

**Description and information about Administrative Regulations filed for September 15 filing deadline:**

**This administrative regulation was filed on September 15, 2021:**

**1. 907 KAR 23:020E. Reimbursement for outpatient drugs.**

A. This Emergency Amendment Amended After Comments was filed with the Legislative Research Commission on September 15, 2021.

**B. Summary of Administrative Regulation:** 907 KAR 23:020E. Reimbursement for outpatient drugs. This amendment implements 2020's SB 50 and the department's awarded request for proposals as required by that legislation. The administrative regulation is amended to clarify when the professional dispensing fee can be assessed, clarify clotting factor reimbursement, and establish professional dispensing fees for compounded drugs. Finally, the regulation is amended to remove cost-sharing and comply with Senate Bill 55's removal of all co-pays.

**Emergency Amended After Comments Version:** The Emergency Amended After Comments version of the administrative regulation is amended to clarify that a professional dispensing fee is not needed when a usual and customary charge is paid for an outpatient pharmacy prescription. In addition, the regulation is amended to clarify that both in-house and contract 340B pharmacy reimbursement do not include the 340B ceiling price in the lowest of logic methodology. Finally, clotting factor reimbursement is now addressed in Section 2 of the administrative regulation, as a result, Section 4(8) became redundant and is being deleted.

C. The administrative regulation may be accessed at the LRC website here:

<https://apps.legislature.ky.gov/law/kar/TITLE907.HTM>

D. Information about public hearing and public comment period for this administrative regulation. This regulation was updated following a public comment period. This administrative regulation will receive public hearings at the Administrative Regulations Review Subcommittee (ARRS) and the appropriate Legislative Research Commission committee of jurisdiction. The ARRS agenda can be accessed here: <https://apps.legislature.ky.gov/CommitteeDocuments/3/> .

**These administrative regulations were filed on September 8, 2021:**

**2. 907 KAR 1:005. Nonduplication of payments.**

A. This ordinary administrative regulation was filed with the Legislative Research Commission on September 8, 2021.

**B. Summary of Administrative Regulation:** 907 KAR 1:005. Nonduplication of payments. The amendment changes this administrative regulation by removing an exemption for cost-sharing as a nonduplication of payment. Cost sharing and copayments are now prohibited in the Medicaid Program after the passage of SB 55 during the 2021 Regular Session.

C. The administrative regulation may be accessed at the LRC website here:

<https://apps.legislature.ky.gov/law/kar/TITLE907.HTM>

D. A public hearing on this administrative regulation shall, if requested, be held on November 22, 2021, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by November 15, 2021, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until November 30, 2021. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request. CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, KY 40621; Phone: 502-564-6746; Fax: 502-564-7091; CHFSregs@ky.gov.

### **3. 907 KAR 1:030. Home health agency services.**

A. This ordinary administrative regulation was filed with the Legislative Research Commission on September 8, 2021.

**B. Summary of Administrative Regulation:** 907 KAR 1:030. Home health agency services. The amendments to the administrative regulation will comport with recent legislative and practice evolution that allow for advanced practice registered nurses (APRNs) and physician assistants (PAs) to order services to recipients receiving services from home health agencies. Specifically the administrative regulation is amended to allow for an APRN, a PA, or a physician to sign a plan of care, or certify the medical necessity of modifications to a plan of care. In addition, the MAP-248 form is updated in order to allow for an APRN, PA, or a physician to authorize services.

C. The administrative regulation may be accessed at the LRC website here:

<https://apps.legislature.ky.gov/law/kar/TITLE907.HTM>

D. A public hearing on this administrative regulation shall, if requested, be held on November 22, 2021, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by November 15, 2021, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually will be given an

opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until November 30, 2021. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request. CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, KY 40621; Phone: 502-564-6746; Fax: 502-564-7091; CHFSregs@ky.gov.

#### **4. 907 KAR 1:604. Cost-sharing prohibited within the Medicaid program.**

A. This ordinary administrative regulation was filed with the Legislative Research Commission on September 8, 2021.

**B. Summary of Administrative Regulation:** 907 KAR 1:604. Cost-sharing prohibited within the Medicaid program. The amendment to this administrative regulation removes all copays and cost-sharing from the Medicaid program, and changes the title of the administrative regulation. This regulation now contains a clear prohibition on charging copayments for providers, managed care organizations, and the department. This change is being made to comply with SB 55 of the 2021 Regular Session. In addition, references to a premium for Medicaid Works individuals has been removed, an existing federal clarification has removed a premium requirement for this population. Furthermore, DMS is currently reviewing the possibility of ending the Medicaid Works program and transitioning this population to the general Medicaid expansion population.

C. The administrative regulation may be accessed at the LRC website here:  
<https://apps.legislature.ky.gov/law/kar/TITLE907.HTM>

D. A public hearing on this administrative regulation shall, if requested, be held on November 22, 2021, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by November 15, 2021, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until November 30, 2021. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available

upon request. CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, KY 40621; Phone: 502-564-6746; Fax: 502-564-7091; [CHFSregs@ky.gov](mailto:CHFSregs@ky.gov).

**5. 907 KAR 10:830. Acute care inpatient hospital reimbursement.**

A. This ordinary administrative regulation was filed with the Legislative Research Commission on September 8, 2021.

**B. Summary of Administrative Regulation:** 907 KAR 10:830. Acute care inpatient hospital reimbursement. The amendments change the administrative regulation by allowing for a hospice provider to be an allowable post-acute care setting.

C. The administrative regulation may be accessed at the LRC website here:  
<https://apps.legislature.ky.gov/law/kar/TITLE907.HTM>

D. A public hearing on this administrative regulation shall, if requested, be held on November 22, 2021, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by November 15, 2021, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until November 30, 2021. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request. CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, KY 40621; Phone: 502-564-6746; Fax: 502-564-7091; [CHFSregs@ky.gov](mailto:CHFSregs@ky.gov).