FILED WITH LRC
TIME: 2 p.m.
DEC 31 2014
Donna Little
REGULATIONS COMPILER

STATEMENT OF EMERGENCY

907 KAR 3:017E

(1) This emergency administrative regulation is being promulgated to increase reimbursement for wellness and preventive care services. The increased reimbursement will be made for the services provided from January 1, 2015 through June 30, 2016.

(2) This action must be implemented on an emergency basis to ensure Medicaid recipient access to such services by providing an incentive for more providers of the services to participate in the Medicaid Program.

(3) This emergency administrative regulation shall be replaced by an ordinary administrative regulation filed with the Regulations Compiler.

(4) The ordinary administrative regulation is identical to this emergency administrative regulation.

Steven L. Beshear
Governor

Audrey Tayse Haynes
Audrey Haynes, Secretary
Cabinet for Health and Family Services

1 CABINET FOR HEALTH AND FAMILY SERVICES

2 Department for Medicaid Services

3 Division of Provider Operations

4 (New Emergency Administrative Regulation)

5 907 KAR 3:017E. Enhanced Reimbursement for Preventive and Wellness Services.

6 RELATES TO: KRS 205.520, 205.560

7 STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 205.560(1),

8 42 U.S.C. 1396a(a)(30).

9 NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family

10 Services, Department for Medicaid Services, has responsibility to administer the Medi-

11 caid Program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to

12 comply with any requirement that may be imposed or opportunity presented by federal

13 law to qualify for federal Medicaid funds. This administrative regulation establishes the

14 policies and requirements regarding the Department for Medicaid Services' enhanced

15 reimbursement for certain preventive services and wellness services provided to Medi-

16 caid recipients who are not enrolled with a managed care organization.

17 Section 1. Definitions. (1) "Advanced practice registered nurse" is defined by KRS

18 314.011(7).

19 (2) "CPT code" means a code used for reporting procedures and services performed

20 by physicians and published annually by the American Medical Association in Current

21 Procedural Terminology.

1 (3) “Currently enrolled with the Medicaid Program” means:

2 (a) Currently enrolled with the Medicaid Program pursuant to 907 KAR 1:672; and

3 (b) Currently participating with the Medicaid Program pursuant to 907 KAR 1:671.

4 (4) "Department" means the Department for Medicaid Services or its designee.

5 (5) “Federal financial participation” is defined by 42 C.F.R. 400.203.

6 (6) “Managed care organization” or "MCO" means an entity for which the Department

7 for Medicaid Services has contracted to serve as a managed care organization as de-

8 fined in 42 C.F.R. 438.2.

9 (7) "Medically necessary" or "medical necessity" means that a covered benefit is de-

10 termined to be needed in accordance with 907 KAR 3:130.

11 (8) “Physician” is defined by KRS 311.550(12).

12 (9) “Physician assistant” is defined by KRS 311.840(3).

13 (10) “Provider” is defined by KRS 205.8451(7).

14 (11) “Provider group” means a group of at least:

15 (a) Two (2) individually licensed physicians who:

16 1. Are currently enrolled with the Medicaid Program individually and as a group; and

17 2. Share the same Medicaid provider number;

18 (b) Two (2) individually licensed APRNs who:

19 1. Are currently enrolled with the Medicaid Program individually and as a group; and

20 2. Share the same Medicaid provider number; or

21 (c) At least one (1) APRN and at least one (1) physician who:

22 1. Are currently enrolled with the Medicaid Program individually and as a group; and

23 2. Share the same Medicaid provider number.

1 (12) "Recipient" is defined in KRS 205.8451(9).

2 Section 2. Qualifying Requirements. To qualify as a service to be reimbursed at the
3 amount established on the Medicaid Preventive and Wellness Services Enhanced Fee
4 Schedule, the service shall:

5 (1) Be medically necessary;

6 (2) Meet the criteria established for the service on the Medicaid Preventive and Well-
7 ness Services Enhanced Fee Schedule; and

8 (3) Be provided:

9 (a) To a recipient who is not enrolled with a managed care organization; and

10 (b) By:

11 1. A physician who is:

12 a. Currently enrolled with the Medicaid Program; or

13 b. Participating with a provider group that is currently enrolled with the Medicaid Pro-
14 gram;

15 2. An APRN who is:

16 a. Currently enrolled with the Medicaid Program; or

17 b. Participating with a provider group that is currently enrolled with the Medicaid Pro-
18 gram; or

19 3. A physician assistant who is employed by or under contract with:

20 a. A physician who is currently enrolled with the Medicaid Program;

21 b. An APRN who is currently enrolled with the Medicaid Program; or

22 c. A provider group that is currently enrolled with the Medicaid Program.

23 Section 3. Enhanced Reimbursement for Preventive and Wellness Services. (1) The

1 department shall reimburse for a preventive or wellness service listed on the Medicaid
2 Preventive and Wellness Services Enhanced Fee Schedule:
3 (a) If the service meets the qualifying requirements established in Section 2 of this
4 administrative regulation;
5 (b) In accordance with the requirements and limits established on the Medicaid Pre-
6 ventive and Wellness Services Enhanced Fee Schedule; and
7 (c) The amount corresponding to the service as listed on the Medicaid Preventive
8 and Wellness Services Enhanced Fee Schedule.
9 (2) The department's reimbursement referenced in subsection (1)(c) of this section
10 shall:
11 (a) Apply to services rendered from January 1, 2015 through June 30, 2016; and
12 (b) Not apply to services rendered July 1, 2016 going forward.
13 Section 4. Auditing Authority. The department shall have the authority to audit any:
14 (1) Claim;
15 (2) Medical record; or
16 (3) Documentation associated with any claim or medical record.
17 Section 5. Not Applicable to Managed Care Organizations. A managed care organi-
18 zation shall not be required to implement the reimbursement established in this admin-
19 istrative regulation.
20 Section 6. Federal Approval and Federal Financial Participation. The department's
21 reimbursement for services pursuant to this administrative regulation shall be contin-
22 gent upon:
23 (1) Receipt of federal financial participation for the reimbursement; and

1 (2) Centers for Medicare and Medicaid Services' approval for the reimbursement.

2 Section 7. Supersede. If any reimbursement provision stated in 907 KAR 3:010 or

3 907 KAR 1:104 contradicts a provision stated in this administrative regulation or in the

4 Medicaid Preventive and Wellness Services Enhanced Fee Schedule, the provision

5 stated in this administrative regulation or in the Medicaid Preventive and Wellness Ser-

6 vices Enhanced Fee Schedule shall supersede the provision stated in 907 KAR 3:010

7 or 907 KAR 1:104.

8 Section 8. Incorporation by Reference. (1) The "Medicaid Preventive and Wellness

9 Enhanced Fee Schedule", December 2014, is incorporated by reference.

10 (2) This material may be inspected, copied, or obtained, subject to applicable copy-

11 right law, at:

12 (a) The Department for Medicaid Services, 275 East Main Street, Frankfort, Ken-

13 tucky, Monday through Friday, 8:00 a.m. to 4:30 p.m.; or

14 (b) Online at the department's Web site at

15 http://www.chfs.ky.gov/dms/incorporated.htm.

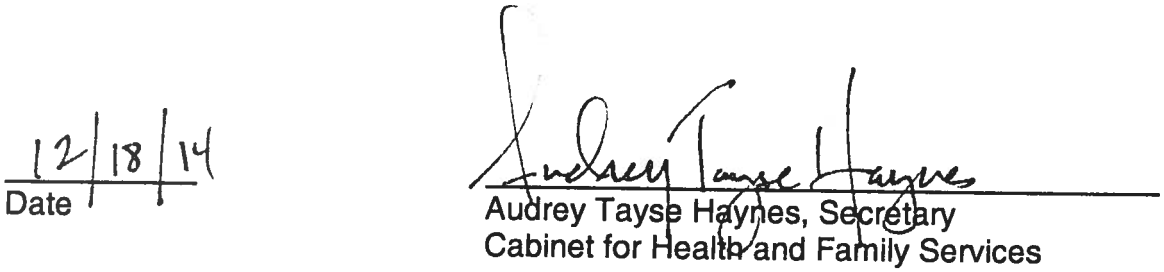
907 KAR 3:017E

REVIEWED:

12/11/14
Date

Lawrence Kissner, Commissioner
Department for Medicaid Services

APPROVED:



12/18/14
Date

Audrey Tayse Haynes, Secretary
Cabinet for Health and Family Services

REGULATORY IMPACT ANALYSIS
AND TIERING STATEMENT

Administrative Regulation Number: 907 KAR 3:017E
Cabinet for Health and Family Services
Department for Medicaid Services
Agency Contact Person: Stuart Owen (502) 564-4321

(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes enhanced Medicaid reimbursement for preventive and wellness services provided by a physician's individual or practice, advanced practice registered nurse's individual or group practice, physician and APRN group practice, or community mental health center that provides primary care services. The enhanced reimbursement applies to services provided from January 1, 2015 through June 30, 2016.
(b) The necessity of this administrative regulation: This administrative regulation is necessary to enhance Medicaid recipient access to preventive and wellness services.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by enhancing Medicaid recipient access to preventive and wellness services.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the effective administration of the authorizing statutes by enhancing Medicaid recipient access to preventive and wellness services.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: This is a new administrative regulation.
(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation.
(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.
(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: The administrative regulation will affect physicians and APRNs enrolled in the Medicaid Program.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No action is required other than to bill for preventive or wellness services rendered.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No cost is imposed.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Providers will benefit by receiving an enhanced reimbursement for preventive or wellness services. Medicaid recipients will benefit by having enhanced access to such services due to the expected increase in providers providing the services.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: The Department for Medicaid Services (DMS) estimates that increasing the preventive and wellness reimbursement rates from January 1, 2015 through June 30, 2015 will cost DMS approximately $450,000 (state and federal funds combined.)

(b) On a continuing basis: DMS estimates that increasing the preventive and wellness reimbursement rates for the period spanning July 1, 2015 through June 30, 2016 will cost DMS approximately $900,000 (state and federal funds combined.)

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The sources of revenue to be used for implementation and enforcement of this administrative regulation are federal funds authorized under the Social Security Act, Title XIX and state matching funds from restricted and/or general fund appropriations.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: The current fiscal year budget will not need to be adjusted to provide funds for implementing this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation neither establishes nor increases any fees.

(9) Tiering: Is tiering applied? (Explain why tiering was or was not used) Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FEDERAL MANDATE ANALYSIS COMPARISON

Administrative Regulation Number: 907 KAR 3:017E
Agency Contact Person: Stuart Owen (502) 564-4321

1. Federal statute or regulation constituting the federal mandate. 42 U.S.C. 1396a(a)(30).

2. State compliance standards. KRS 205.520(3) states, "Further, it is the policy of the Commonwealth to take advantage of all federal funds that may be available for medical assistance. To qualify for federal funds the secretary for health and family services may by regulation comply with any requirement that may be imposed or opportunity that may be presented by federal law. Nothing in KRS 205.510 to 205.630 is intended to limit the secretary's power in this respect."

3. Minimum or uniform standards contained in the federal mandate. Each state's Medicaid program is required (for the services it covers) to ensure recipient access to those services. 42 U.S.C. 1396a(a)(30) requires a state's Medicaid program to "provide such methods and procedures relating to the utilization of, and the payment for, care and services available under the plan (including but not limited to utilization review plans as provided for in section 1903(i)(4)) as may be necessary to safeguard against unnecessary utilization of such care and services and to assure that payments are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population in the geographic area." Increasing reimbursement for preventive and wellness services comports with the requirement to ensure Medicaid recipient access to preventive and wellness services.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The amendment does not impose stricter, additional or different requirements than those required by the federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Stricter requirements are not imposed.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Administrative Regulation Number: 907 KAR 3:017E
Agency Contact Person: Stuart Owen (502) 564-4321

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department for Medicaid Services will be affected by this administrative regulation.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. This administrative regulation is authorized by KRS 194A.030(2), 194A.050(1), 205.520(3), 205.560(1), 42 U.S.C. 1396a(a)(30).

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

   (a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? If a practice that is owned and operated by a government entity provides the preventive and wellness services, the entity could receive revenues but DMS cannot predict how many will do so.
   (b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The response in (a) also applies here.
   (c) How much will it cost to administer this program for the first year? The Department for Medicaid Services (DMS) estimates increasing the preventive and wellness reimbursement rates from January 1, 2015 through June 30, 2015 will cost DMS approximately $450,000 (state and federal funds combined.)
   (d) How much will it cost to administer this program for subsequent years? DMS estimates that increasing the preventive and wellness reimbursement rates for the period spanning July 1, 2015 through June 30, 2016 will cost DMS approximately $900,000 (state and federal funds combined.)

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.
Revenues (+/-): ____
Expenditures (+/-): ____
Other Explanation: No additional expenditures are necessary to implement this amendment.

COMMONWEALTH OF KENTUCKY
CABINET FOR HEALTH AND FAMILY SERVICES
DEPARTMENT FOR MEDICAID SERVICES

907 KAR 3:017E

Summary of Material Incorporated by Reference

The "Medicaid Preventive and Wellness Enhanced Fee Schedule", December 2014, is incorporated by reference. This is an eight (8) page document which lists the preventive and wellness services for which the Department for Medicaid Services will pay an enhanced rate along with the corresponding rates and any limits or restrictions.