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MEMORANDUM

TO: Krista Quarles, Policy Specialist, Office of Regulatory Affairs, Cabinet for Health and Family Services

FROM: Emily Caudill, Regulations Compiler

RE: Not Amended After Comments Regulations – 907 KAR 016:005; 907 KAR 016:010; 907 KAR 016:015; 907 KAR 016:020 & 907 KAR 016:025

DATE: May 12, 2025

A copy of the Statements of Consideration for the administrative regulations listed above are enclosed for your file.

These regulations, not amended after comments, are tentatively scheduled to be reviewed by the Administrative Regulation Review Subcommittee at its **JUNE 2025** meeting. Please notify the proper person(s) of this meeting.

If you have questions, please contact us at RegsCompiler@LRC.ky.gov or (502) 564-8100.

Enclosure

STATEMENT OF CONSIDERATION RELATING TO
907 KAR 16:005

CABINET FOR HEALTH AND FAMILY SERVICES

Department for Medicaid Services
Division of Quality and Population Health
Not Amended After Comments

I. A public hearing on 907 KAR 16:005 was not requested. Written comments were received during the public comment period.

II. The following individual submitted comments during the public comment period:

<u>Name and Title</u>	<u>Agency/Organization/Entity/Other</u>
Steve Shannon, Executive Director	KARP, Inc.

III. The following individuals from the promulgating agency responded to comments received regarding 907 KAR 16:005.

<u>Name and Title</u>	<u>Agency/Organization/Entity/Other</u>
Lisa Lee, Commissioner	Department for Medicaid Services, Commissioner's Office
Veronica Judy-Cecil, Senior Deputy Commissioner	Department for Medicaid Services, Commissioner's Office
Leslie Hoffman, Deputy Commissioner	Department for Medicaid Services, Commissioner's Office
Jonathan Scott, Regulatory and Legislative Advisor	Department for Medicaid Services, Commissioner's Office
Ann Hollen, Executive Advisor	Kentucky Department for Behavioral Health, Developmental and Intellectual Disabilities
Nicole Lesniewski, Executive Staff Advisor	Department for Medicaid Services, Commissioner's Office

IV. SUMMARY OF COMMENTS AND AGENCY'S RESPONSES

(1) Subject: Duplication of case management services.

(a) Comment: Steve Shannon, Executive Director of KARP, Inc., submitted comments stating that participants eligible for the RISE Initiative will also be eligible for SMI TCM, which is a duplication of case management. He states that eligible participants should be able to maintain their current TCM provider and participate in the RISE Initiative. He recommends that TCM and

RISE Initiative services and supports may be provided by the same organization because TCM is a state plan benefit that is not in conflict with the RISE Initiative. He also notes that the implementation of conflict free case management could cause individuals to be forced to choose between their existing TCM provider or a 1915(i) and the current pool of providers will have to decide the amount of conflict-free case management and RISE Initiative services that can be provided, which could potentially be detrimental.

(b) Response: The 1915(i) RISE Initiative requires case management. If a participant wishes to maintain the same current provider for case management services, the provider can certify to become an 1915(i) RISE provider. While the benefit is not in conflict, the service of case management would be duplicative. The stipulation of "conflict-free" case management is a requirement of the Centers for Medicare and Medicaid Services (CMS) for Home and Community Based Services, therefore, this is not a change the state can elect to allow. The department will not be amending the administrative regulation in response to the comment.

(2) Subject: Allow for additional assessment instruments.

(a) Comment: Steve Shannon, Executive Director of KARP, Inc., submitted comments stating that language should be added to Section 1(30) permitting other assessment instruments (in addition to the InterRAI Community Mental Health (CMH) functional assessment). He states that if a better assessment instrument becomes available, this change would prevent an additional amendment to the regulation in order to permit the improved assessment tool.

(b) Response: CMS requested a named functional assessment tool to be included in the 1915(i) state plan amendment (SPA) application. The interRAI CMH functional assessment tool was evaluated and vetted to be the optimal choice to provide evidence based, standardized functional assessments across the targeted population identified. While future changes may require an amendment, the interRAI CMH functional assessment tool meets the CMS request and will be initiated with the implementation of the 1915(i) RISE Initiative. The cabinet will monitor the appropriateness of this tool for the 1915(i) population on an ongoing basis. The department will not amend the administrative regulation in response to the comment.

Summary of Action Taken

The Cabinet for Health and Family Services is not amending the administrative regulation based on comments received.

STATEMENT OF CONSIDERATION RELATING TO
907 KAR 16:010

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Medicaid Services
Division of Quality and Population Health
Not Amended After Comments

I. A public hearing on 907 KAR 16:010 was not requested. Written comments were received during the public comment period.

II. The following individual submitted comments during the public comment period:

<u>Name and Title</u>	<u>Agency/Organization/Entity/Other</u>
Steve Shannon, Executive Director	KARP, Inc

III. The following individuals from the promulgating agency responded to comments received regarding 907 KAR 16:010.

<u>Name and Title</u>	<u>Agency/Organization/Entity/Other</u>
Lisa Lee, Commissioner	Department for Medicaid Services, Commissioner's Office
Veronica Judy-Cecil, Senior Deputy Commissioner	Department for Medicaid Services, Commissioner's Office
Leslie Hoffman, Deputy Commissioner	Department for Medicaid Services, Commissioner's Office
Jonathan Scott, Regulatory and Legislative Advisor	Department for Medicaid Services, Commissioner's Office
Ann Hollen, Executive Advisor	Kentucky Department for Behavioral Health, Developmental and Intellectual Disabilities
Nicole Lesniewski, Executive Staff Advisor	Department for Medicaid Services, Commissioner's Office

IV. SUMMARY OF COMMENTS AND AGENCY'S RESPONSES

(1) Subject: Involuntary termination and loss of a 1915(i) RISE Initiative services

(a) Comment: Steve Shannon, Executive Director of KARP, Inc, submitted comments stating that there is a concern that if a provider is unable to adequately service and support an individual, can the provider "ensure health, safety, and welfare of the participant until an appropriate placement is secure"? He recommends that policies be developed and implemented which delineate an alternative placement for individuals whose health, safety, and welfare cannot be ensured.

(b) Response: To ensure the health, safety, and welfare of the participant who is being involuntarily terminated, the administrative agency, the Department for Behavioral Health, Developmental and Intellectual Disabilities (DBHDID), will monitor and provide oversight for the transition to new placement. The department will not be amending the administrative regulation in response to the comment.

Summary of Action Taken

The Cabinet for Health and Family Services is not amending the administrative regulation based on comments received.

STATEMENT OF CONSIDERATION RELATING TO
907 KAR 16:015

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Medicaid Services
Division of Quality and Population Health
Not Amended After Comments

I. A public hearing on 907 KAR 16:015 was not requested. Written comments were received during the public comment period.

II. The following individual submitted comments during the public comment period:

<u>Name and Title</u>	<u>Agency/Organization/Entity/Other</u>
Steve Shannon, Executive Director	KARP, Inc

III. The following individuals from the promulgating agency responded to comments received regarding 907 KAR 16:015.

<u>Name and Title</u>	<u>Agency/Organization/Entity/Other</u>
Lisa Lee, Commissioner	Department for Medicaid Services, Commissioner's Office
Veronica Judy-Cecil, Senior Deputy Commissioner	Department for Medicaid Services, Commissioner's Office
Leslie Hoffman, Deputy Commissioner	Department for Medicaid Services, Commissioner's Office
Jonathan Scott, Regulatory and Legislative Advisor	Department for Medicaid Services, Commissioner's Office
Ann Hollen, Executive Advisor	Kentucky Department for Behavioral Health, Developmental and Intellectual Disabilities
Nicole Lesniewski, Executive Staff Advisor	Department for Medicaid Services, Commissioner's Office

IV. SUMMARY OF COMMENTS AND AGENCY'S RESPONSES

(1) Subject: Human rights committee

(a) Comment: Steve Shannon, Executive Director of KARP, Inc, submitted comments regarding the human rights committee referenced in Section 1(3)(e)6. He asks if the human rights committee in this area be the same as the currently operating human rights committee for the HCB waivers. He recommends that the same human rights committee is used for waiver services.

(b) Response: The department appreciates this comment. Providers will have the option to participate in the currently operating human rights committees for the 1915(c) waivers. In some circumstances a different human rights committee may need to be implemented, and the current language allows for that option. The department will not be amending the administrative regulation in response to the comment.

(2) Subject: Annual background check requirement

(a) Comment: Steve Shannon, Executive Director of KARP, Inc, submitted comments regarding the required annual background check for 25% of employees. He notes that this seems like an unnecessarily high percentage of employees and recommends that this be changed to 10% as a more appropriate and cost-sensitive solution and notes that background checks are required for suspected health, safety, and welfare concerns.

(b) Response: Due to the vulnerable population that the 1915(i) RISE Initiative will serve and to align with existing state 1915(c) waivers, the state maintains that the 25% annual background check should be implemented. The department will not be amending the administrative regulation in response to the comment.

(3) Subject: Conflict free case management

(a) Comment: Steve Shannon, Executive Director of KARP, Inc, submitted comments regarding the requirement for conflict free case management and the exception which would permit case management services and RISE services to be provided by the same organization. He recommends that when an individual enrolls in the RISE Initiative and they are currently receiving targeted case management and care coordination from a Certified Community Behavioral Health Center (CCBHC), that the established relationship is permitted to continue upon the individual receiving RISE Initiative services and supports. He notes that an individual's targeted case management should not negatively impact an individual's decision to participate in the RISE Initiative.

(b) Response: The 1915(i) RISE Initiative requires case management. If a participant wishes to maintain their current provider for case management services, the provider can certify and become a 1915(i) RISE provider. While the benefit is not in conflict, the service of case management would be duplicative. The stipulation of "conflict-free" case management is a requirement of the Centers for Medicare and Medicaid Services (CMS) for Home and Community Based Services, therefore, is not a change the state can elect to allow. The department will not be amending the administrative regulation in response to the comment.

(4) Subject: Twenty-four hour telephone access to participate and to a RISE Initiative provider

(a) Comment: Steve Shannon, Executive Director of KARP, Inc, submitted comments regarding the requirement for case management to provide 24-hour telephone access to participate and to a RISE Initiative provider. He recommends that this telephone access is not the 988 Suicide and

Crisis Lifeline, and not the Community Mental Health Center crisis line, but a number answered by the case management organization.

(b) Response: Use of the 988 Suicide and Crisis Lifeline, or the Community Mental Health Center crisis line – while they should be used in the event of a relevant crisis – would not meet the 24 hour case management telephone access requirement. The case manager provider would still have an obligation to provide 24-hour telephone access for case management related services. The department is not amending the administrative regulation in response to the comment.

(5) Subject: List of eight relevant services and activities (Section 5)(7)(b)

(a) Comment: Steve Shannon, Executive Director of KARP, Inc, submitted comments regarding the list of 8 relevant services and activities provided in the regulation. He requests clarification on if the total list of eligible 8 residential services and activities must be provided to each participant who selects a residential service.

(b) Response: The list of 8 eligible residential services are only required to be provided when applicable and identified in the individual's Person Centered Service Plan (PCSP). The department will not be amending the administrative regulation in response to the comment.

Summary of Action Taken

The Cabinet for Health and Family Services is not amending the administrative regulation based on comments received.

STATEMENT OF CONSIDERATION RELATING TO
907 KAR 16:020

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Medicaid Services
Division of Quality and Population Health
Not Amended After Comments

- I. A public hearing on 907 KAR 16:020 was not requested. Written comments were received during the public comment period.
- II. The following individual submitted comments during the public comment period:

<u>Name and Title</u>	<u>Agency/Organization/Entity/Other</u>
Steve Shannon, Executive Director	KARP, Inc

- III. The following individuals from the promulgating agency responded to comments received regarding 907 KAR 16:020.

<u>Name and Title</u>	<u>Agency/Organization/Entity/Other</u>
Lisa Lee, Commissioner	Department for Medicaid Services, Commissioner's Office
Veronica Judy-Cecil, Senior Deputy Commissioner	Department for Medicaid Services, Commissioner's Office
Leslie Hoffman, Deputy Commissioner	Department for Medicaid Services, Commissioner's Office
Jonathan Scott, Regulatory and Legislative Advisor	Department for Medicaid Services, Commissioner's Office
Ann Hollen, Executive Advisor	Kentucky Department for Behavioral Health, Developmental and Intellectual Disabilities
Nicole Lesniewski, Executive Staff Advisor	Department for Medicaid Services, Commissioner's Office

IV. SUMMARY OF COMMENTS AND AGENCY'S RESPONSES

(1) Subject: Medication management.

(a) Comment: Steve Shannon, Executive Director of KARP, Inc, submitted comments regarding medication management. He asks if medication management is in addition to or instead of the current state plan medication management service. Will the eligible providers have to enroll as a 1915(i) RISE Initiative provider.

(b) Response: The 1915(i) RISE Initiative medication management service is an alternative to the current state plan medication management service. Providers that wish to provide services and be reimbursed per the 1915(i) RISE Initiative benefit will need to enroll as a 1915(i) RISE Initiative provider. The department will not be amending the administrative regulation in response to the comment.

(2) Subject: Reimbursement for tenancy supports

(a) Comment: Steve Shannon, Executive Director of KARP, Inc, submitted comments recommending that new language be added which provides for more supports the thirty days prior to renting a unit and the initial thirty days after the move into the rental unit. He anticipates that the recommended sixty day period may require more intensive services and supports to maximize the likelihood of a successful transition to the participant's home.

(b) Response: The limit of 30 days per 180-day period does not require consecutive days, thereby allowing flexibility over the 180-day authorization period. Additionally, the service limits for tenancy supports allow for an exceptions process to authorize limited coverage beyond the stated service limits with justification for approval. The department will not be amending the administrative regulation in response to the comment.

Summary of Action Taken

The Cabinet for Health and Family Services is not amending the administrative regulation based on comments received.

STATEMENT OF CONSIDERATION RELATING TO
907 KAR 16:025

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Medicaid Services
Division of Quality and Population Health
Not Amended After Comments

I. A public hearing on 907 KAR 16:025 was not requested. Written comments were received during the public comment period.

II. The following individual submitted comments during the public comment period:

<u>Name and Title</u>	<u>Agency/Organization/Entity/Other</u>
Steve Shannon, Executive Director	KARP, Inc

III. The following individuals from the promulgating agency responded to comments received regarding 907 KAR 16:025.

<u>Name and Title</u>	<u>Agency/Organization/Entity/Other</u>
Lisa Lee, Commissioner	Department for Medicaid Services, Commissioner's Office
Veronica Judy-Cecil, Senior Deputy Commissioner	Department for Medicaid Services, Commissioner's Office
Leslie Hoffman, Deputy Commissioner	Department for Medicaid Services, Commissioner's Office
Jonathan Scott, Regulatory and Legislative Advisor	Department for Medicaid Services, Commissioner's Office
Ann Hollen, Executive Advisor	Kentucky Department for Behavioral Health, Developmental and Intellectual Disabilities
Nicole Lesniewski, Executive Staff Advisor	Department for Medicaid Services, Commissioner's Office

IV. SUMMARY OF COMMENTS AND AGENCY'S RESPONSES

(1) Subject: Fee schedule

(a) Comment: Steve Shannon, Executive Director of KARP, Inc, submitted comments noting that the KY Medicaid fee schedule web page does not include the 1915(i) RISE Initiative and therefore he was not able to submit comments. The 1915(c) page also does not include the 1915(i) RISE Initiative.

(b) Response: The department has researched and verified that the correct version of the RISE Initiative reimbursement schedule is on the Kentucky Medicaid fee schedule Web page located at: <https://www.chfs.ky.gov/agencies/dms/Pages/feesrates.aspx>. The 1915(c) associated webpages are not intended to contain information about the RISE Initiative. If any interested parties have issues with accessing the fee schedule, please reach out to DMS and we will research. The administrative regulation will not be amended in response to the comment.

Summary of Action Taken

The Cabinet for Health and Family Services is not amending the administrative regulation based on comments received.