

STATEMENT OF CONSIDERATION RELATING TO
907 KAR 17:030

Department for Medicaid Services
Not Amended After Comments

(1) A public hearing regarding 907 KAR 17:030 was not requested and; therefore, not held.

(2) The following individuals submitted written comments regarding 907 KAR 17:030:

<u>Name and Title</u>	<u>Organization/Agency/Other Entity</u>
Kathy Adams, Director of Public Policy	The Children's Alliance; Frankfort, KY
William S. Dolan, Staff Attorney Supervisor	Protection & Advocacy; Frankfort, KY

(3) The following individuals from the promulgating agency responded to comments received regarding 907 KAR 17:030:

<u>Name and Title</u>	<u>Organization/Agency/Other Entity</u>
Christina Heavrin, General Counsel	Cabinet for Health and Family Services
Stuart Owen, Regulation Coordinator	Department for Medicaid Services

SUMMARY OF COMMENTS AND AGENCY'S RESPONSES

(1) Subject: Section 1: Prompt Payment of Claims

(a) Comment: Kathy Adams, Director of Public Policy of the Children's Alliance, stated the following:

"Comment: Section 1. (1) and (2) require that an MCO have prepayment and postpayment claims review procedures that ensure the proper and efficient payment of claims and management of the program and that MCOs comply with prompt pay laws. Children's Alliance members continue to experience some payment delays. There are concerns that provider claims returned/rejected by an MCO may not be captured under the current system(s) put in place to track timely payment of claims. The Children's Alliance requests that provisions to provide oversight and address non-compliance be added to the regulation."

(b) Response: The Department for Medicaid Services (DMS) has the authority to

determine whether a managed care organization is complying with prompt pay requirements. DMS has a contract with each managed care organization (MCO) and among the terms and conditions of the contracts are requirements the prompt payment of claims. The contracts also state DMS's remedies for addressing MCO failure to comply with contractual requirements. The contracts possess the necessary authority for DMS to police this issue.

DMS welcomes any specific information that can be provided so that it can investigate the matter.

(2) Subject: Section 4 of 907 KAR 17:010 and Section 3 of 907 KAR 17:030

(a) Comment: William S. Dolan, Staff Attorney Supervisor at Protection & Advocacy, stated the following:

"Section 4, sub-section (14)(a) of 907 KAR 17:010 requires MCOs to continue to provide benefits to an enrollee upon request until the enrollee withdraws the appeal or after 14 days following an unfavorable resolution that is not further appealed. Section 3, sub-sections (1), (2) and (3) of 17:030 address mandatory recoupment. We read the recoupment sub-sections of 17:030 to apply only when an enrollee is determined ineligible for Medicaid due to fraud. Could you please confirm that there is no recoupment exposure for an appeal filed pursuant to an MCO's 907 KAR 17:010 internal appeal process and that 907 KAR 17:030 recoupment is applicable only in cases of fraud."

(b) Response: Though not addressed in 907 KAR 17:010 or 907 KAR 17:030, enrollees are subject to recoupment of expenses for the costs of services provided during an appeal if the enrollee loses the appeal. 907 KAR 17:025 establishes the MCO's requirement, pursuant to 42 CFR 438.404, to notify an enrollee regarding this potential obligation.

SUMMARY OF STATEMENT OF CONSIDERATION
AND
ACTION TAKEN BY PROMULGATING ADMINISTRATIVE BODY

The Department for Medicaid Services (DMS) has considered the comments received regarding 907 KAR 17:030 and is not amending the administrative regulation.