

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

These administrative regulations were filed immediately prior to February 15, 2021:

1. 907 KAR 7:020. 1915(c) Home and community based services waiting list and waiting list placement appeal processes.

A. This new administrative regulation was filed with the LRC prior to February 15, 2021.

B. **Summary of administrative Regulation:** 907 KAR 7:020. 1915(c) Home and community based services waiting list and waiting list placement appeal processes. This administrative regulation establishes waiting list policies for all 1915(c) waiver programs within the Kentucky Medicaid program. This administrative regulation also establishes and expands appeal rights if there is a denial of a request for a placement on the emergency category waitlist of the Supports for Community Living Waiver.

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. A public hearing on this administrative regulation shall, if requested, be held on April 26, 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 April 19, 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 April 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: Donna Little, Deputy Executive Director, 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.

2. 907 KAR 3:005. Coverage of physicians' services.

A. This regulation was filed with the LRC prior to February 15, 2021.

B. Summary of administrative Regulation: 907 KAR 3:005. Coverage of physicians' services. This administrative regulation establishes the Medicaid Program coverage provisions and requirements relating to physicians' services. The amendments change this administrative regulation by incorporating changes made to 907 KAR 3:010 to allow for broader practice of anesthesia under medical direction.

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. A public hearing on this administrative regulation shall, if requested, be held on April 26, 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 April 19, 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 April 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: Donna Little, Deputy Executive Director, 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 3:010. Reimbursement of physicians' services.

A. This regulation was filed with the LRC prior to February 15, 2021.

B. Summary of administrative Regulation: 907 KAR 3:010. Reimbursement of physicians' services. This administrative regulation establishes reimbursement requirements for physician services. The amendments to this administrative regulation allow for anesthesia to be reimbursed when provided under medical direction in certain circumstances. A new section describes elements that must be present and documented in each anesthesia under medical direction case. These requirements include that the anesthesiologist perform a face-to-face examination, personally decide on the appropriate anesthetic, and personally participate in-person for the most demanding procedures in the treatment plan. The amendments also require that anesthesia under medical direction services not conducted by the anesthesiologist be conducted by a qualified individual who shall also sign and document their participation. The amendments also require an anesthesiologist to frequently monitor the medical direction services in-person, and provide appropriate post-anesthesia care. Finally, a telehealth modifier requirement for physician evaluation and management consultation services is updated.

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. A public hearing on this administrative regulation shall, if requested, be held on April 26, 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 April 19, 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 April 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: Donna Little, Deputy Executive Director, 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 15:070. Coverage provisions and requirements regarding services provided by residential crisis stabilization units.

A. This regulation was filed with the LRC prior to February 15, 2021.

B. Summary of administrative Regulation: 907 KAR 15:070. Coverage provisions and requirements regarding services provided by residential crisis stabilization units. This administrative regulation establishes the coverage provisions and requirements regarding Medicaid Program behavioral health services provided by residential crisis stabilization units (RCSUs). The original amendments to this administrative regulation combined a previously separate description of who may perform a service and a description of the service itself. In addition, the amendments implement additional requirements relating to withdrawal management and medication assisted treatment, including a requirement that the services be conducted in accordance with the ASAM Criteria.

The Amended After Comments version filed prior to February 15, 2021 makes changes to further clarify that an RCSU is to provide ASAM Level 3.7 medically monitored intensive inpatient services. The administrative regulation is further amended to more clearly and specifically include the ASAM 3.7 level of care requirements. In addition, the availability of telehealth has been further clarified and made potentially allowable for three (3) services, as long as ASAM requirements are met. The medication assisted treatment authority of physician assistants has been clarified, and the potential for a federal waiver for certain buprenorphine prescribing by physicians has been accommodated. Finally, due to the COVID-19 pandemic, the date by which any RCSU providing SUD withdrawal services must have an ASAM certification

has been extended to July 1, 2022.

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/> .

5. 907 KAR 15:080. Coverage provisions and requirements regarding chemical dependency treatment center services.

A. This regulation was filed with the LRC prior to February 15, 2021.

B. Summary of administrative regulation: 907 KAR 15:080. Coverage provisions and requirements regarding chemical dependency treatment center services. This administrative regulation establishes the coverage provisions and requirements regarding Medicaid Program outpatient and inpatient chemical dependency treatment center (CDTC) services. The original amendments to this administrative regulation combine a previously separate description of who may perform a service and a description of the service itself. This series of amendments also includes a reference to the defined terms “approved behavioral health practitioner” and “approved behavioral health practitioner under supervision” from 907 KAR 15:005 instead of a listing of each provider in each service. This provides for more transparency and compactness in the administrative regulation. The administrative regulation has also clarified the use of telehealth in several places. Additional requirements relating to mobile crisis services include requiring access to a board-certified or board eligible psychiatrist at all times, and allowing for the use of peer support specialists. Day treatment services include additional requirements relating to staff qualifications. Peer support specialist services are amended to further allow and enhance the use of emergency department bridge clinics. In addition, peer support specialist services are now required to only be 30 hours per week of direct recipient contact and group peer support services are not allowed to exceed 8 individuals within any group at one time. Intensive outpatient program services are required to comply with the most current service criteria of the ASAM Criteria, and additional clarification is given about how the services are to be provided to adults and adolescents. The amendments also include new services and requirements relating to “service planning”, “ambulatory withdrawal management”, “medication assisted treatment”, and “inpatient chemical dependency treatment”.

The Amended After Comments version of this administrative regulation filed prior to February 15, 2021 is amended to potentially allow additional services to utilize telehealth, if acceptable pursuant to the ASAM Criteria, and 907 KAR 3:170. The administrative regulation additionally clarifies how collateral therapy is to be utilized on days that other outpatient therapies are provided. The administrative regulation also updates references to physician assistants, and

allows for the potential for expanded prescribing authority of buprenorphine products. Finally, the administrative regulation also allows for an ASAM 3.5 level of care to be provided within a CDTC that provides SUD withdrawal, if the CDTC has an ASAM 3.5 certification.

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/> .