

## **Table of Contents**

**State/Territory Name: Kentucky**

**State Plan Amendment (SPA) #: 19-0003**

This file contains the following documents in the order listed:

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

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
61 Forsyth Street S.W. Suite 4T20  
Atlanta, Georgia 30303



**Atlanta Regional Operations Group**

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November 4, 2019

Carol H. Steckel, Commissioner  
Department for Medicaid Services  
275 East Main Street, 6WA  
Frankfort, KY 40621-0001

Re: Kentucky State Plan Amendment 19-0003

Dear Ms. Steckel:

We have reviewed the proposed Kentucky state plan amendment, KY 19-0003, which was submitted to the Centers for Medicare & Medicaid Services (CMS) on April 24, 2019. This amendment provides reimbursement for “free-care” services provided to Medicaid children that do not have an Individualized Education Plan (IEP) or an Individual Family Service Plan (IFSP).

Based on the information provided, the Medicaid State Plan Amendment KY 19-0003 was approved on November 4, 2019. The effective date of this amendment is August 1, 2019. We are enclosing the approved HCFA-179 and a copy of the new state plan pages.

If you have any additional questions or need further assistance, please contact Darlene Noonan at (770) 883-0322 or [Darlene.Noonan@cms.hhs.gov](mailto:Darlene.Noonan@cms.hhs.gov).

Sincerely,

/s/

Davida R. Kimble  
Acting Deputy Director  
Division of Medicaid Field Operations South

Enclosures

<b>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL</b>	1. TRANSMITTAL NUMBER: 19-003	2. STATE Kentucky
	3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
<b>FOR: HEALTH CARE FINANCING ADMINISTRATION</b>		
TO: REGIONAL ADMINISTRATOR HEALTH CARE FINANCING ADMINISTRATION DEPARTMENT OF HEALTH AND HUMAN SERVICES	4. PROPOSED EFFECTIVE DATE July 1, 2019	

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:	7. FEDERAL BUDGET IMPACT: a. FFY 2019                      \$1,600,000 b. FFY 2020                      \$28,000,000
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:  Att 3.1-A, Page 7.7.7(a) Att 3.1-B, Page 20.1(a) Att. 4.19-B, Page 20.37	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT ( <i>If Applicable</i> ):  Same

10. SUBJECT OF AMENDMENT: The purpose of this SPA is to revise School Based Services to include "free care" provided to Medicaid beneficiaries provided in the schools

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

GOVERNOR'S OFFICE REPORTED NO COMMENT                       OTHER, AS SPECIFIED: Review delegated to Commissioner, Department for Medicaid Services

COMMENTS OF GOVERNOR'S OFFICE ENCLOSED

NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

12. SIGNATURE OF STATE AGENCY OFFICIAL: /s/	16. RETURN TO:  Department for Medicaid Services 275 East Main Street 6W-A Frankfort, Kentucky 40621
13. TYPED NAME: Carol H. Steckel	
14. TITLE: Commissioner, Department for Medicaid Services	
15. DATE SUBMITTED: 4/5/19	

**FOR REGIONAL OFFICE USE ONLY**

17. DATE RECEIVED: 04/24/19	18. DATE APPROVED: 11/04/19
PLAN APPROVED – ONE COPY ATTACHED	
19. EFFECTIVE DATE OF APPROVED MATERIAL: 08/01/19	20. SIGNATURE OF REGIONAL OFFICIAL: /s/
21. TYPED NAME: Davida R. Kimble	22. TITLE: Acting Deputy Director Division of Medicaid Field Operations South

23. REMARKS: Approved with the following changes to blocks 4, 6, 8 and 9 as authorized by agency on emails dated 10/31/19 and 11/04/19.

Block # 4 changed to read: August 1, 2019: Block # 6 changed to read: 42 CFR 430.10 and 42 CFR 447.252.

Block # 8 changed to read: Attachment 4.19-B pages 20.37 and 20.37.1(new).

Block # 9 changed to read: Attachment 4.19-B pages 20.37.

- 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) Non-IEP/IFSP services for Medicaid Services Provided in Schools are excluded from the reconciled cost methodology described below.

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(b)-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

The interim payment to the Local Education Agencies for services (Paragraph (a) 1-7) listed above are based on the physician fee schedule methodology as outlined in Kentucky Medicaid Fee Schedule.

(b) Direct Medical Services Payment Methodology

Beginning with cost reporting period August 1, 2008, 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.

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.

(c) 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.