

Description and information about Administrative Regulations filed on September 30:

This emergency and ordinary administrative regulation were filed on September 30, 2022:

1. 907 KAR 3:160E. Specialized children’s services clinics.

A. This administrative regulation was filed on September 30, 2022

B. Summary of Administrative Regulation: This administrative regulation establishes the requirements for providers and reimbursement by the Medicaid program for services provided by a specialized children’s services clinic.

The amendment changes the administrative regulation to incorporate changes made by the 2022 Regular Session’s SB 8. The changes include defining new terms to modernize behavioral health treatment and behavioral health treatment providers within this administrative regulation. In addition, the previous term of a “child sex abuse medical examination” is being removed in favor of the broader concept of a “child medical evaluation” as found in the 2022 Regular Session’s SB 8. The new term will also allow for investigation of physical abuse and neglect by the children’s advocacy centers. In addition, new provider types of physician assistants, advanced practice registered nurses, and sexual assault nurse examiners are allowed to provide services within these facilities. This concept of a child medical evaluation is further being expanded to include a Children’s Advocacy Centers of Kentucky approved evidence-based trauma screening.

The department is also introducing nine (9) ongoing outpatient behavioral health services and a modernized listing of approved behavioral health practitioners and practitioners under supervision. The new services include screening, assessment, crisis intervention, intensive outpatient program, individual outpatient therapy, group therapy, family therapy, collateral therapy, and peer support services. The services may be provided by any of 13 behavioral health practitioner types or nine behavioral health practitioner types under supervision.

The payment methodology of a child medical evaluation is being expanded to meet SB 8’s requirement of paying the “true and actual cost” of the child advocacy centers/specialized children’s services clinics. On an initial basis, two reimbursement sections will be included. As the bill is implemented, an enhanced fee schedule will be utilized. In the alternative, and at the option of the child advocacy center, during the implementation phase an updated comprehensive rate could be billed.

As cost surveys are developed and prepared, a prospective payment system rate (PPS) reimbursement will be implemented. The managed care organizations (MCOs) will be required to utilize the cost reports and cost surveys developed and implemented by DMS in consultation with the child advocacy centers. In both reimbursement sections, the new behavioral health services will be conducted outside of the enhanced fee schedule or PPS rate. DMS and the MCOs will be required to reimburse mental health services at least at 100% of the established rates on the Outpatient Behavioral Health Fee Schedule. In addition, additional requirements and standards for laboratory services are being included. The department is also reserving the ability to completely remove this benefit and provider type from managed care in order to lessen administrative burden. Finally, a federal financial participation clause is being included to further modernize the administrative regulation.

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 28, 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 November 17, 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 November 30, 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 3:160. Specialized children’s services clinics.

A. This administrative regulation was filed on September 30, 2022

B. Summary of Administrative Regulation: This administrative regulation establishes the requirements for providers and reimbursement by the Medicaid program for services provided by a specialized children’s services clinic.

The amendment changes the administrative regulation to incorporate changes made by the 2022 Regular Session’s SB 8. The changes include defining new terms to modernize behavioral health treatment and behavioral health treatment providers within this administrative regulation. In addition, the previous term of a “child sex abuse medical examination” is being removed in favor of the broader concept of a “child medical evaluation” as found in the 2022 Regular Session’s SB 8. The new term will also allow for investigation of physical abuse and neglect by the children’s advocacy centers. In addition, new provider types of physician assistants, advanced practice registered nurses, and sexual assault nurse examiners are allowed to provide services within these facilities. This concept of a child medical evaluation is further being expanded to include a Children’s Advocacy Centers of Kentucky approved evidence-based trauma screening.

The department is also introducing nine (9) ongoing outpatient behavioral health services and a modernized listing of approved behavioral health practitioners and practitioners under supervision. The new services include screening, assessment, crisis intervention, intensive outpatient program, individual outpatient therapy, group therapy, family therapy, collateral therapy, and peer support services. The services may be provided by any of 13 behavioral health practitioner types or nine behavioral health practitioner types under supervision.

The payment methodology of a child medical evaluation is being expanded to meet SB 8’s

requirement of paying the “true and actual cost” of the child advocacy centers/specialized children’s services clinics. On an initial basis, two reimbursement sections will be included. As the bill is implemented, an enhanced fee schedule will be utilized. In the alternative, and at the option of the child advocacy center, during the implementation phase an updated comprehensive rate could be billed.

As cost surveys are developed and prepared, a prospective payment system rate (PPS) reimbursement will be implemented. The managed care organizations (MCOs) will be required to utilize the cost reports and cost surveys developed and implemented by DMS in consultation with the child advocacy centers. In both reimbursement sections, the new behavioral health services will be conducted outside of the enhanced fee schedule or PPS rate. DMS and the MCOs will be required to reimburse mental health services at least at 100% of the established rates on the Outpatient Behavioral Health Fee Schedule. In addition, additional requirements and standards for laboratory services are being included. The department is also reserving the ability to completely remove this benefit and provider type from managed care in order to lessen administrative burden. Finally, a federal financial participation clause is being included to further modernize the administrative regulation.

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, 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 December 14, 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 December 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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