

**907 KAR 9:005. Non-outpatient level I and II psychiatric residential treatment facility service and coverage policies.**

RELATES TO: KRS 205.520, 216B.450, 216B.455, 216B.459

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 42 C.F.R. 440.160, 42 U.S.C. 1396a-d

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services, has a 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 coverage policies regarding Level I and Level II psychiatric residential treatment facility services that are not provided on an outpatient basis.

Section 1. Definitions.

(1) "Active treatment" means a covered Level I or II psychiatric residential treatment facility service provided:

- (a) In accordance with an individual plan of care as specified in 42 C.F.R. 441.154; and
- (b) By an individual employed or contracted by a Level I or II PRTF including a:
  - 1. Qualified mental health personnel;
  - 2. Qualified mental health professional;
  - 3. Mental health associate; or
  - 4. Direct care staff person.

(2) "Acute care hospital" is defined by KRS 205.639(1).

(3) "Advanced practice registered nurse" is defined by KRS 314.011(7).

(4) "Behavioral health professional" means:

- (a) A psychiatrist;
- (b) A physician licensed in Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the practice of official duties;
- (c) A licensed psychologist;
- (d) A licensed psychological practitioner;
- (e) A licensed clinical social worker;
- (f) An advanced practice registered nurse;
- (g) A licensed marriage and family therapist;
- (h) A licensed professional clinical counselor;
- (i) A licensed professional art therapist;
- (j) A licensed clinical alcohol and drug counselor in accordance with Section 13 of this administrative regulation;
- (k) A certified psychologist with autonomous functioning; or
- (l) A certified alcohol and drug counselor.

(5) "Behavioral health professional under clinical supervision" means:

- (a) A certified psychologist;
- (b) A licensed psychological associate;
- (c) A marriage and family therapy associate;
- (d) A certified social worker;
- (e) A licensed professional counselor associate;
- (f) A licensed professional art therapist associate;
- (g) A physician assistant; or
- (h) A licensed clinical alcohol and drug counselor associate in accordance with Section 13 of this administrative regulation.

- (6) "Certified alcohol and drug counselor" means an individual who meets the requirements established in KRS 309.083.
- (7) "Certified psychologist" means an individual who is a certified psychologist pursuant to KRS 319.056.
- (8) "Certified psychologist with autonomous functioning" means an individual who is a certified psychologist with autonomous functioning pursuant to KRS 319.056.
- (9) "Certified social worker" means an individual who meets the requirements established in KRS 335.080.
- (10) "Child with a severe emotional disability" is defined by KRS 200.503(2).
- (11) "Department" means the Department for Medicaid Services or its designee.
- (12) "Diagnostic and assessment services" means at least one (1) face-to-face specialty evaluation or specialty evaluation performed via telemedicine of a recipient's medical, social, and psychiatric status provided by a physician or qualified mental health professional that shall:
- (a) Include:
    - 1. Interviewing and evaluating; or
    - 2. Testing;
  - (b) Be documented and record all contact with the recipient and other interviewed individuals; and
  - (c) Result in a:
    - 1. Medical data code in accordance with 45 C.F.R. 162.1000; and
    - 2. Specific treatment recommendation.
- (13) "Enrollee" means a recipient who is enrolled with a managed care organization.
- (14) "Federal financial participation" is defined by 42 C.F.R. 400.203.
- (15) "Intensive treatment services" means a program:
- (a) For a child:
    - 1. With a severe emotional disability; and
      - a. An intellectual disability;
      - b. A severe and persistent aggressive behavior;
      - c. Sexually acting out behavior; or
      - d. A developmental disability;
    - 2. Who requires a treatment-oriented residential environment; and
    - 3. Between the ages of four (4) to twenty-one (21) years; and
  - (b) That provides psychiatric and behavioral health services two (2) or more times per week to a child referenced in paragraph (a) of this subsection:
    - 1. As indicated by the child's psychiatric and behavioral health needs; and
    - 2. In accordance with the child's therapeutic plan of care.
- (16) "Interdisciplinary team" means:
- (a) For a recipient who is under the age of eighteen (18) years:
    - 1. A parent, legal guardian, or caregiver of the recipient;
    - 2. The recipient;
    - 3. A qualified mental health professional; and
    - 4. A staff person, if available, who worked with the recipient during the recipient's most recent placement if the recipient has previously been in a Level I or II PRTF;or
  - (b) For a recipient who is eighteen (18) years of age or older:
    - 1. The recipient;
    - 2. A qualified mental health professional;
    - 3. A staff person, if available, who worked with the recipient during the recipient's most recent placement if the recipient has previously been in a Level I or II PRTF; and
    - 4. If requested by the recipient, a parent, legal guardian, or caregiver of the recipient.

- (17) "Level I PRTF" means a psychiatric residential treatment facility that meets the criteria established in KRS 216B.450(5)(a).
- (18) "Level II PRTF" means a psychiatric residential treatment facility that meets the criteria established in KRS 216B.450(5)(b).
- (19) "Licensed clinical alcohol and drug counselor" is defined by KRS 309.080(4).
- (20) "Licensed clinical alcohol and drug counselor associate" is defined by KRS 309.080(5).
- (21) "Licensed clinical social worker" means an individual who meets the licensed clinical social worker requirements established in KRS 335.100.
- (22) "Licensed marriage and family therapist" is defined by KRS 335.300(2).
- (23) "Licensed professional art therapist" is defined by KRS 309.130(2).
- (24) "Licensed professional art therapist associate" is defined by KRS 309.130(3).
- (25) "Licensed professional clinical counselor" is defined by KRS 335.500(3).
- (26) "Licensed professional counselor associate" is defined by KRS 335.500(4).
- (27) "Licensed psychological associate" means an individual who:
- (a) Currently possesses a licensed psychological associate license in accordance with KRS 319.010(6); and
  - (b) Meets the licensed psychological associate requirements established in 201 KAR Chapter 26.
- (28) "Licensed psychological practitioner" means an individual who meets the requirements established in KRS 319.053.
- (29) "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.
- (30) "Marriage and family therapy associate" is defined by KRS 335.300(3).
- (31) "Medicaid payment status" means a circumstance in which:
- (a) The person:
    - 1. Is eligible for and receiving Medicaid benefits; and
    - 2. Meets patient status criteria for Level I or II psychiatric residential treatment facility services; and
  - (b) The facility is billing the Medicaid program for services provided to the person.
- (32) "Medically necessary" or "medical necessity" means that a covered benefit is determined to be needed in accordance with 907 KAR 3:130.
- (33) "Mental health associate" means:
- (a)
    - 1. An individual with a minimum of a bachelor's degree in a mental health related field;
    - 2. A registered nurse; or
    - 3. A licensed practical nurse with at least one (1) year of experience in a psychiatric inpatient or residential treatment setting for children; or
  - (b) An individual with:
    - 1. A high school diploma or an equivalence certificate; and
    - 2. At least two (2) years of work experience in a psychiatric inpatient or residential treatment setting for children.
- (34) "Physician" is defined by KRS 205.510(11).
- (35) "Physician assistant" is defined by KRS 311.840(3).
- (36) "Private psychiatric hospital" is defined by KRS 205.639(2).
- (37) "Provider" is defined by KRS 205.8451(7).
- (38) "Provider abuse" is defined by KRS 205.8451(8).
- (39) "Psychiatric residential treatment facility" or "PRTF" is defined by KRS 216B.450(5).

- (40) "Psychiatric services" means:
- (a) An initial psychiatric evaluation of a recipient which shall include:
    - 1. A review of the recipient's:
      - a. Personal history;
      - b. Family history;
      - c. Physical health;
      - d. Prior treatment; and
      - e. Current treatment;
    - 2. A mental status examination appropriate to the age of the recipient;
    - 3. A meeting with the family or any designated significant person in the recipient's life; and
    - 4. Ordering and reviewing:
      - a. Laboratory data;
      - b. Psychological testing results; or
      - c. Any other ancillary health or mental health examinations;
  - (b) Development of an initial plan of treatment which shall include:
    - 1. Prescribing and monitoring of psychotropic medications; or
    - 2. Providing and directing therapy to the recipient;
  - (c) Implementing, assessing, monitoring, or revising the treatment as appropriate to the recipient's psychiatric status;
  - (d) Providing a subsequent psychiatric evaluation as appropriate to the recipient's psychiatric status;
  - (e) Consulting, if determined to be necessary by the psychiatrist responsible for providing or overseeing the recipient's psychiatric services, with another physician, an attorney, or the police regarding the recipient's care and treatment; or
  - (f) Ensuring that the psychiatrist responsible for providing or overseeing the recipient's psychiatric services has access to the information resulting from or related to any consultation referenced in paragraph (e) of this subsection.
- (41) "Qualified mental health personnel" is defined by KRS 216B.450(6).
- (42) "Qualified mental health professional" is defined by KRS 216B.450(7).
- (43) "Recipient" is defined by KRS 205.8451(9).
- (44) "Recipient abuse" is defined by KRS 205.8451(10).
- (45) "Review agency" means, for a review, evaluation, or authorization decision regarding an individual who is:
- (a) Not enrolled with a managed care organization:
    - 1. The department; or
    - 2. An entity under contract with the department; or
  - (b) Enrolled with a managed care organization:
    - 1. The managed care organization with which the enrollee is enrolled; or
    - 2. An entity under contract with the managed care organization with which the enrollee is enrolled.
- (46) "State mental hospital" is defined by KRS 205.639(3).
- (47) "Telemedicine" means two-way, real time interactive communication between a patient and a physician or practitioner located at a distant site for the purpose of improving a patient's health through the use of interactive telecommunications equipment that includes, at a minimum, audio and video equipment.
- (48) "Treatment plan" means a plan created for the care and treatment of a recipient that:
- (a) Is developed in a face-to-face meeting by the recipient's interdisciplinary team;
  - (b) Describes a comprehensive, coordinated plan of medically necessary behavioral health services that specifies a modality, frequency, intensity, and duration of services sufficient to maintain the recipient in a PRTF setting; and
  - (c) Identifies:

1. A program of therapies, activities, interventions, or experiences designed to accomplish the plan;
2. A qualified mental health professional, a mental health associate, or qualified mental health personnel who shall manage the continuity of care;
3. Interventions by caregivers in the PRTF and school setting that support the recipient's ability to be maintained in a PRTF setting;
4. Behavioral, social, and physical problems with interventions and objective, measurable goals;
5. Discharge criteria that specifies the:
  - a. Recipient-specific behavioral indicators for discharge from the service;
  - b. Expected service level that would be required upon discharge; and
  - c. Identification of the intended provider to deliver services upon discharge;
6. A crisis action plan that progresses through a continuum of care that is designed to reduce or eliminate the necessity of inpatient services;
7. A plan for:
  - a. Transition to a lower intensity of services; and
  - b. Discharge from PRTF services;
8. An individual behavior management plan;
9. A plan for the involvement and visitation of the recipient with the birth family, guardian, or other significant person, unless prohibited by a court, including therapeutic off-site visits pursuant to the treatment plan; and
10. Services and planning, beginning at admission, to facilitate the discharge of the recipient to an identified plan for home-based services or a lower level of care.

## Section 2. Provider Participation.

(1)

(a) In order to participate, or continue to participate, in the Kentucky Medicaid Program, a Level I PRTF shall:

1. Have a utilization review plan for each recipient consisting of, at a minimum, a pre-admission certification review submitted via telephone or electronically to the review agency prior to admission of the recipient;
2. Perform and place in each recipient's record:
  - a. A medical evaluation;
  - b. A social evaluation; and
  - c. A psychiatric evaluation;
3. Establish a plan of care for each recipient which shall be placed in the recipient's record;
4. Appoint a utilization review committee which shall:
  - a. Oversee and implement the utilization review plan; and
  - b. Evaluate each Medicaid admission and continued stay prior to the expiration of the Medicaid certification period to determine if the admission or stay is or remains medically necessary;
5. Comply with staffing requirements established in 902 KAR 20:320;
6. Be located in the Commonwealth of Kentucky;
7. Maintain accreditation by the Joint Commission on Accreditation of Health Care Organizations or the Council on Accreditation of Services for Families and Children or any other accrediting body with comparable standards that is recognized by the state; and
8. Comply with all conditions of Medicaid provider participation established in 907 KAR 1:671 and 907 KAR 1:672.

(b) In order to participate, or continue to participate, in the Kentucky Medicaid Program, a Level II PRTF shall:

1. Have a utilization review plan for each recipient;
2. Establish a utilization review process which shall evaluate each Medicaid admission and continued stay prior to the expiration of the Medicaid certification period to determine if the admission or stay is or remains medically necessary;
3. Comply with staffing requirements established in 902 KAR 20:320;
4. Be located in the Commonwealth of Kentucky;
5. Maintain accreditation by the Joint Commission on Accreditation of Health Care Organizations or the Council on Accreditation of Services for Families and Children or any other accrediting body with comparable standards that is recognized by the state;
6. Comply with all conditions of Medicaid provider participation established in 907 KAR 1:671 and 907 KAR 1:672;
7. Perform and place in each recipient's record a:
  - a. Medical evaluation;
  - b. Social evaluation; and
  - c. Psychiatric evaluation; and
8. Establish a plan of care for each recipient which shall:
  - a. Address in detail the intensive treatment services to be provided to the recipient; and
  - b. Be placed in the recipient's record.

(2)

(a) A pre-admission certification review for a Level I PRTF shall:

1. Contain:
  - a. The recipient's valid Medicaid identification number;
  - b. For a recipient who is not enrolled with a managed care organization, a valid MAP-569, Certification of Need by Independent Team Psychiatric Preadmission Review of Elective Admissions for Kentucky Medicaid Recipients Under Age Twenty-One (21), which satisfies the requirements of 42 C.F.R. 44.152 and 42 C.F.R. 441.153 for patients age twenty-one (21) and under;
  - c. A DSM-IV-R diagnosis on all five (5) axes, except that failure to record an axis IV or V diagnosis shall be used as the basis for a denial only if those diagnoses are critical to establish the need for Level I PRTF treatment;
  - d. A description of the initial treatment plan relating to the admitting symptoms;
  - e. Current symptoms requiring inpatient treatment;
  - f. Information to support the medical necessity and clinical appropriateness of the services or benefits of the admission to a Level I PRTF in accordance with 907 KAR 3:130;
  - g. Medication history;
  - h. Prior hospitalization;
  - i. Prior alternative treatment;
  - j. Appropriate medical, social, and family histories; and
  - k. Proposed aftercare placement;
2. Remain in effect for the days certified by the review agency; and
3. Be completed within thirty (30) days.

(b) A pre-admission certification review for a Level II PRTF for a non-emergent admission shall:

1. Contain:
  - a. The recipient's valid Medicaid identification number;
  - b. For a recipient who is not enrolled with a managed care organization, a valid MAP-569, Certification of Need by Independent Team Psychiatric Preadmission Review of Elective Admissions for Kentucky Medicaid Recipients Under Age

- Twenty-One (21), which satisfies the requirements of 42 C.F.R. 44.152 and 42 C.F.R. 441.153 for patients age twenty-one (21) and under;
- c. A DSM-IV-R diagnosis on all five (5) axes, except that failure to record an axis IV or V diagnosis shall be used as the basis for a denial only if those diagnoses are critical to establish the need for Level II PRTF treatment;
  - d. A description of the initial treatment plan relating to the admitting symptoms;
  - e. Current symptoms requiring inpatient treatment;
  - f. Information to support the medical necessity and clinical appropriateness of the services or benefits of the admission to a Level II PRTF in accordance with 907 KAR 3:130;
  - g. Medication history;
  - h. Prior hospitalization;
  - i. Prior alternative treatment;
  - j. Appropriate medical, social, and family histories; and
  - k. Proposed aftercare placement;
2. Remain in effect for the days certified by the review agency; and
  3. Be completed within thirty (30) days.
- (3) Failure to admit a recipient within the recipient's certification period shall require a new pre-admission certification review request.
- (4) A utilization review plan for an emergency admission to a Level II PRTF shall contain:
- (a) For a recipient who is not enrolled with a managed care organization, a completed MAP-570, Medicaid Certification of Need for Inpatient Psychiatric Services for Individuals Under Age Twenty-One (21):
    1. Completed by the facility's interdisciplinary team; and
    2. Placed in the recipient's medical record;
  - (b) Documentation, provided by telephone or electronically to the review agency within two (2) days of the recipient's emergency admission, justifying:
    1. The recipient's emergency admission;
    2. That ambulatory care resources in the recipient's community and placement in a Level I PRTF do not meet the recipient's needs;
    3. That proper treatment of the recipient's psychiatric condition requires services provided by a Level II PRTF under the direction of a physician; and
    4. That the services can reasonably be expected to improve the recipient's condition or prevent further regression so that the services are no longer needed;
  - (c) The recipient's valid Medicaid identification number;
  - (d) For a recipient who is not enrolled with a managed care organization, a valid MAP-569, Certification of Need by Independent Team Psychiatric Preadmission Review of Elective Admissions for Kentucky Medicaid Recipients Under Age Twenty-One (21), which satisfies the requirements of 42 C.F.R. 441.152 and 42 C.F.R. 441.153 for recipients age twenty-one (21) and under;
  - (e) A DSM-IV-R diagnosis on all five (5) axes, except that failure to record an axis IV or V diagnosis shall be used as the basis for a denial only if those diagnoses are critical to establish the need for Level II PRTF treatment;
  - (f)
    1. A description of the initial treatment plan relating to the admitting symptom; and
    2. As part of the initial treatment plan, a full description of the intensive treatment services to be provided to the recipient;
  - (g) Current symptoms requiring residential treatment;
  - (h) Medication history;
  - (i) Prior hospitalization;
  - (j) Prior alternative treatment;

- (k) Appropriate medical, social, and family histories; and
  - (l) Proposed aftercare placement.
- (5) For an individual who becomes Medicaid eligible after admission and who is not enrolled with a managed care organization, a Level I or II PRTF's interdisciplinary team shall complete a MAP-570, Medicaid Certification of Need for Inpatient Psychiatric Services for Individuals Under Age Twenty-One (21), and the form shall be placed in the recipient's medical record.
- (6) For a recipient, a Level I or II PRTF shall maintain medical records that shall:
- (a) Be:
    - 1. Current;
    - 2. Readily retrievable;
    - 3. Organized;
    - 4. Complete; and
    - 5. Legible;
  - (b) Reflect sound medical recordkeeping practice in accordance with:
    - 1. 902 KAR 20:320;
    - 2. KRS 194A.060;
    - 3. KRS 434.840 through 860;
    - 4. KRS 422.317; and
    - 5. 42 C.F.R. 431 Subpart F;
  - (c) Document the need for admission and appropriate utilization of services;
  - (d) Be maintained, including information regarding payments claimed, for a minimum of six (6) years or until an audit dispute or issue is resolved, whichever is longer; and
  - (e) Be made available for inspection or copying or provided to the following upon request:
    - 1. A representative of the United States Department for Health and Human Services or its designee;
    - 2. The United States Office of the Attorney General or its designee;
    - 3. The Commonwealth of Kentucky, Office of the Attorney General or its designee;
    - 4. The Commonwealth of Kentucky, Office of the Auditor of Public Accounts or its designee;
    - 5. The Commonwealth of Kentucky, Cabinet for Health and Family Services, Office of the Inspector General or its designee;
    - 6. The department; or
    - 7. A managed care organization with whom the department has contracted if the recipient is enrolled with the managed care organization.
- (7)
- (a) If a Level I or Level II psychiatric residential treatment facility receives any duplicate payment or overpayment from the department or managed care organization, regardless of reason, the Level I or Level II psychiatric residential treatment facility shall return the payment to the department or managed care organization that issued the duplicate payment or overpayment in accordance with 907 KAR 1:671.
  - (b) Failure to return a payment to the department or managed care organization 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)
- (a) When the department or managed care organization makes payment for a covered service and the Level I or Level II psychiatric residential treatment facility accepts the payment:
    - 1. The payment shall be considered payment in full;
    - 2. A bill for the same service shall not be given to the recipient; and



3. Payment from the recipient for the same service shall not be accepted by the Level I or Level II psychiatric residential treatment facility.

(b)

1. A Level I or Level II psychiatric residential treatment facility may bill a recipient for a service that is not covered by the Kentucky Medicaid Program if the:

a. Recipient requests the service; and

b. Level I or Level II psychiatric residential treatment facility makes the recipient aware in advance of providing the service that the:

(i) Recipient is liable for the payment; and

(ii) Department or managed care organization, if the recipient is enrolled with a managed care organization, is not covering the service.

2. If a recipient makes payment for a service in accordance with subparagraph 1 of this paragraph, the:

a. Level I or Level II psychiatric residential treatment facility shall not bill the department or managed care organization, if applicable, for the service; and

b. Department or managed care organization, if applicable, shall not:

(i) Be liable for any part of the payment associated with the service; and

(ii) Make any payment to the Level I or Level II psychiatric residential treatment facility regarding the service.

(c) Except as established in paragraph (b) of this subsection or except for a cost sharing obligation owed by a recipient, a provider shall not bill a recipient for any part of a service provided to the recipient.

(9)

(a) A Level I or Level II psychiatric residential treatment facility shall attest by the Level I or Level II psychiatric residential treatment facility's staff's or representative's signature that any claim associated with a service is valid and submitted in good faith.

(b) Any claim and substantiating record associated with a service shall be subject to audit by the:

1. Department or its designee;

2. Cabinet for Health and Family Services, Office of Inspector General, or its designee;

3. Kentucky Office of Attorney General or its designee;

4. Kentucky Office of the Auditor for Public Accounts or its designee;

5. United States General Accounting Office or its designee; or

6. For an enrollee, managed care organization in which the enrollee is enrolled.

(c)

1. If a Level I or Level II psychiatric residential treatment facility receives a request from the:

a. Department to provide a claim, related information, related documentation, or record for auditing purposes, the Level I or Level II psychiatric residential treatment facility shall provide the requested information to the department within the timeframe requested by the department; or

b. Managed care organization in which an enrollee is enrolled to provide a claim, related information, related documentation, or record for auditing purposes, the Level I or Level II psychiatric residential treatment facility shall provide the requested information to the managed care organization within the timeframe requested by the managed care organization.

2.

a. The timeframe requested by the department or managed care organization for a Level I or Level II psychiatric residential treatment facility to provide requested information shall be:

- (i) A reasonable amount of time given the nature of the request and the circumstances surrounding the request; and
  - (ii) A minimum of one (1) business day.
- b. A Level I or Level II psychiatric residential treatment facility may request a longer timeframe to provide information to the department or a managed care organization if the Level I or Level II psychiatric residential treatment facility justifies the need for a longer timeframe.
- (d)
- 1. All services provided shall be subject to review for recipient or provider abuse.
  - 2. Willful abuse by a Level I or Level II psychiatric residential treatment facility shall result in the suspension or termination of the Level I or Level II psychiatric residential treatment facility from Medicaid Program participation in accordance with 907 KAR 1:671.

### Section 3. Covered Admissions.

- (1) A covered admission for a Level I PRTF:
  - (a) Shall be prior authorized by a review agency; and
  - (b)
    - 1. Shall be limited to those for a child age six (6) through twenty (20) years of age who meets Medicaid payment status criteria; or
    - 2. May continue based on medical necessity, for a recipient who is receiving active treatment in a Level I PRTF on the recipient's twenty-first (21st) birthday if the recipient has not reached his or her twenty-second (22nd) birthday.
- (2) A covered admission for a Level II PRTF shall be:
  - (a) Prior authorized;
  - (b) Limited to those for a child:
    - 1.
      - a. Age four (4) through twenty-one (21) years who meets Medicaid payment status criteria; and
      - b. Whose coverage may continue, based on medical necessity, if the recipient is receiving active treatment in a Level II PRTF on the recipient's twenty-first (21st) birthday and the recipient has not reached his or her twenty-second (22nd) birthday;
    - 2. With a severe emotional disability in addition to severe and persistent aggressive behaviors, an intellectual disability, sexually acting out behaviors, or a developmental disability; and
    - 3.
      - a. Who does not meet the medical necessity criteria for an acute care hospital, private psychiatric hospital, or state mental hospital; and
      - b. Whose treatment needs cannot be met in an ambulatory care setting, Level I PRTF, or in any other less restrictive environment; and
  - (c) Reimbursed pursuant to 907 KAR 9:010.

### Section 4. PRTF Covered Services.

- (1)
  - (a) There shall be a treatment plan developed for each recipient.
  - (b) A treatment plan shall specify:
    - 1. The amount and frequency of services needed; and
    - 2. The number of therapeutic pass days for a recipient, if the treatment plan includes any therapeutic pass days.
- (2) To be covered by the department:
  - (a) The following services shall be available to a recipient covered under Section 3 of this administrative regulation and shall meet the requirements established in paragraph

(b) of this subsection:

1. Diagnostic and assessment services;
2. Treatment plan development, review, or revision;
3. Psychiatric services;
4. Nursing services which shall be provided in compliance with 902 KAR 20:320;
5. Medication which shall be provided in compliance with 907 KAR 23:010;
6. Evidence-based treatment interventions;
7. Individual therapy which shall comply with 902 KAR 20:320;
8. Family therapy or attempted contact with family which shall comply with 902 KAR 20:320;
9. Group therapy which shall comply with 902 KAR 20:320;
10. Individual and group interventions that shall focus on additional and harmful use or abuse issues and relapse prevention if indicated;
11. Substance abuse education;
12. Activities that:
  - a. Support the development of an age-appropriate daily living skill including positive behavior management or support; or
  - b. Support and encourage the parent's ability to re-integrate the child into the home;
13. Crisis intervention which shall comply with:
  - a. 42 C.F.R. 483.350 through 376; and
  - b. 902 KAR 20:320;
14. Consultation with other professionals including case managers, primary care professionals, community support workers, school staff, or others;
15. Educational activities; or
16. Non-medical transportation services as needed to accomplish objectives;

(b) A Level I PRTF service listed in paragraph (a) of this subsection shall be:

1. Provided under the direction of a physician;
2. If included in the recipient's treatment plan, described in the recipient's current treatment plan;
3. Medically necessary; and
4. Clinically appropriate pursuant to the criteria established in 907 KAR 3:130;

(c) A Level I PRTF service listed in paragraph (a)7, 8, 9, 11, or 13 shall be provided by a qualified mental health professional, behavioral health professional, or behavioral health professional under clinical supervision; or

(d) A Level II PRTF service listed in paragraph (a) of this subsection shall be:

1. Provided under the direction of a physician;
2. If included in the recipient's treatment plan, described in the recipient's current treatment plan;
3. Provided at least once a week:
  - a. Unless the service is necessary twice a week, in which case the service shall be provided at least twice a week; or
  - b. Except for diagnostic and assessment services which shall have no weekly minimum requirement;
4. Medically necessary; and
5. Clinically appropriate pursuant to the criteria established in 907 KAR 3:130.

(3) A Level II PRTF service listed in paragraph (a)7, 8, 9, 11, or 13 shall be provided by a qualified mental health professional, behavioral health professional, or behavioral health professional under clinical supervision.

## Section 5. Determining Patient Status.

- (1) The department shall review and evaluate the health status and care needs of a recipient in need of Level I or II PRTF care using the criteria identified in 907 KAR 3:130 to determine if a service or benefit is clinically appropriate.
- (2) The care needs of a recipient shall meet the patient status criteria for:
  - (a) Level I PRTF care if the recipient requires:
    1. Long term inpatient psychiatric care or crisis stabilization more suitably provided in a PRTF than in a psychiatric hospital; and
    2. Level I PRTF services on a continuous basis as a result of a severe mental or psychiatric illness, including a severe emotional disturbance; or
  - (b) Level II PRTF care if the recipient:
    1. Is a child with a severe emotional disability;
    2. Requires long term inpatient psychiatric care or crisis stabilization more suitably provided in a PRTF than a psychiatric hospital;
    3. Requires Level II PRTF services on a continuous basis as a result of a severe emotional disability in addition to a severe and persistent aggressive behavior, an intellectual disability, a sexually acting out behavior, or a developmental disability; and
    4. Does not meet the medical necessity criteria for an acute care hospital or a psychiatric hospital and has treatment needs which cannot be met in an ambulatory care setting, Level I PRTF, or other less restrictive environment.

Section 6. Durational Limit, Re-evaluation, and Continued Stay.

- (1) A recipient's stay, including the duration of the stay, in a Level I or II PRTF shall be subject to the department's approval.
- (2)
  - (a) A recipient in a Level I PRTF shall be re-evaluated at least once every thirty (30) days to determine if the recipient continues to meet Level I PRTF patient status criteria established in Section 5(2) of this administrative regulation.
  - (b) A Level I PRTF shall complete a review of each recipient's treatment plan at least once every thirty (30) days.
  - (c) The review referenced in paragraph (b) of this subsection shall include:
    1. Dated signatures of:
      - a. Appropriate staff; and
      - b. If present for the treatment plan meeting, a parent, guardian, legal custodian, or conservator;
    2. An assessment of progress toward each treatment plan goal and objective with revisions indicated; and
    3. A statement of justification for the level of services needed including:
      - a. Suitability for treatment in a less-restrictive environment; and
      - b. Continued services.
  - (d) If a recipient no longer meets Level I PRTF patient status criteria, the department shall only reimburse through the last day of the individual's current approved stay.
  - (e) The re-evaluation referenced in paragraph (a) of this subsection shall be performed by a review agency.
- (3) A Level II PRTF shall complete by no later than the third (3rd) business day following an admission, an initial review of services and treatment provided to a recipient which shall include:
  - (a) Dated signatures of appropriate staff, parent, guardian, legal custodian, or conservator;
  - (b) An assessment of progress toward each treatment plan goal and objective with revisions indicated; and
  - (c) A statement of justification for the level of services needed including:

1. Suitability for treatment in a less-restrictive environment; and
2. Continued services.

(4)

(a) For a recipient aged four (4) to five (5) years, a Level II PRTF shall complete a review of the recipient's treatment plan of care at least once every fourteen (14) days after the initial review referenced in subsection (3) of this section.

(b) The review referenced in paragraph (a) of this subsection shall include:

1. Dated signatures of appropriate staff, parent, guardian, legal custodian, or conservator;
2. An assessment of progress toward each treatment plan goal and objective with revisions indicated; and
3. A statement of justification for the level of services needed including:
  - a. Suitability for treatment in a less-restrictive environment; and
  - b. Continued services.

(5)

(a) For a recipient aged six (6) to twenty-two (22) years, a Level II PRTF shall complete a review of the recipient's treatment plan of care at least once every thirty (30) days after the initial review referenced in subsection (3) of this section.

(b) The review referenced in paragraph (a) of this subsection shall include:

1. Dated signatures of appropriate staff, parent, guardian, legal custodian, or conservator;
2. An assessment of progress toward each treatment plan goal and objective with revisions indicated; and
3. A statement of justification for the level of services needed including:
  - a. Suitability for treatment in a less-restrictive environment; and
  - b. Continued services.

#### Section 7. Exclusions and Limitations in Coverage.

(1) The following shall not be covered as Level I or II PRTF services under this administrative regulation:

- (a) Outpatient services, which shall be covered in accordance with 907 KAR 9:015;
- (b) Pharmacy services, which shall be covered in accordance with 907 KAR 23:010;
- (c) Durable medical equipment, which shall be covered in accordance with 907 KAR 1:479;
- (d) Hospital emergency room services, which shall be covered in accordance with 907 KAR 10:014;
- (e) Acute care hospital inpatient services, which shall be covered in accordance with 907 KAR 10:012;
- (f) Laboratory and radiology services, which shall be covered in accordance with 907 KAR 10:014 or 907 KAR 1:028;
- (g) Dental services, which shall be covered in accordance with 907 KAR 1:026;
- (h) Hearing and vision services, which shall be covered in accordance with 907 KAR 1:038; or
- (i) Ambulance services, which shall be covered in accordance with 907 KAR 1:060.

(2) A Level I or II PRTF shall not charge a recipient or responsible party representing a recipient any difference between private and semiprivate room charges.

(3) The department shall not reimburse for Level I or II PRTF services for a recipient if appropriate alternative services are available for the recipient in the community.

(4) The following shall not qualify as reimbursable in a PRTF setting:

- (a) An admission that is not medically necessary; or
- (b) Services for an individual:
  1. With a major medical problem or minor symptoms;

2. Who might only require a psychiatric consultation rather than an admission to a PRTF; or
3. Who might need only adequate living accommodations, economic aid, or social support services.

Section 8. Reserved Bed and Therapeutic Pass Days.

(1)

(a) The department shall cover a bed reserve day for an acute hospital admission, a state mental hospital admission, a private psychiatric hospital admission, or an admission to a psychiatric bed in an acute care hospital for a recipient's absence from a Level I or II PRTF if the recipient:

1. Is in Medicaid payment status in a Level I or II PRTF;
2. Has been in the Level I or II PRTF overnight for at least one (1) night;
3. Is reasonably expected to return requiring Level I or II PRTF care; and
- 4.

a. Has not exceeded the bed reserve day limit established in paragraph (b) of this subsection; or

b. Received an exception to the limit in accordance with paragraph (c) of this subsection.

(b) The annual bed reserve day limit per recipient shall be five (5) days per calendar year in aggregate for any combination of bed reserve days associated with an acute care hospital admission, a state mental hospital admission, a private psychiatric hospital admission, or an admission to a psychiatric bed in an acute care hospital.

(c) The department shall allow a recipient to exceed the limit established in paragraph (b) of this subsection, if the department determines that an additional bed reserve day is in the best interest of the recipient.

(2)

(a) The department shall cover a therapeutic pass day for a recipient's absence from a Level I or II PRTF if the recipient:

1. Is in Medicaid payment status in a Level I or II PRTF;
2. Has been in the Level I or II PRTF overnight for at least one (1) night;
3. Is reasonably expected to return requiring Level I or II PRTF care; and
- 4.

a. Has not exceeded the therapeutic pass day limit established in paragraph (b) of this subsection; or

b. Received an exception to the limit in accordance with paragraph (c) of this subsection.

(b) The annual therapeutic pass day limit per recipient shall be fourteen (14) days per calendar year.

(c) The department shall allow a recipient to exceed the limit established in paragraph (b) of this subsection, if the department determines that an additional therapeutic pass day is in the best interest of the recipient.

(3) The bed reserve day and therapeutic pass day count for each recipient shall begin at zero on January 1 of each calendar year.

(4) An authorization decision regarding a bed reserve day or therapeutic pass day in excess of the limits established in this section shall be performed by a review agency.

(5)

(a) An acute care hospital bed reserve day shall be a day when a recipient is temporarily absent from a Level I or II PRTF due to an admission to an acute care hospital.

(b) A state mental hospital bed reserve day, private psychiatric hospital bed reserve day, or psychiatric bed in an acute care hospital bed reserve day, respectively, shall be a

day when a recipient is temporarily absent from a Level I or II PRTF due to receiving psychiatric treatment in a state mental hospital, private psychiatric hospital, or psychiatric bed in an acute care hospital respectively.

(c) A therapeutic pass day shall be a day when a recipient is temporarily absent from a Level I or II PRTF for a therapeutic purpose that is:

1. Stated in the recipient's treatment plan; and
2. Approved by the recipient's treatment team.

(6)

(a) A Level I or II PRTF's occupancy percent shall be based on a midnight census.

(b) An absence from a Level I or II PRTF that is due to a bed reserve day for an acute hospital admission, a state mental hospital admission, a private psychiatric hospital admission, or an admission to a psychiatric bed in an acute care hospital shall count as an absence for census purposes.

(c) An absence from a Level I or II PRTF that is due to a therapeutic pass day shall not count as an absence for census purposes.

Section 9. Outpatient Services Requirements Established in 907 KAR 9:015. The department's coverage provisions and requirements regarding outpatient behavioral health services provided by a Level I or II PRTF shall be as established in 907 KAR 9:015.

Section 10. Third Party Liability. A Level I or Level II PRTF shall comply with KRS 205.622.

Section 11. 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 Level I PRTF or Level II PRTF 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 Level I PRTF's or Level II PRTF'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 Level I PRTF's or Level II PRTF's electronic signature policy;
2. The signed consent form; and
3. The original filed signature.

Section 12. Auditing Authority. The department or the managed care organization in which an enrollee is enrolled shall have the authority to audit any:

- (1) Claim;
- (2) Medical record; or
- (3) Documentation associated with any claim or medical record.

Section 13. Federal Financial Participation.

(1) The department's coverage of services pursuant to this administrative regulation shall be contingent upon:

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

(2) The coverage of services provided by a licensed clinical alcohol and drug counselor or licensed clinical alcohol and drug counselor associate shall be contingent and effective upon approval by the Centers for Medicare and Medicaid Services.

#### Section 14. Appeal Rights.

(1)

(a) 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.

(b) 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.

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

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

#### Section 15. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "MAP-569, Certification of Need by Independent Team Psychiatric Preadmission Review of Elective Admissions for Kentucky Medicaid Recipients Under Age Twenty-One (21)", revised 5/90; and

(b) "MAP-570, Medicaid Certification of Need for Inpatient Psychiatric Services for Individuals Under Age Twenty-one (21)", revised 5/90.

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

(18 Ky.R. 600; eff. 10-6-1991; Am. 19 Ky.R. 2340; eff. 6-16-1993; 22 Ky.R. 1906; eff. 6-6-1996; 27 Ky.R. 2910; 3267; eff. 6-8-2001; TAm.; eff. 5-3-2011; Recodified from 907 KAR 1:505; eff. 3-20-2012; TAm eff. 3-20-2012; 39 Ky.R. 629; 1218; 1413; eff. 3-8-2013; 41 Ky.R. 2417; 42 Ky.R. 386; 720; eff. 11-16-2015; TAm eff. 10-6-2017; Cert. eff. 10-18-2022.)