

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

This administrative regulation was filed on October 15, 2021:

1. 907 KAR 3:170. Telehealth service coverage and reimbursement.

A. This ordinary administrative regulation was filed with the Legislative Research Commission on October 15, 2021.

B. Summary of Administrative Regulation: 907 KAR 3:170. Telehealth service coverage and reimbursement. The administrative regulation is amended to incorporate new definitions for “remote patient monitoring” and “in-person”. The regulation is also amended to establish a recipient rights’ clause to allow recipients’ the option to receive services in-person or via synchronous telehealth. Telehealth policy is clarified to state that services are subject to in-person requirements established by state or federal law, a standard set by a professional criteria, a licensing body, or a billing code requirement. The department’s general policy is that telehealth services are reimbursable if they are appropriate and safe to be delivered via the technology used and not prohibited by the provider’s licensing board. In addition, a new patient may be established and an initial visit may be conducted via the use of synchronous telehealth. The administrative regulation also establishes telephonic service requirements. This is specifically in relation to existing telephonic codes and establishing a policy to reimburse at the lower reimbursement rate between an audio-only encounter and the telephonic code when a discrepancy in reimbursement rates exists. The administrative regulation also establishes reimbursement for an originating site fee for rural health clinics, federally qualified health centers, and federally qualified health center look-alikes. The administrative regulation also addresses telehealth provided by out-of-state providers by requiring evaluation and monitoring of outcomes for recipients who are receiving healthcare services from out-of-state providers, requiring DMS to implement any participation restrictions established by state licensing boards, and establishing restrictions and limitations for out-of-state providers if there are concerns about healthcare quality and outcomes. Asynchronous telehealth services are expanded to include remote patient monitoring, and the regulation is further clarified to require that asynchronous telehealth services involve timely actual input and responses from the provider. Remote patient monitoring is further expanded to include specific conditions, including conditions determined by the department to be appropriate and effective, require specific risk factors for RPM eligibility, and allow for RPM to be ordered by a physician, APRN, or physician’s assistant. In addition, recipients are required to meet certain requirements to use RPM, and certain hardware and upgrades are excluded from the RPM benefit. The administrative regulation further establishes requirements relating to telephonic services. Finally, the administrative regulation is amended to allow the department to post an informational listing of codes that are not allowed or that are subject to additional restrictions.

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 December 21, 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 December 14, 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 December 31, 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.