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State/Territory Name: KENTUCKY

State Plan Amendment (SPA) #: KY-24-0006

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) CMS 179 Form/Summary Form
- 3) Approved SPA Pages

DEPARTMENT OF HEALTH & HUMAN SERVICES

Centers for Medicare & Medicaid Services
Center for Medicaid & CHIP Services
230 South Dearborn
Chicago, Illinois 60604



Financial Management Group

July 23, 2024

Lisa Lee
Commissioner
275 E. Main St.
Frankfort, KY 40601

RE: TN 24-0006

Dear Commissioner Lee,

The Centers for Medicare & Medicaid Services (CMS) has reviewed the proposed Kentucky State Plan Amendment (SPA) to Attachment 4.19-B KY-24-0006, which was submitted to CMS on May 13, 2024. This plan amendment updates the Direct Graduate Medical Education (DGME) supplemental payment.

We reviewed your SPA submission for compliance with statutory requirements including in sections 1902(a)(2), 1902(a)(13), 1902(a)(30), and 1903 as it relates to the identification of an adequate source for the non-federal share of expenditures under the plan, as required by 1902(a)(2), of the Social Security Act and the applicable implementing Federal regulations.

Based upon the information provided by the state, we have approved the amendment with an effective date of July 1, 2024. We are enclosing the approved CMS-179 and a copy of the new state plan pages.

If you have any additional questions or need further assistance, please contact Ysabel Gavino via email at maria.gavino@cms.hhs.gov.

Sincerely,

Todd McMillion

Todd McMillion
Director
Division of Reimbursement Review

Enclosures

**TRANSMITTAL AND NOTICE OF APPROVAL OF
STATE PLAN MATERIAL
FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES**

1. TRANSMITTAL NUMBER

2. STATE

3. PROGRAM IDENTIFICATION: TITLE OF THE SOCIAL
SECURITY ACT

XIX

XXI

TO: CENTER DIRECTOR
CENTERS FOR MEDICAID & CHIP SERVICES
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE

5. FEDERAL STATUTE/REGULATION CITATION

42 CFR 447.321

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)

a. FFY _____ \$ _____

b. FFY _____ \$ _____

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

2

2

2

8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION
OR ATTACHMENT (If Applicable)

2

2

2

9. SUBJECT OF AMENDMENT

10. GOVERNOR'S REVIEW (Check One)

GOVERNOR'S OFFICE REPORTED NO COMMENT
COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

OTHER, AS SPECIFIED:

11. SIGNATURE OF STATE AGENCY OFFICIAL

15. RETURN TO

12. TYPED NAME

13. TITLE

14. DATE SUBMITTED

FOR CMS USE ONLY

16. DATE RECEIVED

May 13, 2024

17. DATE APPROVED

PLAN APPROVED - ONE COPY ATTACHED

18. EFFECTIVE DATE OF APPROVED MATERIAL

July 1, 2024

19. SIGNATURE OF APPROVING OFFICIAL

Todd McMillion

20. TYPED NAME OF APPROVING OFFICIAL

Todd McMillion

21. TITLE OF APPROVING OFFICIAL

Director, Division of Reimbursement Review

22. REMARKS The State of KY authorizes CMS the following pen and ink changes:

Box 5 Federal Statute/Regulation Citation - to add 42 CFR 447.321 - MYLG 6/4/24

Box 7 Page Number of the Plan Section or Attachment - to add number 2 on the page numbers as shown below: MYLG 6/4/24

Att. 4.19-B Pg. 20.12 (f)

Att. 4.19-B Pg. 20.12 (f)(1)

Att. 4.19-B Pg. 20.12 (f)(2)

Box 8 Page Number of the Superseded Plan Section or Attachment - to add number 2 on the page numbers as shown below: MYLG 6/4/24

Att. 4.19-B Pg. 20.12 (f)

Att. 4.19-B Pg. 20.12 (f)(1)

Att. 4.19-B Pg. 20.12 (f)(2)

VIII. Outpatient Hospital Services

A. In-State Outpatient Hospital Service Reimbursement.

1.
 - a. Except for critical access hospital services, and an individual in the Lock-In program, the department shall reimburse on an interim basis for in-state outpatient hospital services at a facility specific outpatient cost-to-charge ratio based on the facility's most recently filed Medicaid cost report.
 - b. An outpatient cost-to-charge ratio shall be expressed as a percent of the hospital's charges.
2. A facility specific outpatient cost-to-charge ratio paid during the course of a hospital's fiscal year shall be designed to result in reimbursement, at the hospital's fiscal year end, equaling ninety-five (95) percent of a facility's total allowable Medicaid outpatient costs incurred during the hospital's fiscal year.
3. Except as established in item 4. of the In-State Outpatient Hospital Services section:
 - a. Upon reviewing an in-state outpatient hospital's as submitted Medicaid cost report for the hospital's fiscal year, the department shall preliminarily settle reimbursement to the facility equal to ninety-five (95) percent of the facility's allowable Medicaid outpatient costs incurred in the corresponding fiscal year; and
 - b. Upon receiving and reviewing an in-state outpatient hospital's finalized Medicaid cost report for the hospital's fiscal year, the department shall settle final reimbursement to the facility equal to ninety-five (95) percent of the facility's total allowable Medicaid outpatient costs incurred in the corresponding fiscal year.
4.
 - a. Under no circumstances shall the department's total reimbursement for outpatient hospital services exceed the aggregate limit established in 42 C.F.R. 447.321.
 - b. If projections indicate for a given state fiscal year that reimbursing for outpatient hospital services at ninety-five (95) percent of allowable Medicaid costs would result in the department's total outpatient hospital service reimbursement exceeding the aggregate limit established in 42 CFR 447.321, the department shall proportionately reduce final outpatient hospital service reimbursement for each hospital to equal a percent of costs which shall result in total outpatient hospital reimbursement equaling the aggregate limit established in 42 CFR 447.321.
 - c. The Medicare upper payment limit shall be determined using the CMS 2552 cost report and will be based on the Medicare Principles of Reimbursement.
5. In accordance with 42 USC 1396r-8(a)(7), a hospital shall include the corresponding National Drug Code (NDC) when billing a physician administered drug in the outpatient hospital setting.
6. In accordance with 1903(i)(7), Outpatient laboratory services will be paid at the Medicare technical component rate. A laboratory service with no established Medicare rate will be reimbursed by multiplying the facility-specific outpatient cost-to-charge ratio by billed charges with no year-end settlement. Laboratory services provided to a recipient on the same day as services listed in A.1 through 5 will be bundled with the fixed rate payment and not reimbursed separately.

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7. Effective for the State Fiscal Year beginning July 1, 2024, the department shall make an annual outpatient direct graduate medical education (DGME) supplemental payment for the direct costs of graduate medical education incurred by in-state hospitals with a graduate medical education program approved by Medicare.
- a. A supplemental DGME payment shall be made:
 - (1) Separately from the per visit and cost settlement payment methodologies;
 - (2) On an annual basis;
 - (3) Using the hospital's cost report period ending in the calendar year 1 year prior to the beginning of the State Fiscal Year. For example, for the State Fiscal Year beginning July 1, 2024, the cost report period ending in calendar year 2023 shall be utilized.
 - b. The annual supplemental DGME payment shall equal the difference between the supplemental DGME amount minus any DGME payments received through outpatient cost settlements, and any outpatient DGME payments received from managed care organizations.
 - c. The department shall determine a supplemental DGME amount equal to the product of:
 - (1) Total DGME costs, obtained from Worksheet B, Part 1, Line 118, Columns 21 and 22 of the hospital's Medicare cost report, and
 - (2) The hospital's Medicaid outpatient net revenue (both fee-for-service and managed care) divided by net revenue from Medicaid, obtained from Worksheet S-10, line 2 of the hospital's Medicare cost report.
 - d. Only the fee-for-service portion of the supplemental DGME payments shall count towards the upper payment limit described in 4.a.
8. Effective for the State Fiscal Year beginning July 1, 2024, the department shall make an annual IME payment to state university teaching hospitals as established in this subsection.
- a. For the purposes of this subsection, a state university teaching hospital is a hospital that is owned or operated by a state university or a state university related party organization, with a state university affiliated graduate medical education program approved by Medicare.
 - b. Effective for the State Fiscal Year beginning July 1, 2024, the department shall make an annual IME payment to state university teaching hospitals equal to:
 - (1) The total of all outpatient hospital base payments received from fee-for-service Medicaid during the previous year multiplied by the sum of one (1) and the adjusted hospital specific IME factor determined in accordance with subparagraph (6), plus
 - (2) The total of all outpatient hospital base payments received from managed care organizations in the previous year multiplied by the sum of one (1) and the adjusted hospital specific IME factor in accordance with subparagraph (6), minus
 - (3) IME payments, if any, included in the outpatient cost settlement.
 - (4) The adjusted hospital-specific IME factor shall be calculated pursuant to 42 C.F.R. § 412.105(d), except that the count of FTE residents reported on worksheet E Part A, Lines 10 and 11, Column 1 of the Medicare cost report shall be substituted for the numerator of the ratio of full time equivalent residents to beds described in paragraph (d)(1) therein.
 - (5) The annual calculation described in this subsection shall utilize the hospital's cost report period ending in the calendar year 1 year prior to the beginning of the State Fiscal Year. For example, for the State Fiscal Year beginning July 1, 2024, the cost report period ending in calendar year 2023 shall be utilized. The fee-for-service portion of the state university teaching hospital IME payments equals the amount determined under 8.a.1 and 8.a.3 in this paragraph. Only the fee-for-service portion of the teaching hospital IME payments shall count towards the upper payment limit described 4.a.
- B. Out-of-State Outpatient Hospital Service Reimbursement. Excluding services provided in a critical access hospital and laboratory services, reimbursement for an outpatient hospital service provided by an out-of-state hospital shall be ninety-five (95) percent of the average in-state outpatient hospital cost-to-charge ratio times the Medicaid covered charges billed by the out-of-state hospital.

C. Critical Access Hospital Outpatient Service Reimbursement.

1. The department shall reimburse for outpatient hospital services in a critical access hospital as established in 42 CFR 413.70(b) through (d).
2. A critical access hospital shall comply with the cost reporting requirements established in subsection E of the Outpatient Reimbursement section of the state plan.
3. In accordance with 1903(i)(7), Outpatient laboratory services will be paid at the Medicare technical component rate. A laboratory service with no established Medicare rate will be reimbursed by multiplying the facility-specific outpatient cost-to-charge ratio by billed charges with no year-end settlement. Laboratory services provided to a recipient on the same day as services listed in A.1 through 5 will be bundled with the fixed rate payment and not reimbursed separately.

D. Outpatient Hospital Laboratory Service Reimbursement.

1. In accordance with 1903(i)(7), Outpatient laboratory services will be paid at the Medicare technical component rate. A laboratory service with no established Medicare rate will be reimbursed by multiplying the facility-specific outpatient cost-to-charge ratio by billed charges with no year-end settlement. Laboratory services provided to a recipient on the same day as services listed in A.1 through 5 will be bundled with the fixed rate payment and not reimbursed separately.
2. Laboratory service reimbursement, in accordance with item 1 in the Outpatient Hospital Laboratory Service Reimbursement section, shall be:
 - a. Final; and
 - b. Not settled to cost.

An outpatient hospital laboratory service shall be reimbursed in accordance with item D.2 of the Outpatient reimbursement section of the state plan regardless of whether the service is performed in an emergency room setting or in a non-emergency room setting

E. Cost Reporting Requirements.

1. Claims for services provided prior to January 5, 2009, will be reimbursed per State Plan Amendment 03-015 pages 20.12(f)-20.12(f)(3) effective August 1, 2003.
2. To assure that the Upper Payment Limit is not exceeded in SFY 2008-2009 (July 1, 2008 through June 30, 2009), two analyses will be performed :
 - a. An analysis of the cost of providing outpatient services and the reimbursement projected for the rate year (using both payment methodologies during partial years) beginning July 1, 2008 and ending June 30, 2009.
 - b. An analysis of the cost of providing outpatient services (based on the relative charges applied) for the period of January 5, 2009 and June 30, 2009; and the reimbursement projected based on the payment methodology in effect during this period.
3. As of January 5, 2009, an in-state outpatient hospital participating in the Medicaid program shall submit to the department a copy of the Medicare cost report it submits to CMS, an electronic cost report file (ECR), the Supplemental Medicaid Schedule KMAP-1, the Supplemental Medicaid Schedule KMAP-4 and the Supplemental Medicaid Schedule KMAP-6 as follows:
 - a. A cost report shall be submitted:
 - (1) For the fiscal year used by the hospital; and
 - (2) Within five (5) months after the close of the hospital's fiscal year; and
 - b. Except as follows, the department shall not grant a cost report submittal extension:
 - (1) The department shall grant an extension if an extension has been granted by Medicare. If an extension has been granted by Medicare, when the facility submits its cost report to Medicare it shall simultaneously submit a copy of the cost report to the department; or
 - (2) If a catastrophic circumstance exists, as determined by the department (for example flood, fire, or other equivalent occurrence), the department shall grant a thirty (30) day extension.
4. If a cost report submittal date lapses and no extension has been granted, the department shall immediately suspend all payment to the hospital until a completed cost report is received.
5. If a cost report indicates payment is due by a hospital to the department, the hospital shall submit the amount due or submit a payment plan request with the cost report.
6. If a cost report indicates a payment is due by a hospital to the department and the hospital fails to remit the amount due or request a payment plan, the department shall suspend future payment to the hospital until the hospital remits the payment or submits a request for a payment plan.