

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

This emergency and ordinary administrative regulation were filed on June 1, 2022:

1. 907 KAR 23:020E

A. This administrative regulation was filed on June 1, 2022

B. Summary of Administrative Regulation: This administrative regulation establishes the Department for Medicaid Services' (DMS's) reimbursement provisions and requirements regarding outpatient drugs dispensed or administered to all Medicaid recipients. This amendment implements 2020's SB 50 and the department's awarded request for proposals as required by that legislation. The amendment further implements needed 340B data tracking measures in order to ensure that the Medicaid program is able to comply with federal law relating to duplicate discounts. 340B pharmacies are required to inform the department whether they will participate or not in providing 340B medications to Medicaid recipients. These changes are part of a new Section 5 and 6 of the administrative regulation that consolidate most 340B provisions. Section 5 is for Fee-For-Service 340B transactions and Section 6 is for MCO transactions. The administrative regulation is also amended to allow certain substance use disorder (SUD) drugs to receive additional dispensing fees per month by allowing the dispensing fee to be available once every seven days. 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. The regulation is further amended to remove cost-sharing and comply with 2021 Senate Bill 55's removal of all co-pays. 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. In addition, 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. Finally, additional citations have been included in the "Relates To" and "Statutory Authority" sections.

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 July 25, 2022, 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 July 18, 2022, 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 July 31, 2022. 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.

2. 907 KAR 23:020

A. This administrative regulation was filed on June 1, 2022

B. Summary of Administrative Regulation: This administrative regulation establishes the Department for Medicaid Services' (DMS's) reimbursement provisions and requirements regarding outpatient drugs dispensed or administered to all Medicaid recipients. This amendment implements 2020's SB 50 and the department's awarded request for proposals as required by that legislation. The amendment further implements needed 340B data tracking measures in order to ensure that the Medicaid program is able to comply with federal law relating to duplicate discounts. 340B pharmacies are required to inform the department whether they will participate or not in providing 340B medications to Medicaid recipients. These changes are part of a new Section 5 and 6 of the administrative regulation that consolidate most 340B provisions. Section 5 is for Fee-For-Service 340B transactions and Section 6 is for MCO transactions. The administrative regulation is also amended to allow certain substance use disorder (SUD) drugs to receive additional dispensing fees per month by allowing the dispensing fee to be available once every seven days. 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. The regulation is further amended to remove cost-sharing and comply with 2021 Senate Bill 55's removal of all co-pays. 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. In addition, 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. Finally, additional citations have been included in the "Relates To" and "Statutory Authority" sections.

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 August 22, 2022, 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 August 15, 2022, 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 August 31, 2022. 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.

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These ordinary administrative regulations were filed on June 7, 2022:

3. 907 KAR 1:008. Reimbursement for advanced practice registered nurse services.

A. This administrative regulation was filed on June 7, 2022

B. Summary of Administrative Regulation: This administrative regulation establishes the reimbursement rates and coverage provisions for procedures performed in ambulatory surgical centers. This amendment moves certain requirements that were previously located within the ambulatory surgical centers manual into the body of the administrative regulation. The administrative regulation is further amended to update to the 2022 ambulatory surgical center fee schedule, and to establish an ongoing updating process to the most currently available ambulatory surgical center fee schedule. The administrative regulation also adds a new section relating to reproductive services. This language previously existed within the ambulatory surgical center manual and is being moved to the administrative regulation with the deletion of the manual. Another new section relating to documentation requirements is being included that contains requirements that were previously located in the Ambulatory Surgical Centers Manual. Language relating to the 1996 fee schedule is being deleted and the section relating to material incorporated by reference is also being deleted

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 August 22, 2022, 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 August 15, 2022, 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 August 31, 2022. 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.

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4. 907 KAR 1:044. Reimbursement for advanced practice registered nurse services.

A. This administrative regulation was filed on June 7, 2022

B. Summary of Administrative Regulation: This administrative regulation establishes the behavioral health coverage provisions and requirements regarding Medicaid program services provided within a community mental health center (CMHC).

The amendment to this administrative regulation incorporates a new manual that is titled the Behavioral Health Services Manual for Community Mental Health Centers. This amendment also contains a definition for “approved behavioral health practitioner” and “approved behavioral health practitioner under supervision” instead of a listing of each provider and each service. This provides for more transparency and compactness in the administrative regulation and manual. The administrative regulation also contains a definition for the “ASAM Criteria”, “paraprofessional practitioner under supervision”, and “telehealth.” New covered services include withdrawal management, medication assisted treatment, applied behavior analysis, chemical dependency treatment center services, and narcotic treatment programs if separately licensed. The amendment also updates language relating to prevention education with substance use risk factors and case management services for pregnant or postpartum individuals with a substance use disorder. The administrative regulation also requires a billing supervisor’s signature within thirty (30) days when a service is delivered by an approved behavioral health practitioner under supervision.

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 August 22, 2022, 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 August 15, 2022, 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 August 31, 2022. 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.

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