with 907 KAR 3:005 except that an:
 - 1. Occupational therapist who is employed by or under contract with a specialty IC clinic shall be authorized to provide the services; or
 - 2. Occupational therapy assistant who is employed by or under contract with a specialty IC clinic shall be authorized to provide the services;
 - (j) Physical therapy in accordance with 907 KAR 3:005 except that a:
 - 1. Physical therapist who is employed by or under contract with a specialty IC clinic shall be authorized to provide the services; or
 - 2. Physical therapist assistant who is employed by or under contract with a specialty IC clinic shall be authorized to provide the services;
 - (k) Speech therapy in accordance with 907 KAR 3:005 except that a speech language pathologist who is an employee of or under contract with a specialty IC clinic shall be authorized to provide the services;
 - (l) Diagnostic services in accordance with 907 KAR 1:014, 907 KAR 1:054, 907 KAR 1:082, or 907 KAR 3:005 except that:
 - 1. A physician who is employed by or under contract with a specialty IC clinic shall be authorized to provide the services; or
 - 2. An advanced practice registered nurse who is employed by or under contract with a specialty IC clinic shall be authorized to provide the services; or
 - (m) Laboratory services in accordance with 907 KAR 1:028 except that if a specialty IC clinic's laboratory does not meet the requirements of 907 KAR 1:028, the specialty IC clinic shall be authorized to provide the services via a contractual relationship with a laboratory which meets the requirements of 907 KAR 1:028.
- (2)
- (a) The use of prone or supine restraint, corporal punishment, seclusion, verbal abuse, or any procedure which denies private communication, requisite sleep, shelter, bedding, food, drink, or use of a bathroom facility shall be prohibited for any behavioral health service.
 - (b) In accordance with 907 KAR 1:044, an advanced practice registered nurse who is certified in the practice of mental health nursing and who is employed by or under contract with a specialty IC clinic shall be authorized to provide:
 - 1. Chemotherapy services if the APRN meets the requirements of 201 KAR 20:057, Section 2(1) and Sections 6(1) to (3); or
 - 2. Psychiatric evaluations and testing if the APRN meets the requirements of 201 KAR 20:057, Section 2(1).

(3) The department, rather than a managed care organization, shall reimburse for a service that is:

- (a)
 - 1. Listed in Section 5 of this administrative regulation; and
 - 2. Not covered by a managed care organization for an individual who is:
 - a. Eligible for the service in accordance with Sections 3(1), (2)(b), and 4 of this administrative regulation; and
 - b. Enrolled with a managed care organization; or
- (b)
 - 1. Needed in excess of the limit for the service established in this section;
 - 2. Within the limit for the service established in Section 5 of this administrative regulation;
 - 3. Medically necessary as determined by the department pursuant to 907 KAR 3:130; and
 - 4. For an individual who is:
 - a. Eligible for the service in accordance with Sections 3(1), (2)(b), and 4 of this administrative regulation; and
 - b. Enrolled with a managed care organization.

(4) In addition to other services, the following shall be included in the scope of physician services:

- (a) Neurology;
- (b) Epileptology;
- (c) Primary and sub-specialist medical assessment and treatment;
- (d) Nutritional or dietary consultation;
- (e) Mobility evaluation or treatment;
- (f) Medication consultation;
- (g) Medication management; and
- (h) Seizure management.

Section 7. Therapy Limits.

(1) To be reimbursable by the department, occupational therapy, physical therapy, or speech therapy shall be limited to thirty (30) visits per twelve (12) months for a recipient except as established in subsection (2) of this section.

(2) The therapy limits established in subsection (1) of this section shall:

- (a) Not apply to a recipient under twenty-one (21) years of age; and
- (b) Be overridden by the department if the department determines that an additional visit or visits beyond the limit are medically necessary.

Section 8. No Duplication of Service.

(1) The department shall reimburse no more than one (1) provider for the provision of a given service to a recipient on a given day.

(2) There shall be no duplicate billing to the department regarding a given service provided to a recipient on a given day.

Section 9. Federal Financial Participation. A policy established in this administrative regulation shall be null and void if the Centers for Medicare and Medicaid Services:

- (1) Denies federal financial participation for the policy; or
- (2) Disapproves the policy.

Section 10. Appeal Rights.

(1) An appeal of a department decision regarding a Medicaid recipient based upon an application of this administrative regulation shall be in accordance with 907 KAR 1:563.

(2) An appeal of a department decision regarding a Medicaid provider based upon an application of this administrative regulation shall be in accordance with 907 KAR 1:671.

(40 Ky.R. 616; 844; eff. 11-1-2013; TAm eff. 10-6-2017; Crt eff. 7-23-2018; TAm eff. 3-20-2020.)