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State/Territory Name: Kentucky

State Plan Amendment (SPA) #: 20-0008

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) CMS 179 Form/Summary Form (with 179-like data)
- 3) Approved SPA Pages

DEPARTMENT OF HEALTH & HUMAN SERVICES

Centers for Medicare & Medicaid Services
Center for Medicaid & CHIP Services
233 North Michigan Ave., Suite 600
Chicago, Illinois 60601



Financial Management Group

May 20, 2021

Lisa D. Lee
State Medicaid Commissioner
Department for Medicaid Services
275 East Main Street 6W-A
Frankfort, Kentucky 40621
RE: TN 20-0008

Dear Ms. Lee:

We have reviewed the proposed Kentucky State Plan Amendment (SPA) to Attachment 4.19-B 20-0008, which was submitted to the Centers for Medicare & Medicaid Services (CMS) on May 11, 2020. The purpose of this SPA is to revise the school based services reimbursement.

Based upon the information provided by the State, we have approved the amendment with an effective date of July 1, 2020. 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 Moe Wolf at 410-786-9291 or Moshe.Wolf@CMS.HHS.gov.

Sincerely,

A solid black rectangular box redacting the signature of 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 0 — 0 0 8

2. STATE

Kentucky

3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)

TO: REGIONAL ADMINISTRATOR
CENTERS FOR MEDICARE & MEDICAID SERVICES
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE

07/01/2020

5. TYPE OF PLAN MATERIAL (*Check One*)

NEW STATE PLAN

AMENDMENT TO BE CONSIDERED AS NEW PLAN

AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (*Separate transmittal for each amendment*)

6. FEDERAL STATUTE/REGULATION CITATION

42 CFR 320.

7. FEDERAL BUDGET IMPACT

a. FFY 2020 \$ 1,600,000

b. FFY 2021 \$ 28,000,000

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

Att. 4.19- B, Page 20.37, 20.37.1, 20.37.2, 20.37.3, 20.37.4

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 PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (*If Applicable*)

Att. 4.19-B, Page 20.37 and 20.37.1 - (TN#19-003)
Att. 4.19-B, Page 20.37.2, 20.37.3, 20.37.4 - New

10. SUBJECT OF AMENDMENT

The purpose of this SPA is to revise the school based services reimbursement.

11. GOVERNOR'S REVIEW (*Check One*)

GOVERNOR'S OFFICE REPORTED NO COMMENT

OTHER, AS SPECIFIED

COMMENTS OF GOVERNOR'S OFFICE ENCLOSED

NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

12. SIGNATURE OF STATE AGENCY OFFICIAL

[Redacted Signature]

16. RETURN TO

13. TYPED NAME

Lisa D. Lee

14. TITLE

Commissioner

15. DATE SUBMITTED

5/11/2020

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED

May 11, 2020

18. DATE APPROVED

May 20, 2021

PLAN APPROVED - ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL

July 1, 2020

20. SIGNATURE OF REGIONAL OFFICIAL

[Redacted Signature]

21. TYPED NAME

Todd McMillion

22. TITLE

Director, Division of Reimbursement Review

23. REMARKS

Pen and Ink changes as approved via email:

Box 8: "Att. 4.19- B, Page 20-37-20.37.2" changed to "Att. 4.19- B, Page 20.37, 20.37.1, 20.37.2, 20.37.3, 20.37.4"

Box 9: "Att. 4.19- B, Page 220.37.2 - New" changed to "Att. 4.19-B, Page 20.37.2, 20.37.3, 20.37.4 - New"

- 3) For medically-necessary evaluative, diagnostic, preventive, and treatment services listed in Section 1905(a) of the Social Security Act, the state shall pay in accordance with items (1) or (3), as applicable, except that for governmental providers the payment shall be a fee-for-service system designed to approximate cost in the aggregate with settlement to reconciled cost. The following describes the methodology utilized in arriving at the rates.
- (a) Medicaid providers are paid according to the Kentucky Medicaid Fee Schedule and its modifiers which are maintained by the department and paid through the fee-for-service system. “Except as otherwise noted in the plan, state-developed fee schedule rates are the same for both governmental and private providers of covered services. The agency’s current fee schedule rate was set as of January, 2010 and is effective for services provided on or after that date. All rates are published on the KY Medicaid web site at <https://chfs.ky.gov/agencies/dms/Pages/feesrates.aspx>
 - (b) Fee for new services are established based on the fees for similar existing services. If there are no similar services the fee is established at 75% of estimated average charge.
 - (c) Fees for particular services can be increased based on administrative review if it is determined that the service is essential to the health needs of Medicaid recipients, that no alternative treatment is available, and that a fee adjustment is necessary to maintain physician participation at a level adequate to meet the needs of Medicaid recipients. A fee may also be decreased based on administrative review if it is determined that the fee may exceed the Medicare allowable amount for the same or similar services, or if the fee is higher than Medicaid fees for similar services, or if the fee is too high in relation to the skills, time and other resources required to provide the particular service.
- (4) (a) School-Based Services (SBS) are provided by School-Based Service Providers, which are school districts and other educational entities that are enrolled with the Kentucky Medicaid program as providers of School-Based Services. School-Based Services are provided pursuant to an Individualized Service Plan (IEP), a section 504 accommodation plan pursuant to 34 C.F.R. § 104.36, an Individualized Health Care Plan, an Individualized Family Service Plan, or are otherwise medically necessary, and include medical services as described under Item 4.b. EPSDT in Supplement to Attachment 3.1-A/B.

School-Based Services include:

1. Physical therapy, occupational therapy and other services, including services provided by audiologists and services for individuals with speech, hearing and language disorders, performed by, or under the direction of, providers who meet the qualifications set forth at 42 CFR § 440.110;
2. Physician services under 42 CFR § 440.50(a);
3. Optometry services provided by a qualified professional under 42 CFR § 440.60;
4. Respiratory therapy provided by a qualified professional under 42 CFR § 440.60;
5. Nursing services coverable under 42 CFR § 440.80 and 42 CFR § 440.60 ordered by a licensed physician and performed by a registered nurse or licensed practical nurse;
6. Nursing services provided on a restorative basis under 42 CFR § 440.130(d), including services delegated to individuals who receive appropriate teaching, direction, and supervision from a Registered Nurse or Practical Nurse;
7. Fluoride varnish performed by a dental hygienist under 130 CMR § 420.424(b) in accordance with 42 CFR § 440.100;

8. Personal care services coverable and performed by individuals qualified under 42 CFR § 440.167;
9. Services performed by licensed practitioners within the scope of their practice for individuals with behavioral health (mental health and substance abuse) disorders, as defined under state law, and coverable as medical or other remedial care under 42 CFR § 440.60;
10. Diagnostic, screening, preventive, and rehabilitative services covered under 42 CFR § 440.130;
11. Medical nutritional services provided by a qualified professional under 42 CFR § 440.60;
12. Sports related or other injury assessment and therapy provided by a qualified professional under 42 CFR § 440.60.
13. Assessments and independent evaluations are covered as necessary to assess or reassess the need for medical services in a child's treatment plan and must be performed by any of the above licensed practitioners within the scope of practice.
14. Audiology
15. Transportation (IEP only)

A. Cost Reimbursement Methodology for School-Based Services.

Final reimbursement is based on the certified reports that are submitted using the methodology allowed under the Kentucky School-Based Cost Report reviewed by the Centers for Medicare and Medicaid Services (CMS).

To determine the Medicaid-allowable costs of providing School-Based Services to Kentucky Medicaid members, the following steps are performed:

Direct costs of providing School-Based Services include payroll costs and other costs that can be directly charged to School-Based Services, including costs that are integral to School-Based Services. Direct costs are recorded on a modified accrual basis consistent with the Kentucky Department of Education chart of accounts, and the source data is the School Based Services Provider's accounting and payroll systems. Direct payroll costs include total compensation (i.e., salaries and benefits and contract compensation) of direct services personnel listed in the descriptions of the covered Medicaid services delivered by School-Based Services providers under Item 4.b. EPSDT in Supplement to Attachment 3.1-A/B. Direct costs do not include salaries for staff who do not meet the qualifications required under item 4.b.EPSDT in Supplement to Attachment 3.1-A/B.

Other direct costs include costs directly attributed to activities performed by the personnel who are approved to deliver School-Based Services, such as, travel, materials and supplies. Additional direct costs include purchased services. These direct costs are accumulated on the annual Kentucky School-Based Cost Report. .

Direct costs do not include room and board.

- (1) Direct costs for School-Based Services from Item 1 above are reduced by any federal payments for those costs, resulting in adjusted direct costs for School-Based Services.
- (2) Adjusted direct costs from Item 2 above are then allocated to identify Medicaid-reimbursable costs for School-Based Services according to the Random Moment Time Study (RMTS) results that are identified according to the process described in the Kentucky RMTS Implementation Plan, approved by CMS.
- (3) Indirect costs are calculated using the unrestricted indirect cost rate set by the Kentucky Department of Education as the cognizant agency or other allowable rates per OMB 2 CFR Part 225: Cost Principles for State, Local, and Indian Tribal Governments (OMB Circular A-87). Indirect costs are equal to adjusted direct costs multiplied by the unrestricted indirect costs rate. These indirect costs are then added to the adjusted direct costs to determine the total direct costs.
- (4) Medicaid-allowable costs are identified by applying the applicable Medicaid Enrollment Ratio to the total direct costs. For those costs allocated by the RMTS as being covered services, the quarterly Medicaid Enrollment ratio is the number of Medicaid-enrolled children, ages 15-18, per county. To determine the MER for each participating school district, Kentucky utilizes calculations. These quarterly calculations utilize the following reports:
 - A countywide report of all Medicaid-enrolled ages 5-18 provided by the Department of Medicaid. This report provides just the number of Medicaid-enrolled.
 - DMS also provides a master detail listing of all Medicaid-enrolled ages 5-18, which include the name, date of birth and social security number of each of the Medicaid participants residing in each of the participating school district counties.
 - A school district report of all enrolled students between the ages of 5-18. This report is generated by the statewide enrollment reporting database. The report lists the student name, date of birth, and social security number.
 - The end of the school year enrollment report submitted by each individual school district.

To calculate the MER for participating school districts where there is only one school district located in the county. The MER is determined by dividing the DMS countywide report by the school district's year-end total enrollment.

To calculate the MER for participating school districts where there are multiple school districts located in the same county. The KDE performs a computerized match where the district generated student list is compared to the DMS master list. The MER is determined by dividing the number of Medicaid-enrolled matches by the end of the school year enrollment.

The School-Based Services Providers' temporary rate is the rate for a specific service, which is provisional in nature, pending the completion of a cost reconciliation and a cost settlement for that period. This rate is for direct medical services, per unit of service, on a per visit basis Claims filed by School-Based Services Providers to Medicaid Management Information System (MMIS) as part of this process, are paid at 70% of the submitted costs, and are temporary rates for cost settlement purposes only.

All qualified providers of Non-IEP/IFSP services that have been approved under Attachment 3.1-A of the Medicaid state plan are paid the same as providers and services outside of the school based setting (with the same fee schedules as the rest of the state). All rates are published on the agency's website: <https://chfs.ky.gov/agencies/dms/Pages/feesrates.aspx>.

- (a) IEP/IFSP Medicaid Services Provided in Schools are services that are medically necessary and provided in schools to Medicaid recipients in accordance with an Individualized Education Program, (IEP) or an Individual Family Service Plan (IFSP), or are otherwise medically necessary. Covered services are the following as described in Attachment 3.1-A pages 7.1.7(a)-7.1.7(e):
1. Audiology
 2. Occupational Therapy
 3. Physical Therapy
 4. Behavioral Health Services
 5. Speech
 6. Nursing Services
 7. Respiratory Therapy
 8. Transportation

Beginning with cost reporting period August 1, 2020, the Department for Medicaid Services (DMS) will begin using a cost based methodology for all Local Education Agencies (LEAs). This methodology will consist of a cost report, time study and reconciliation. If payments exceed Medicaid-allowable costs, the excess will be recouped.

Cost Reconciliation timeline:

- a) Cost Report Training to be Conducted in February
- b) Cost Report Opens March 1st
- c) Cost Report Closed March 31st
- d) Validation is Completed by June 30th
- e) Cost Settlement Calculated September

Once the first year's cost reports are received, and each subsequent year, the Department will examine the cost data for all direct medical services to determine if an interim rate change is justified.

- (b) All costs described within this methodology (IEP/IFSP) are for Medicaid services provided by qualified practitioners that have been approved under Attachment 3.1-A of the Medicaid state plan.

(c) Certification of Funds Process

Each School-Based Services Provider certifies on an annual basis through its completed School-Based Cost Report its total actual, incurred Medicaid-allowable costs, including the federal share and the nonfederal share. These costs do not include any indirect costs that are not included in the unrestricted indirect cost rate set by the Kentucky Department of Education as the cognizant agency.

A. Annual Cost Report Process

Each School-Based Services Provider annually will complete a School-Based Cost Report for all services delivered during the previous state fiscal year covering July 1 through June 30. Cost reports are due to the State no later than June 30th of the year following the close of the year during which the costs included in the Cost Report were accrued. The annual cost report includes the certification of funds, as described in Section C above. Submitted cost reports are subject to desk review by the single state agency or its designee.