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REGULATIONS COMPILER

1 CABINET FOR HEALTH AND FAMILY SERVICES

2 Department for Medicaid Services

3 Division of Policy and Operations

4 (Amendment)

5 907 KAR 1:082. Coverage provisions and requirements regarding rural health clinic services.

6 RELATES TO: KRS 205.510, 205.520, 205.622, 205.8451, 309.080, 309.0831, 309.130,
7 311.840, 314.011, 319.010, 319.050, 319.053, 319C.010, 335.080, 335.100, 335.300, 335.500,
8 369.101 to 369.120, 42 C.F.R. 400.203, 42 C.F.R. 405.2401(b), 405.2412-405.2417, 405.2450,
9 405.2452, 405.2468, 431.17, 438.2, 440.20, 42 C.F.R. 491.1-491.11, 45 C.F.R. Part 164, 20 U.S.C.
10 1400, 21 U.S.C. 823, 29 U.S.C. 701, 42 U.S.C. 1395x(aa) and (hh)

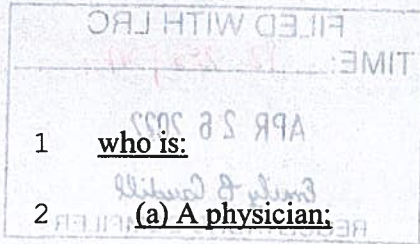
11 STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3)

12 NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services,
13 Department for Medicaid Services has responsibility to administer the Medicaid program. KRS
14 205.520(3) authorizes the cabinet, by administrative regulation, to comply with any requirement that
15 may be imposed or opportunity presented by federal law to qualify for federal Medicaid funds. This
16 administrative regulation establishes the Medicaid program coverage provisions and requirements re-
17 lating to rural health clinic services.

18 Section 1. Definitions. (1) "Adult peer support specialist" means an individual who meets the re-
19 quirements for an adult peer support specialist established in 908 KAR 2:220.

20 (2) "Advanced practice registered nurse" is defined by KRS 314.011(7).

21 (3) "Approved behavioral health practitioner" means an independently licensed practitioner



1 who is:

2 (a) A physician;

3 (b) A psychiatrist;

4 (c) An advanced practice registered nurse;

5 (d) A physician assistant;

6 (e) A licensed psychologist;

7 (f) A licensed psychological practitioner;

8 (g) A certified psychologist with autonomous functioning;

9 (h) A licensed clinical social worker;

10 (i) A licensed professional clinical counselor;

11 (j) A licensed marriage and family therapist;

12 (k) A licensed professional art therapist;

13 (l) A licensed clinical alcohol and drug counselor; or

14 (m) A licensed behavior analyst.

15 (4) "Approved behavioral health practitioner under supervision" means an individual under
16 billing supervision of an approved behavioral health practitioner who is:

17 (a)1. A licensed psychological associate working under the supervision of a board-approved
18 licensed psychologist;

19 2. A certified psychologist working under the supervision of a board-approved licensed psycholo-
20 gist;

21 3. A marriage and family therapy associate;

22 4. A certified social worker;

23 5. A licensed professional counselor associate;

1 6. A licensed professional art therapist associate;

2 7. A licensed clinical alcohol and drug counselor associate;

3 8. A certified alcohol and drug counselor; or

4 9. A licensed assistant behavior analyst; and

5 (b) Employed by or under contract with the same billing provider as the billing supervisor.

6 (5) "ASAM Criteria" means the most recent edition of "The ASAM Criteria, Treatment Criteria
7 for Addictive, Substance-Related, and Co-occurring Conditions" published by the American Society
8 of Addiction Medicine.

9 (6) "Certified alcohol and drug counselor" is defined by KRS 309.080(4).

10 (7)[(2)] "Certified social worker" means an individual who meets the requirements established in
11 KRS 335.080.

12 (8)[(3)] "Community support associate" means a paraprofessional[an individual] who[:
13 —(a)] meets the community support associate requirements established in 908 KAR 2:250[; and
14 —(b) Has been certified by the Department for Behavioral Health, Intellectual and Developmental
15 Disabilities as a community support associate].

16 (9) "Co-occurring disorder" means a mental health and substance use disorder.

17 (10)[(4)] "Department" means the Department[for Medicaid Services or its designee.

18 (11)[(5)] "Enrollee" means a recipient who is enrolled with a managed care organization.

19 [(6) "Face to face" means occurring:

20 —(a) in person; or

21 —(b) Via a real time, electronic communication that involves two (2) way interactive video and au-
22 dio communication.]

23 (12) "Family peer support specialist" means an individual who meets the requirements for a Ken-

1 tucky family peer support specialist established in 908 KAR 2:230.

2 (13)[(7)] "Federal financial participation" is defined in 42 C.F.R. 400.203.

3 (14)[(8)] "Homebound recipient" is defined by 42 C.F.R. 440.20(b)(4)(iv).

4 (15) "In-person" means a healthcare encounter occurring:

5 (a) Via direct contact and interaction between the individual and healthcare provider;

6 (b) At the same location, and

7 (c) Not via telehealth.

8 (16)[(9)] "Intermittent nursing care" is defined by 42 C.F.R. 405.2401(b).

9 (17)[(10)] "Licensed assistant behavior analyst" is defined by KRS 319C.010(7).

10 (18)[(11)] "Licensed behavior analyst" is defined by KRS 319C.010(6).

11 (19) "Licensed clinical alcohol and drug counselor" is defined by KRS 309.080(7).

12 (20) "Licensed clinical alcohol and drug counselor associate" is defined by KRS 309.080(9).

13 (21)[(12)] "Licensed clinical social worker" means an individual who meets the licensed clinical
14 social worker requirements established in KRS 335.100.

15 (22)[(13)] "Licensed marriage and family therapist" is defined by KRS 335.300(2).

16 (23)[(14)] "Licensed professional art therapist" is defined by KRS 309.130(2).

17 (24)[(15)] "Licensed professional art therapist associate" is defined by KRS 309.130(3).

18 (25)[(16)] "Licensed professional clinical counselor" is defined by KRS 335.500(3).

19 (26)[(17)] "Licensed professional counselor associate" is defined by KRS 335.500(4)[(3)].

20 (27)[(18)] "Licensed psychological associate" means:

21 (a) An individual who:

22 1. Currently possesses a licensed psychological associate license in accordance with KRS
23 319.010(6); and

1 2. Meets the licensed psychological associate requirements established in 201 KAR Chapter 26;

2 or

3 (b) A certified psychologist.

4 ~~(28)~~~~(19)~~ "Licensed psychological practitioner" means:

5 (a) An individual who meets the requirements established in KRS 319.053; or

6 (b) A certified psychologist with autonomous functioning.

7 ~~(29)~~~~(20)~~ "Licensed psychologist" means an individual who:

8 (a) Currently possesses a licensed psychologist license in accordance with KRS 319.010(6); and

9 (b) Meets the licensed psychologist requirements established in 201 KAR Chapter 26.

10 ~~(30)~~~~(21)~~ "Managed care organization" means an entity for which the Department for Medicaid

11 Services has contracted to serve as a managed care organization as defined in 42 C.F.R. 438.2.

12 ~~(31)~~~~(22)~~ "Marriage and family therapy associate" is defined by KRS 335.300(3).

13 ~~(32)~~~~(23)~~ "Medically necessary" means that a covered benefit or service is necessary in accord-
14 ance with 907 KAR 3:130.

15 ~~(33)~~ "Medication assisted treatment" means the treatment of a substance use disorder with ap-
16 proved medications in combination with counseling, behavior therapies, and other supports.

17 ~~(34)~~~~(24)~~ "Other ambulatory services" is defined by 42 C.F.R. 440.20(c).

18 ~~(35)~~~~(25)~~ "Part-time nursing care" is defined by 42 C.F.R. 405.2401(b).

19 ~~(36)~~~~(26)~~ "Physician" is defined by KRS 205.510~~(12)~~~~(11)~~ and 42 C.F.R. 405.2401(b).

20 ~~(37)~~~~(27)~~ "Physician assistant" is defined by KRS 311.840(3) and 42 C.F.R. 405.2401(b).

21 ~~(38)~~~~(28)~~ "Recipient" is defined by KRS 205.8451(9).

22 ~~(39)~~ "Registered alcohol and drug peer support specialist" is defined by KRS 309.080(12).

23 ~~(40)~~ "Registered behavior technician" means an individual who meets the following requirements

1 by the Behavior Analyst Certification Board:

2 (a) Be at least eighteen (18) years of age;

3 (b) Have a high school diploma or its equivalent; and

4 (c) Within six (6) months of hire for a new employee or within six (6) months of the effective date

5 of this administrative regulation for an existing employee:

6 1. Complete a training program that is:

7 a. Approved by the Behavior Analyst Certification Board;

8 b. Based on the current edition of the RBT Task List endorsed by the Behavior Analyst Certifica-

9 tion Board; and

10 c. Conducted by Behavior Analyst Certification Board certificants;

11 2. Pass the Registered Behavior Technician Competency Assessment administered by a Behavior

12 Analyst Certification Board certificant; and

13 3. Pass the Registered Behavior Technician exam provided by an assistant assessor overseen by a

14 Behavior Analyst Certification Board certificant.

15 (41)[(29)] "Rural health clinic" or "RHC" is defined by 42 C.F.R. 405.2401(b).

16 (42)[(30)] "State plan" is defined by 42 C.F.R. 400.203.

17 (43)[(31)] "Visiting nurse services" is defined by 42 C.F.R. 405.2401(b).

18 (44) "Withdrawal management" means a set of interventions aimed at managing acute intoxica-

19 tion and withdrawal based on the severity of the illness and co-occurring conditions identified

20 through a comprehensive biopsychosocial assessment with linkage to addiction management ser-

21 vices, and incorporated into a recipient's care as needed throughout the appropriate levels of care.

22 (45) "Youth peer support specialist" means an individual who meets the requirements established

23 for a Kentucky youth peer support specialist established in 908 KAR 2:240.

1 Section 2. Covered Services Other Than Behavioral Health Services. The department shall cover
2 the following medically necessary rural health clinic services furnished by a [an] RHC that has been
3 certified in accordance with 42 C.F.R. 491.1 through 491.11:

4 (1) Services pursuant to 42 U.S.C. 1395x(aa);

5 (2) Services provided by a physician if the physician:

6 (a) Complies with the physician responsibility requirements established by 42 C.F.R. 491.8(b);

7 and

8 (b)1. Performs the services in a [an] RHC; or

9 2. Is compensated under an agreement with a [an] RHC for providing services furnished to a Med-
10 icaid eligible RHC patient in a location other than the RHC;

11 (3) Services provided by a physician assistant or advanced practice registered nurse who is em-
12 ployed by or receives compensation from the RHC if the services:

13 (a) Are furnished by a member of the RHC's staff who complies with the responsibility require-
14 ments established by 42 C.F.R. 491.8(c);

15 (b) Are furnished under the medical supervision of a physician except for services furnished by an
16 APRN as these services shall not be required to be furnished under the medical supervision of a phy-
17 sician;

18 (c) Are furnished in accordance with a medical order for the care and treatment of a patient as
19 prepared by a physician or an advanced practice registered nurse;

20 (d) Are within the provider's legally-authorized scope of practice; and

21 (e) Would be covered if furnished by a physician;

22 (4) Services or supplies furnished as incidental to services provided by a physician, physician as-
23 sistant, or advanced practice registered nurse if the service or supply meets the criteria established in

1 42 C.F.R. 405.2413 or 42 C.F.R. 405.2415;

2 (5) Part-time or intermittent visiting nurse care and related supplies, except for drugs or biologi-
3 cals, if:

4 (a) The RHC is located in an area where a determination has been made that there is a shortage of
5 home health agencies pursuant to 42 C.F.R. 405.2417;

6 (b) The services are provided by a registered nurse or licensed practical nurse who is employed by
7 or compensated for the services by the RHC; and

8 (c) The services are furnished to a homebound recipient under a written plan of treatment that is:

9 1. Established and reviewed at least every sixty (60) days by a supervising physician of the RHC;

10 or

11 2. Established by a physician, physician assistant, or advanced practice registered nurse and re-
12 viewed and approved at least every sixty (60) days by a supervising physician of the RHC; or

13 (6) Other ambulatory services as established in the state plan.

14 Section 3. Behavioral Health Services. (1) Except as specified in the requirements stated for a
15 given service, the services covered may be provided for:

16 (a) A mental health disorder;

17 (b) A substance use disorder; or

18 (c) Co-occurring mental health and substance use disorders.

19 (2) The department shall cover, and a rural health clinic may provide, the following services:

20 (a) Behavioral health services provided by a licensed psychologist, licensed clinical social worker,
21 or advanced practice registered nurse within the provider's legally authorized scope of service; or

22 (b) Services or supplies incidental to a licensed psychologist's or licensed clinical social worker's
23 behavioral health services if the service or supply meets the criteria established in 42 C.F.R.

1 405.2452.

2 (3) In addition to the services referenced in subsection (2) of this section, the following behavioral
3 health services provided by a rural health clinic shall be covered under this administrative regulation
4 in accordance with the corresponding following requirements:

5 (a) ~~A screening provided by:~~

6 ~~— 1. A licensed psychologist;~~

7 ~~— 2. A licensed professional clinical counselor;~~

8 ~~— 3. A licensed clinical social worker;~~

9 ~~— 4. A licensed marriage and family therapist;~~

10 ~~— 5. A physician;~~

11 ~~— 6. A psychiatrist;~~

12 ~~— 7. An advanced practice registered nurse;~~

13 ~~— 8. A licensed psychological practitioner;~~

14 ~~— 9. A licensed psychological associate working under the supervision of a licensed psychologist;~~

15 ~~— 10. A licensed professional counselor associate working under the supervision of a licensed pro-~~
16 ~~fessional clinical counselor;~~

17 ~~— 11. A certified social worker working under the supervision of a licensed clinical social worker;~~

18 ~~— 12. A marriage and family therapy associate working under the supervision of a licensed marriage~~
19 ~~and family therapist;~~

20 ~~— 13. A physician assistant working under the supervision of a physician;~~

21 ~~— 14. A licensed professional art therapist; or~~

22 ~~— 15. A licensed professional art therapist associate working under the supervision of a licensed~~
23 ~~professional art therapist;~~

- 1 ~~—(b) An assessment provided by:~~
- 2 ~~—1. A licensed psychologist;~~
- 3 ~~—2. A licensed professional clinical counselor;~~
- 4 ~~—3. A licensed clinical social worker;~~
- 5 ~~—4. A licensed marriage and family therapist;~~
- 6 ~~—5. A physician;~~
- 7 ~~—6. A psychiatrist;~~
- 8 ~~—7. An advanced practice registered nurse;~~
- 9 ~~—8. A licensed psychological practitioner;~~
- 10 ~~—9. A licensed psychological associate working under the supervision of a licensed psychologist;~~
- 11 ~~—10. A licensed professional counselor associate working under the supervision of a licensed pro-~~
- 12 ~~fessional clinical counselor;~~
- 13 ~~—11. A certified social worker working under the supervision of a licensed clinical social worker;~~
- 14 ~~—12. A marriage and family therapy associate working under the supervision of a licensed marriage~~
- 15 ~~and family therapist;~~
- 16 ~~—13. A physician assistant working under the supervision of a physician;~~
- 17 ~~—14. A licensed professional art therapist;~~
- 18 ~~—15. A licensed professional art therapist associate working under the supervision of a licensed~~
- 19 ~~professional art therapist;~~
- 20 ~~—16. A licensed behavior analyst; or~~
- 21 ~~—17. A licensed assistant behavior analyst working under the supervision of a licensed behavior an-~~
- 22 ~~alyst;~~
- 23 ~~—(c) Psychological testing provided by:~~

- 1 — ~~1. A licensed psychologist;~~
- 2 — ~~2. A licensed psychological practitioner; or~~
- 3 — ~~3. A licensed psychological associate working under the supervision of a licensed psychologist;~~
- 4 — ~~(d) Crisis intervention provided by:~~
 - 5 — ~~1. A licensed psychologist;~~
 - 6 — ~~2. A licensed professional clinical counselor;~~
 - 7 — ~~3. A licensed clinical social worker;~~
 - 8 — ~~4. A licensed marriage and family therapist;~~
 - 9 — ~~5. A physician;~~
 - 10 — ~~6. A psychiatrist;~~
 - 11 — ~~7. An advanced practice registered nurse;~~
 - 12 — ~~8. A licensed psychological practitioner;~~
 - 13 — ~~9. A licensed psychological associate working under the supervision of a licensed psychologist;~~
 - 14 — ~~10. A licensed professional counselor associate working under the supervision of a licensed pro-~~
 - 15 ~~fessional clinical counselor;~~
 - 16 — ~~11. A certified social worker working under the supervision of a licensed clinical social worker;~~
 - 17 — ~~12. A marriage and family therapy associate working under the supervision of a licensed marriage~~
 - 18 ~~and family therapist;~~
 - 19 — ~~13. A physician assistant working under the supervision of a physician;~~
 - 20 — ~~14. A licensed professional art therapist; or~~
 - 21 — ~~15. A licensed professional art therapist associate working under the supervision of a licensed~~
 - 22 ~~professional art therapist;~~
 - 23 — ~~(e) Service planning provided by:~~

- 1 —~~1. A licensed psychologist;~~
- 2 —~~2. A licensed professional clinical counselor;~~
- 3 —~~3. A licensed clinical social worker;~~
- 4 —~~4. A licensed marriage and family therapist;~~
- 5 —~~5. A physician;~~
- 6 —~~6. A psychiatrist;~~
- 7 —~~7. An advanced practice registered nurse;~~
- 8 —~~8. A licensed psychological practitioner;~~
- 9 —~~9. A licensed psychological associate working under the supervision of a licensed psychologist;~~
- 10 —~~10. A licensed professional counselor associate working under the supervision of a licensed pro-~~
- 11 ~~fessional clinical counselor;~~
- 12 —~~11. A certified social worker working under the supervision of a licensed clinical social worker;~~
- 13 —~~12. A marriage and family therapy associate working under the supervision of a licensed marriage~~
- 14 ~~and family therapist;~~
- 15 —~~13. A physician assistant working under the supervision of a physician;~~
- 16 —~~14. A licensed professional art therapist;~~
- 17 —~~15. A licensed professional art therapist associate working under the supervision of a licensed~~
- 18 ~~professional art therapist;~~
- 19 —~~16. A licensed behavior analyst; or~~
- 20 —~~17. A licensed assistant behavior analyst working under the supervision of a licensed behavior an-~~
- 21 ~~alyst;~~
- 22 —~~(f) Individual outpatient therapy provided by:~~
- 23 —~~1. A licensed psychologist;~~

- 1 —2. A licensed professional clinical counselor;
- 2 —3. A licensed clinical social worker;
- 3 —4. A licensed marriage and family therapist;
- 4 —5. A physician;
- 5 —6. A psychiatrist;
- 6 —7. An advanced practice registered nurse;
- 7 —8. A licensed psychological practitioner;
- 8 —9. A licensed psychological associate working under the supervision of a licensed psychologist;
- 9 —10. A licensed professional counselor associate working under the supervision of a licensed pro-
- 10 fessional clinical counselor;
- 11 —11. A certified social worker working under the supervision of a licensed clinical social worker;
- 12 —12. A marriage and family therapy associate working under the supervision of a licensed marriage
- 13 and family therapist;
- 14 —13. A physician assistant working under the supervision of a physician;
- 15 —14. A licensed professional art therapist;
- 16 —15. A licensed professional art therapist associate working under the supervision of a licensed
- 17 professional art therapist;
- 18 —16. A licensed behavior analyst; or
- 19 —17. A licensed assistant behavior analyst working under the supervision of a licensed behavior an-
- 20 alyst;
- 21 —(g) Family outpatient therapy provided by:
- 22 —1. A licensed psychologist;
- 23 —2. A licensed professional clinical counselor;

- 1 ~~—3. A licensed clinical social worker;~~
- 2 ~~—4. A licensed marriage and family therapist;~~
- 3 ~~—5. A physician;~~
- 4 ~~—6. A psychiatrist;~~
- 5 ~~—7. An advanced practice registered nurse;~~
- 6 ~~—8. A licensed psychological practitioner;~~
- 7 ~~—9. A licensed psychological associate working under the supervision of a licensed psychologist;~~
- 8 ~~—10. A licensed professional counselor associate working under the supervision of a licensed pro-~~
- 9 ~~fessional clinical counselor;~~
- 10 ~~—11. A certified social worker working under the supervision of a licensed clinical social worker;~~
- 11 ~~—12. A marriage and family therapy associate working under the supervision of a licensed marriage~~
- 12 ~~and family therapist;~~
- 13 ~~—13. A physician assistant working under the supervision of a physician;~~
- 14 ~~—14. A licensed professional art therapist; or~~
- 15 ~~—15. A licensed professional art therapist associate working under the supervision of a licensed~~
- 16 ~~professional art therapist;~~
- 17 ~~—(h) Group outpatient therapy provided by:~~
- 18 ~~—1. A licensed psychologist;~~
- 19 ~~—2. A licensed professional clinical counselor;~~
- 20 ~~—3. A licensed clinical social worker;~~
- 21 ~~—4. A licensed marriage and family therapist;~~
- 22 ~~—5. A physician;~~
- 23 ~~—6. A psychiatrist;~~

- 1 — ~~7. An advanced practice registered nurse;~~
- 2 — ~~8. A licensed psychological practitioner;~~
- 3 — ~~9. A licensed psychological associate working under the supervision of a licensed psychologist;~~
- 4 — ~~10. A licensed professional counselor associate working under the supervision of a licensed pro-~~
- 5 ~~fessional clinical counselor;~~
- 6 — ~~11. A certified social worker working under the supervision of a licensed clinical social worker;~~
- 7 — ~~12. A marriage and family therapy associate working under the supervision of a licensed marriage~~
- 8 ~~and family therapist;~~
- 9 — ~~13. A physician assistant working under the supervision of a physician;~~
- 10 — ~~14. A licensed professional art therapist;~~
- 11 — ~~15. A licensed professional art therapist associate working under the supervision of a licensed~~
- 12 ~~professional art therapist;~~
- 13 — ~~16. A licensed behavior analyst; or~~
- 14 — ~~17. A licensed assistant behavior analyst working under the supervision of a licensed behavior an-~~
- 15 ~~alyst;~~
- 16 — ~~(i) Collateral outpatient therapy provided by:~~
- 17 — ~~1. A licensed psychologist;~~
- 18 — ~~2. A licensed professional clinical counselor;~~
- 19 — ~~3. A licensed clinical social worker;~~
- 20 — ~~4. A licensed marriage and family therapist;~~
- 21 — ~~5. A physician;~~
- 22 — ~~6. A psychiatrist;~~
- 23 — ~~7. An advanced practice registered nurse;~~

- 1 — ~~8. A licensed psychological practitioner;~~
- 2 — ~~9. A licensed psychological associate working under the supervision of a licensed psychologist;~~
- 3 — ~~10. A licensed professional counselor associate working under the supervision of a licensed pro-~~
- 4 ~~fessional clinical counselor;~~
- 5 — ~~11. A certified social worker working under the supervision of a licensed clinical social worker;~~
- 6 — ~~12. A marriage and family therapy associate working under the supervision of a licensed marriage~~
- 7 ~~and family therapist;~~
- 8 — ~~13. A physician assistant working under the supervision of a physician;~~
- 9 — ~~14. A licensed professional art therapist;~~
- 10 — ~~15. A licensed professional art therapist associate working under the supervision of a licensed~~
- 11 ~~professional art therapist;~~
- 12 — ~~16. A licensed behavior analyst; or~~
- 13 — ~~17. A licensed assistant behavior analyst working under the supervision of a licensed behavior an-~~
- 14 ~~alyst;~~
- 15 — ~~(j) A screening, brief intervention, and referral to treatment for a substance use disorder provided~~
- 16 ~~by:~~
- 17 — ~~1. A licensed psychologist;~~
- 18 — ~~2. A licensed professional clinical counselor;~~
- 19 — ~~3. A licensed clinical social worker;~~
- 20 — ~~4. A licensed marriage and family therapist;~~
- 21 — ~~5. A physician;~~
- 22 — ~~6. A psychiatrist;~~
- 23 — ~~7. An advanced practice registered nurse;~~

- 1 ~~— 8. A licensed psychological practitioner;~~
- 2 ~~— 9. A licensed psychological associate working under the supervision of a licensed psychologist;~~
- 3 ~~— 10. A licensed professional counselor associate working under the supervision of a licensed pro-~~
- 4 ~~fessional clinical counselor;~~
- 5 ~~— 11. A certified social worker working under the supervision of a licensed clinical social worker;~~
- 6 ~~— 12. A marriage and family therapy associate working under the supervision of a licensed marriage~~
- 7 ~~and family therapist;~~
- 8 ~~— 13. A physician assistant working under the supervision of a physician;~~
- 9 ~~— 14. A licensed professional art therapist; or~~
- 10 ~~— 15. A licensed professional art therapist associate working under the supervision of a licensed~~
- 11 ~~professional art therapist;~~
- 12 ~~— (k) Day treatment provided by:~~
- 13 ~~— 1. A licensed psychologist;~~
- 14 ~~— 2. A licensed professional clinical counselor;~~
- 15 ~~— 3. A licensed clinical social worker;~~
- 16 ~~— 4. A licensed marriage and family therapist;~~
- 17 ~~— 5. A physician;~~
- 18 ~~— 6. A psychiatrist;~~
- 19 ~~— 7. An advanced practice registered nurse;~~
- 20 ~~— 8. A licensed psychological practitioner;~~
- 21 ~~— 9. A licensed psychological associate working under the supervision of a licensed psychologist;~~
- 22 ~~— 10. A licensed professional counselor associate working under the supervision of a licensed pro-~~
- 23 ~~fessional clinical counselor;~~

- 1 ~~—11. A certified social worker working under the supervision of a licensed clinical social worker;~~
- 2 ~~—12. A marriage and family therapy associate working under the supervision of a licensed marriage~~
- 3 ~~and family therapist;~~
- 4 ~~—13. A physician assistant working under the supervision of a physician;~~
- 5 ~~—14. A licensed professional art therapist; or~~
- 6 ~~—15. A licensed professional art therapist associate working under the supervision of a licensed~~
- 7 ~~professional art therapist;~~
- 8 ~~—(1) Comprehensive community support services provided by:~~
- 9 ~~—1. A licensed psychologist;~~
- 10 ~~—2. A licensed professional clinical counselor;~~
- 11 ~~—3. A licensed clinical social worker;~~
- 12 ~~—4. A licensed marriage and family therapist;~~
- 13 ~~—5. A physician;~~
- 14 ~~—6. A psychiatrist;~~
- 15 ~~—7. An advanced practice registered nurse;~~
- 16 ~~—8. A licensed psychological practitioner;~~
- 17 ~~—9. A licensed psychological associate working under the supervision of a licensed psychologist;~~
- 18 ~~—10. A licensed professional counselor associate working under the supervision of a licensed pro-~~
- 19 ~~fessional clinical counselor;~~
- 20 ~~—11. A certified social worker working under the supervision of a licensed clinical social worker;~~
- 21 ~~—12. A marriage and family therapy associate working under the supervision of a licensed marriage~~
- 22 ~~and family therapist;~~
- 23 ~~—13. A physician assistant working under the supervision of a physician;~~

- 1 — ~~14. A licensed professional art therapist;~~
- 2 — ~~15. A licensed professional art therapist associate working under the supervision of a licensed~~
- 3 ~~professional art therapist;~~
- 4 — ~~16. A licensed behavior analyst;~~
- 5 — ~~17. A licensed assistant behavior analyst working under the supervision of a licensed behavior an-~~
- 6 ~~alyst; or~~
- 7 — ~~18. A community support associate;~~
- 8 — ~~(m) Intensive outpatient program provided by:~~
- 9 — ~~1. A licensed psychologist;~~
- 10 — ~~2. A licensed professional clinical counselor;~~
- 11 — ~~3. A licensed clinical social worker;~~
- 12 — ~~4. A licensed marriage and family therapist;~~
- 13 — ~~5. A physician;~~
- 14 — ~~6. A psychiatrist;~~
- 15 — ~~7. An advanced practice registered nurse;~~
- 16 — ~~8. A licensed psychological practitioner;~~
- 17 — ~~9. A licensed psychological associate working under the supervision of a licensed psychologist;~~
- 18 — ~~10. A licensed professional counselor associate working under the supervision of a licensed pro-~~
- 19 ~~fessional clinical counselor;~~
- 20 — ~~11. A certified social worker working under the supervision of a licensed clinical social worker;~~
- 21 — ~~12. A marriage and family therapy associate working under the supervision of a licensed marriage~~
- 22 ~~and family therapist;~~
- 23 — ~~13. A physician assistant working under the supervision of a physician;~~

- 1 ~~—14. A licensed professional art therapist; or~~
- 2 ~~—15. A licensed professional art therapist associate; or~~
- 3 ~~—(n) Therapeutic rehabilitation program services provided by:~~
- 4 ~~—1. A licensed psychologist;~~
- 5 ~~—2. A licensed professional clinical counselor;~~
- 6 ~~—3. A licensed clinical social worker;~~
- 7 ~~—4. A licensed marriage and family therapist;~~
- 8 ~~—5. A physician;~~
- 9 ~~—6. A psychiatrist;~~
- 10 ~~—7. An advanced practice registered nurse;~~
- 11 ~~—8. A licensed psychological practitioner;~~
- 12 ~~—9. A licensed psychological associate working under the supervision of a licensed psychologist;~~
- 13 ~~—10. A licensed professional counselor associate working under the supervision of a licensed pro-~~
- 14 ~~fessional clinical counselor;~~
- 15 ~~—11. A certified social worker working under the supervision of a licensed clinical social worker;~~
- 16 ~~—12. A marriage and family therapy associate working under the supervision of a licensed marriage~~
- 17 ~~and family therapist;~~
- 18 ~~—13. A physician assistant working under the supervision of a physician;~~
- 19 ~~—14. A licensed professional art therapist; or~~
- 20 ~~—15. A licensed professional art therapist associate working under the supervision of a licensed~~
- 21 ~~professional art therapist.~~
- 22 ~~—(4)(a)] A screening shall:~~
- 23 1. Determine~~[Be the determination of]~~ the likelihood that an individual has a mental health disorder.

- 1 der, a substance use disorder, or co-occurring disorders;
- 2 2. Not establish the presence or specific type of disorder; ~~and~~
- 3 3. Establish the need for an in-depth assessment;
- 4 **4. Be provided by:**
- 5 **a. An approved behavioral health practitioner; or**
- 6 **b. An approved behavioral health practitioner under supervision.**
- 7 (b) An assessment shall:
- 8 1. Include gathering information and engaging in a process with the individual that enables the
- 9 provider to:
- 10 a. Establish the presence or absence of a mental health disorder, substance use disorder, or co-
- 11 occurring disorders;
- 12 b. Determine the individual's readiness for change;
- 13 c. Identify the individual's strengths or problem areas that may affect the treatment and recovery
- 14 processes; and
- 15 d. Engage the individual in developing an appropriate treatment relationship;
- 16 2. Establish or rule out the existence of a clinical disorder or service need;
- 17 3. Include working with the individual to develop a treatment and service plan; ~~and~~
- 18 4. Not include a psychological or psychiatric evaluation or assessment;
- 19 **5. If being made for the treatment of a substance use disorder, utilize a multidimensional assess-**
- 20 **ment that complies with the most current edition of the ASAM Criteria to determine the most appro-**
- 21 **priate level of care; and**
- 22 **6. Be provided by:**
- 23 **a. An approved behavioral health practitioner; or**

1 b. An approved behavioral health practitioner under supervision.

2 (c) Psychological testing shall [~~include~~]:

3 1. Include a psychodiagnostic assessment of personality, psychopathology, emotionality, or intel-
4 lectual disabilities; [~~and~~]

5 2. Include an interpretation and a written report of testing results;

6 3. Be provided by a licensed:

7 a. Psychologist;

8 b. Psychological practitioner; or

9 c. Psychological associate working under the supervision of a licensed psychologist; and

10 4. Be in-person or via telehealth as appropriate pursuant to 907 KAR 3:170.

11 (d) Crisis intervention:

12 1. Shall be a therapeutic intervention for the purpose of immediately reducing or eliminating the
13 risk of physical or emotional harm to:

14 a. The recipient; or

15 b. Another individual;

16 2. Shall consist of clinical intervention and support services necessary to provide integrated crisis
17 response, crisis stabilization interventions, or crisis prevention activities for an individual with a be-
18 havioral health disorder;

19 3. Shall be provided:

20 a. On-site at a rural health clinic;

21 b. As an immediate relief to the presenting problem or threat; and

22 c. In a one (1) on one (1)[~~face to face, one on one~~] encounter between the provider and the recipi-
23 ent, which is delivered either in-person or via telehealth if appropriate pursuant to 907 KAR 3:170;

- 1 4. May include:
- 2 a. Verbal de-escalation, risk assessment, or cognitive therapy; or
- 3 b. Further service planning including:
- 4 (i) Lethal means reduction for suicide; or
- 5 (ii) Substance use disorder or relapse prevention;[and]
- 6 5. Shall be followed by a referral to non-crisis services if applicable; and
- 7 6. Shall be provided by:
- 8 a. An approved behavioral health practitioner; or
- 9 b. An approved behavioral health practitioner under supervision.
- 10 (e)1. Service planning shall:
- 11 a. Be provided in-person or via telehealth as appropriate pursuant to the most current version of
- 12 The ASAM Criteria and 907 KAR 3:170;
- 13 b. Involve[~~consist of~~] assisting a recipient in creating an individualized plan for services needed
- 14 for maximum reduction of an intellectual disability and to restore the individual to his or her best
- 15 possible functional level;
- 16 c. Involve restoring a recipient's functional level to the recipient's best possible functional level;
- 17 and
- 18 d. Be performed using a person-centered planning process.
- 19 2. A service plan:
- 20 a. Shall be directed and signed by the recipient;
- 21 b. Shall include practitioners of the recipient's choosing; and
- 22 c.[b.] May include:
- 23 (i) A mental health advance directive being filed with a local hospital;

1 (ii) A crisis plan; or

2 (iii) A relapse prevention strategy or plan.

3 (f) Individual outpatient therapy shall:

4 1. Be provided to promote the:

5 a. Health and wellbeing of the individual; ~~and~~[~~or~~]

6 b. Restoration of a recipient to the recipient's best possible functional level from a substance use
7 disorder or a co-occurring disorder[~~Recovery from a substance use disorder, mental health disorder,~~
8 ~~or co-occurring related disorders~~];

9 2. Consist of:

10 a. An in-person or via telehealth as appropriate pursuant to 907 KAR 3:170, [A face-to-face,] one-
11 on-one encounter between the provider and recipient; and

12 b. A behavioral health therapeutic intervention provided in accordance with the recipient's identi-
13 fied treatment plan;

14 3. Be aimed at:

15 a. Reducing adverse symptoms;

16 b. Reducing or eliminating the presenting problem of the recipient; and

17 c. Improving functionality; [~~and~~]

18 4. Not exceed three (3) hours per day; and

19 5. Be provided by:

20 a. An approved behavioral health practitioner; or

21 b. An approved behavioral health practitioner under supervision.

22 (g)1. Family outpatient therapy shall consist of an in-person, or via telehealth as appropriate pur-
23 suant to 907 KAR 3:170,[a face-to-face] behavioral health therapeutic intervention provided:

1 a. Through scheduled therapeutic visits between the therapist and the recipient and at least one (1)
2 member of the recipient's family; and

3 b. To address issues interfering with the relational functioning of the family and to improve inter-
4 personal relationships within the recipient's home environment.

5 2. A family outpatient therapy session shall be billed as one (1) service regardless of the number
6 of individuals, including multiple members from one (1) family, who participate in the session.

7 3. Family outpatient therapy shall:

8 a. Be provided to promote the:

9 (i) Health and wellbeing of the individual; or

10 (ii) Restoration of a recipient to their best possible functional level from a substance use disorder
11 or co-occurring disorders; and

12 b. Not exceed three (3) hours per day alone or in combination with any other outpatient therapy
13 per recipient unless additional time is medically necessary.

14 4. Family outpatient therapy shall be provided by:

15 a. An approved behavioral health practitioner; or

16 b. An approved behavioral health practitioner under supervision.

17 (h)1. Group outpatient therapy shall:

18 a. Be a behavioral health therapeutic intervention provided in accordance with a recipient's identi-
19 fied plan of care;

20 b. Be provided to promote the:

21 (i) Health and wellbeing of the individual; and[or]

22 (ii) Restoration of a recipient to their best possible functional level from a substance use disorder
23 or co-occurring disorder[Recovery from a substance use disorder, mental health disorder, or co-

1 ~~occurring related disorders~~];

2 c.[b-] Consist of an in-person, or via telehealth as appropriate pursuant to 907 KAR 3:170,[a face-
3 to-face] behavioral health therapeutic intervention provided in accordance with the recipient's identi-
4 fied treatment plan;

5 d.[e-] Be provided to a recipient in a group setting:

6 (i) Of nonrelated individuals; and

7 (ii) Not to exceed twelve (12) individuals in size;

8 e. Focus on the psychological needs of the recipients as evidenced in each recipient's plan of care;

9 f.[d-] Center on goals including building and maintaining healthy relationships, personal goals set-
10 ting, and the exercise of personal judgment;

11 g.[e-] Not include physical exercise, a recreational activity, an educational activity, or a social ac-
12 tivity; and

13 h.[f-] Not exceed three (3) hours per day alone or in combination with any other outpatient therapy
14 per recipient unless additional time is medically necessary.

15 2. A family outpatient therapy[The] group shall have a:

16 a. Deliberate focus; and

17 b. Defined course of treatment.

18 3. The subject of a group receiving group outpatient therapy shall be related to each recipient par-
19 ticipating in the group.

20 4. The provider shall keep individual notes regarding each recipient within the group and within
21 each recipient's health record.

22 5. Family outpatient therapy shall be provided by:

23 a. An approved behavioral health practitioner; or

1 b. An approved behavioral health practitioner under supervision.

2 (i)1. Collateral outpatient therapy shall:

3 a. Consist of an in-person or appropriate telehealth, provided pursuant to 907 KAR 3:170,~~[a face-~~
4 ~~to face]~~ behavioral health consultation:

5 (i) With a parent or caregiver of a recipient, household member of a recipient, legal representative
6 of a recipient, school personnel, treating professional, or other person with custodial control or su-
7 pervision of the recipient; and

8 (ii) That is provided in accordance with the recipient's treatment plan; ~~[and]~~

9 b. Not be reimbursable if the therapy is for a recipient who is at least twenty-one (21) years of age;
10 and

11 c. Not exceed three (3) hours per day alone or in combination with any other outpatient therapy
12 per recipient unless additional time is medically necessary.

13 2. Written consent by a parent or custodial guardian~~[Consent]~~ to discuss a recipient's treatment
14 with any person other than a parent or legal guardian shall be signed and filed in the recipient's
15 health record.

16 3. Collateral outpatient therapy shall be provided by:

17 a. An approved behavioral health practitioner; or

18 b. An approved behavioral health practitioner under supervision.

19 (j)1. Screening, brief intervention, and referral to treatment for a substance use disorder shall:

20 a.~~[1-]~~ Be an evidence-based early intervention approach for an individual with non-dependent
21 substance use to provide an effective strategy for intervention prior to the need for more extensive or
22 specialized treatment; ~~[and]~~

23 b.~~[2-]~~ Consist of:

1 (i)[a-] Using a standardized screening tool to assess an individual for risky substance use behav-
2 ior;

3 (ii)[b-] Engaging a recipient who demonstrates risky substance use behavior in a short conversa-
4 tion and providing feedback and advice; and

5 (iii)[c-] Referring a recipient to additional substance use disorder or co-occurring disorder services
6 if the recipient is determined to need[-

7 —(i) Therapy; or

8 —(ii) ~~Other~~ additional services to address substance use if the recipient is determined to need other
9 additional services;

10 c. Be provided in-person or via telehealth as appropriate according to 907 KAR 3:170;

11 d. Be provided by:

12 (i) An approved behavioral health practitioner; or

13 (ii) An approved behavioral health practitioner under supervision.

14 2. A screening and brief intervention that does not meet criteria for referral to treatment may be
15 subject to coverage by the department.

16 (k) 1. Day treatment shall be a nonresidential, intensive treatment program designed for a child
17 under the age of twenty-one (21) years who has:

18 a. An emotional disability, [or] neurobiological disorder, or substance use disorder; and

19 b. A high risk of out-of-home placement due to a behavioral health issue.

20 2. Day treatment services shall:

21 a. Consist of an organized, behavioral health program of treatment and rehabilitative services
22 (substance use disorder, mental health disorder, or co-occurring [~~mental health and substance use~~]
23 disorders);

1 b. Have unified policies and procedures that:

2 (i) Address the program philosophy, admission and discharge criteria, admission and discharge
3 process, staff training, and integrated case planning; and

4 (ii) Have been approved by the recipient's local education authority and the day treatment provid-
5 er;

6 c. Include:

7 (i) Individual outpatient therapy, family outpatient therapy, or group outpatient therapy;

8 (ii) Behavior management and social skill training;

9 (iii) Independent living skills that correlate to the age and development stage of the recipient; or

10 (iv) Services designed to explore and link with community resources before discharge and to as-
11 sist the recipient and family with transition to community services after discharge; and

12 d. Be provided:

13 (i) In collaboration with the education services of the local education authority including those
14 provided through 20 U.S.C. 1400 et seq. (Individuals with Disabilities Education Act) or 29 U.S.C.
15 701 et seq. (Section 504 of the Rehabilitation Act);

16 (ii) On school days and during scheduled breaks;

17 (iii) In coordination with the recipient's individualized education program~~[individual educational~~
18 ~~plan]~~ if the recipient has an individualized education program~~[individual educational plan]~~;

19 (iv) Under the supervision of a licensed or certified behavioral health practitioner or a behavioral
20 health practitioner working under clinical supervision; and

21 (v) With a linkage agreement with the local education authority that specifies the responsibilities
22 of the local education authority and the day treatment provider.

23 3. To provide day treatment services, a~~an~~ RHC shall have:

1 a. The capacity to employ staff authorized to provide day treatment services in accordance with
2 subparagraph 2. of this subsection [(3)(k) of this section] and to coordinate the provision of services
3 among team members;

4 b. The capacity to provide the full range of services as stated in subparagraphs 1 and 2 of this par-
5 agraph;

6 c. Demonstrated experience in serving individuals with behavioral health disorders, mental health
7 disorders, and co-occurring disorders;

8 d. The administrative capacity to ensure quality of services;

9 e. A financial management system that provides documentation of services and costs;

10 f. The capacity to document and maintain individual case records; and

11 g. Knowledge of substance use disorders.

12 4. Day treatment shall not include a therapeutic clinical service that is included in a child's indi-
13 vidualized education program[plan].

14 (l)1. Comprehensive community support services shall:

15 a. Be activities necessary to allow an individual to live with maximum independence in communi-
16 ty-integrated housing;

17 b. Be intended to ensure successful community living through the utilization of skills training,
18 cueing, or supervision as identified in the recipient's treatment plan;

19 c. Include:

20 (i) Reminding a recipient to take medications and monitoring symptoms and side effects of medi-
21 cations; or

22 (ii) Teaching parenting skills, teaching community resource access and utilization, teaching emo-
23 tional regulation skills, teaching crisis coping skills, teaching how to shop, teaching about transporta-

1 tion, teaching financial management, or developing and enhancing interpersonal skills; and

2 d. Meet the requirements for comprehensive community support services established in 908 KAR
3 2:250.

4 2. To provide comprehensive community support services, ~~a[an]~~ RHC shall have:

5 a. The capacity to employ staff authorized to provide comprehensive community support services
6 in accordance with subsection (3)(1) of this section and to coordinate the provision of services among
7 team members;

8 b. The capacity to provide the full range of comprehensive community support services as stated
9 in subparagraph 1 of this paragraph;

10 c. Demonstrated experience in serving individuals with behavioral health disorders;

11 d. The administrative capacity to ensure quality of services;

12 e. A financial management system that provides documentation of services and costs; and

13 f. The capacity to document and maintain individual case records.

14 3. Comprehensive community support services shall be provided by:

15 a. An approved behavioral health practitioner, except for a licensed clinical alcohol and drug
16 counselor; or

17 b. An approved behavioral health practitioner under supervision, except for a:

18 (i) Certified alcohol and drug counselor; or

19 (ii) Licensed clinical alcohol and drug counselor associate.

20 4. Support services for comprehensive community support services conducted by a behavioral
21 health multi-specialty group or a behavioral health provider group by an individual working under
22 the supervision of an approved behavioral health practitioner may be provided by a:

23 a. Community support associate; or

1 b. Registered behavioral technician under the supervision of a licensed behavioral analyst.

2 (m)1. Intensive outpatient program services shall:

3 a. Be an alternative to or transition from inpatient hospitalization or partial hospitalization for a
4 mental health disorder, substance use disorder, or co-occurring disorders;

5 b. Offer a multi-modal, multi-disciplinary structured outpatient treatment program that is signifi-
6 cantly more intensive than individual outpatient therapy, group outpatient therapy, or family outpa-
7 tient therapy;

8 c. Meet the service criteria, including the components for support systems, staffing, and therapies
9 outlined in the most current version of The ASAM Criteria for intensive outpatient level of care ser-
10 vices;

11 d. Be provided at least three (3) hours per day at least three (3) days per week;

12 e. Be provided at least six (6) hours per week for adolescents; and

13 f.[d.] Include:

14 (i) Individual outpatient therapy, group outpatient therapy, or family outpatient therapy unless
15 contraindicated;

16 (ii) Crisis intervention; or

17 (iii) Psycho-education related to identified goals in the recipient's treatment plan.

18 2. During psycho-education, the recipient or family member shall be:

19 a. Provided with knowledge regarding the recipient's diagnosis, the causes of the condition, and
20 the reasons why a particular treatment might be effective for reducing symptoms; and

21 b. Taught how to cope with the recipient's diagnosis or condition in a successful manner.

22 3. An intensive outpatient program treatment plan shall:

23 a. Be individualized; and

1 b. Focus on stabilization and transition to a lesser level of care.

2 4. To provide intensive outpatient program services, ~~a~~[an] RHC shall have:

3 a. Access to a board-certified or board-eligible psychiatrist for consultation;

4 b. Access to a psychiatrist, other physician, physician's assistant, or advanced practiced registered
5 nurse for medication prescribing and monitoring;

6 c. Adequate staffing to ensure a minimum recipient-to-staff ratio of ten (10) to one (1);

7 d. The capacity to provide services utilizing a recognized intervention protocol based on national-
8 ly accepted treatment principles;

9 e. The capacity to employ staff authorized to provide intensive outpatient program services in ac-
10 cordance with subparagraph 4.~~[subsection (3)(m)]~~ of this paragraph~~[section]~~ and to coordinate the
11 provision of services among team members;

12 f. The capacity to provide the full range of intensive outpatient program services as stated in this
13 paragraph;

14 g. Demonstrated experience in serving individuals with behavioral health disorders;

15 h. The administrative capacity to ensure quality of services;

16 i. A financial management system that provides documentation of services and costs; and

17 j. The capacity to document and maintain individual case records.

18 4. Intensive outpatient program services shall be provided by:

19 a. An approved behavioral health practitioner; or

20 b. An approved behavioral health practitioner under supervision.

21 (n)1. Therapeutic rehabilitation program services shall:

22 a. Occur at the provider's site or in the community;

23 b. Be provided to an adult with a severe and persistent mental illness or to a child (under the age

1 of twenty-one (21) years) who has a serious emotional disability;

2 c. Be designed to maximize the reduction of an intellectual disability and the restoration of the in-
3 dividual's functional level to the individual's best possible functional level; and

4 d. Not be a residential program.

5 2. A recipient in a therapeutic rehabilitation program shall establish the recipient's own rehabilita-
6 tion goals within the person-centered service plan.

7 3. A therapeutic rehabilitation program shall:

8 a. Be delivered using a variety of psychiatric rehabilitation techniques;

9 b. Focus on:

10 (i) Improving daily living skills;

11 (ii) Self-monitoring of symptoms and side effects;

12 (iii) Emotional regulation skills;

13 (iv) Crisis coping skill; and

14 (v) Interpersonal skills; [~~and~~]

15 c. Be delivered individually or in a group; and

16 d. Include:

17 (i) An individualized plan of care identifying measurable goals and objectives including discharge
18 and relapse prevention planning;

19 (ii) Coordination of services the individual may be receiving; and

20 (iii) Referral to other necessary service supports as needed.

21 4. To provide therapeutic rehabilitation program services, a[~~an~~] RHC shall:

22 a. Have the capacity to employ staff authorized to provide therapeutic rehabilitation program ser-
23 vices in accordance with subsection (3)(n) of this section and to coordinate the provision of services

1 among team members;

2 b. Have the capacity to provide the full range of therapeutic rehabilitation program services as
3 stated in this paragraph;

4 c. Have demonstrated experience in serving individuals with mental health disorders;

5 d. Have the administrative capacity to ensure quality of services;

6 e. Have a financial management system that provides documentation of services and costs; and

7 f. Have the capacity to document and maintain individual case records.

8 5. Program staffing for a therapeutic rehabilitation program shall include:

9 a. Licensed clinical supervision, consultation, and support to direct care staff; and

10 b. Direct care staff to provide scheduled therapeutic activities, training, and support.

11 6. Therapeutic rehabilitation services shall be provided by:

12 a. An approved behavioral health practitioner, except for a licensed clinical alcohol and drug
13 counselor; or

14 b. An approved behavioral health practitioner under supervision, except for a:

15 (i) Certified alcohol and drug counselor; or

16 (ii) Licensed clinical alcohol and drug counselor associate.

17 7. If not provided by an allowed practitioner pursuant to clause 6. of this subparagraph, support
18 services for therapeutic rehabilitation services shall be conducted by a provider:

19 a. Working under the supervision of an approved behavioral health practitioner; and

20 b. Who is:

21 (i) An adult peer support specialist;

22 (ii) A family peer support specialist; or

23 (iii) A youth peer support specialist.

1 (o)1. Peer support services shall:

2 a. Be emotional support that is provided by:

3 (i) An individual who has been trained and certified in accordance with 908 KAR 2:220 and who
4 is experiencing or has experienced a substance use disorder to a recipient by sharing a similar sub-
5 stance use disorder in order to bring about a desired social or personal change;

6 (ii) A parent or other family member, who has been trained and certified in accordance with 908
7 KAR 2:230, of a child having or who has had a substance use disorder to a parent or family member
8 of a child sharing a similar substance use disorder in order to bring about a desired social or personal
9 change;

10 (iii) An individual who has been trained and certified in accordance with 908 KAR 2:240 and
11 identified as experiencing a substance use disorder; or

12 (iv) A registered alcohol and drug peer support specialist who has been trained and certified in ac-
13 cordance with KRS 309.0831 and is a self-identified consumer of substance use disorder services
14 who provides emotional support to others with substance use disorder to achieve a desired social or
15 personal change;

16 b. Be an evidence-based practice;

17 c. Be structured and scheduled non-clinical therapeutic activities with an individual recipient or a
18 group of recipients;

19 d. Promote socialization, recovery, self-advocacy, preservation, and enhancement of community
20 living skills for the recipient;

21 e. Except for the engagement into substance use disorder treatment through an emergency de-
22 partment bridge clinic, be coordinated within the context of a comprehensive, individualized plan of
23 care developed through a person-centered planning process;

- 1 f. Be identified in each recipient's plan of care; and
- 2 g. Be designed to contribute directly to the recipient's individualized goals as specified in the re-
- 3 ipient's plan of care.
- 4 2. To provide peer support services, a chemical dependency treatment center shall:
- 5 a. Have demonstrated:
- 6 (i) The capacity to provide peer support services for the behavioral health population being served
- 7 including the age range of the population being served; and
- 8 (ii) Experience in serving individuals with behavioral health disorders;
- 9 b. Employ peer support specialists who are qualified to provide peer support services in accord-
- 10 ance with 908 KAR 2:220, 908 KAR 2:230, 908 KAR 2:240, or KRS 309.0831;
- 11 c. Use an approved behavioral health practitioner to supervise peer support specialists;
- 12 d. Have the capacity to coordinate the provision of services among team members;
- 13 e. Have the capacity to provide ongoing continuing education and technical assistance to peer
- 14 support specialists;
- 15 f. Require individuals providing peer support services to recipients to provide no more than thirty
- 16 (30) hours per week of direct recipient contact; and
- 17 g. Require peer support services provided to recipients in a group setting to not exceed eight (8)
- 18 individuals within any group at one (1) time.
- 19 (p)1. Partial hospitalization services shall be:
- 20 a. Short-term with an average of four (4) to six (6) weeks,
- 21 b. Less than twenty-four (24) hours each day;
- 22 c. An intensive treatment program for an individual who is experiencing significant impairment to
- 23 daily functioning due to a substance use disorder or co-occurring disorders; and

1 d. Provided in-person or via telehealth as appropriate pursuant to the most recent version of The
2 ASAM Criteria and 907 KAR 3:170.

3 2. Partial hospitalization may be provided to an adult or a minor.

4 3. Admission criteria for partial hospitalization shall be based on an inability of community-based
5 therapies or intensive outpatient services to adequately treat the recipient.

6 4. A partial hospitalization program shall meet the service criteria, including the components for
7 support systems, staffing, and therapies outlined in the most current version of The ASAM Criteria
8 for partial hospitalization level of care services.

9 5. A partial hospitalization program shall consist of:

10 a. Individual outpatient therapy;

11 b. Group outpatient therapy;

12 c. Family outpatient therapy; or

13 d. Medication management.

14 6. The department shall not reimburse for educational, vocational, or job training services
15 provided as part of partial hospitalization.

16 7.a. A rural health clinic's partial hospitalization program shall have an agreement with the local
17 educational authority to come into the program to provide all educational components and instruction
18 that are not Medicaid billable or reimbursable.

19 b. Services in a Medicaid eligible child's individualized education program shall be coverable un-
20 der Medicaid.

21 8. Partial hospitalization shall be:

22 a. Provided for at least four (4) hours per day; and

23 b. Focused on one (1) primary presenting problem.

1 9. A partial hospitalization program operated by a rural health clinic shall:

2 a. Include the following personnel for the purpose of providing medical care:

3 (i) An advanced practice registered nurse, a physician assistant, or a physician available on site;

4 and

5 (ii) A board-certified or board-eligible psychiatrist available for consultation; and

6 b. Have the capacity to:

7 (i) Provide services utilizing a recognized intervention protocol based on nationally accepted
8 treatment principles;

9 (ii) Employ required practitioners and coordinate service provision among rendering practitioners;

10 and

11 (iii) Provide the full range of services included in the scope of partial hospitalization established
12 in this paragraph.

13 (q)1. Withdrawal management services provided by a rural health clinic shall:

14 a. Be provided in-person or via telehealth as consistent with 907 KAR 3:170 for recipients with a
15 substance use disorder or co-occurring disorder and incorporated into a recipient's care along the
16 continuum of care as needed;

17 b. Meet service criteria in accordance with the most current version of the ASAM Criteria for
18 withdrawal management levels in an outpatient setting; and

19 c. If provided in an outpatient setting, comply with 908 KAR 1:374, Section 2.

20 2. A recipient who is receiving withdrawal management services shall meet the most current edi-
21 tion of diagnostic criteria for substance withdrawal management as established by the most recent
22 version of the Diagnostic and Statistical Manual of Mental Disorders.

23 3. Withdrawal management services in an outpatient setting shall be provided by:

- 1 a. A physician;
- 2 b. A psychiatrist;
- 3 c. A physician assistant;
- 4 d. An advanced practice registered nurse; or
- 5 e. An approved behavioral health practitioner or behavioral health practitioner under supervision
- 6 with oversight by a physician, advanced practice registered nurse, or physician assistant.

7 (r)1. Medication assisted treatment services shall be provided by an authorized prescribing pro-
8 vider who:

9 a. Is:

- 10 (i) A physician;
- 11 (ii) An advanced practice registered nurse;
- 12 (iii) A physician assistant; or
- 13 (iv) A psychiatrist;

14 b. Meets standards established pursuant to 201 KAR 9:270 or 201 KAR 20:065;

15 c. Maintains a current waiver under 21 U.S.C. 823(g)(2) to prescribe buprenorphine products in-
16 cluding any waiving or expansion of buprenorphine prescribing authority by the federal government;

17 and

18 d. Has experience and knowledge in addiction medicine.

19 2. Medication assisted treatment supporting behavioral health services shall:

20 a. Be co-located within the same practicing site as the practitioner who maintains a current waiver
21 under 21 U.S.C. 823(g)(2) to prescribe buprenorphine products or via telehealth as appropriate pur-
22 suant to 907 KAR 3:170; or

23 b. Have agreements in place for linkage to appropriate behavioral health treatment providers who

1 specialize in substance use disorders and are knowledgeable in biopsychosocial dimensions of alco-
2 hol and other substance use disorders, such as:

3 (i) A licensed behavioral health services organization;

4 (ii) A multi-specialty group;

5 (iii) A provider group; or

6 (iv) An individual behavioral health practitioner.

7 3. Medication assisted treatment may be provided in a provider group or multi-specialty group
8 operating in accordance with 908 KAR 1:374, Section 7.

9 4. A medication assisted treatment program shall:

10 a. Assess the need for treatment including:

11 (i) A full patient history to determine the severity of the patient's substance use disorder; and

12 (ii) Identifying and addressing any underlying or co-occurring diseases or conditions, as neces-
13 sary;

14 b. Educate the patient about how the medication works, including:

15 (i) The associated risks and benefits; and

16 (ii) Overdose prevention;

17 c. Evaluate the need for medically managed withdrawal from substances;

18 d. Refer patients for higher levels of care if necessary; and

19 e. Obtain informed consent prior to integrating pharmacologic or nonpharmacologic therapies.

20 (s)1. Applied behavior analysis services shall produce socially significant improvement in human
21 behavior via the:

22 a. Design, implementation, and evaluation of environmental modifications;

23 b. Use of behavioral stimuli and consequences; or

1 c. Use of direct observation, measurement, and functional analysis of the relationship between en-
2 vironment and behavior.

3 2. Applied behavior analysis shall be based on scientific research and the direct observation and
4 measurement of behavior and environment, which utilize contextual factors, establishing operations,
5 antecedent stimuli, positive reinforcement, and other consequences to assist recipients in:

6 a. Developing new behaviors;

7 b. Increasing or decreasing existing behaviors; and

8 c. Eliciting behaviors under specific environmental conditions.

9 3. Applied behavior analysis services may include principles, methods, and procedures of the ex-
10 perimental analysis of behavior and applied behavior analysis, including applications of those princi-
11 ples, methods, and procedures to:

12 a. Design, implement, evaluate, and modify treatment programs to change the behavior of indi-
13 viduals;

14 b. Design, implement, evaluate, and modify treatment programs to change the behavior of indi-
15 viduals that interact with a recipient;

16 c. Design, implement, evaluate, and modify treatment programs to change the behavior of a group
17 or groups that interact with a recipient; or

18 d. Consult with individuals and organizations.

19 4.a. Applied behavior analysis services shall be provided by:

20 (i) A licensed behavior analyst;

21 (ii) A licensed assistant behavior analyst;

22 (iii) An approved behavioral health practitioner with documented training in applied behavior
23 analysis; or

1 (iv) An approved behavioral health practitioner under supervision with documented training in
2 applied behavior analysis.

3 b. A registered behavior technician under the supervision of an appropriate practitioner pursuant
4 to clause a. of this subparagraph may provide support services under this paragraph.

5 (4)(a) Laboratory services shall be reimbursable in accordance with 907 KAR 1:028 if provided
6 by a RHC if:

7 1. The RHC has the appropriate Clinical Laboratory Improvement Amendments (CLIA) certifi-
8 cate to perform laboratory testing pursuant to 907 KAR 1:028; and

9 2. The services are prescribed by a physician, advanced practice registered nurse, or physician as-
10 stant who has a contractual relationship with the RHC.

11 (b) Laboratory services may be administered, as appropriate, by:

12 1. An approved behavioral health practitioner; or

13 2. An approved behavioral health practitioner under supervision.

14 (5)(a) The requirements established in 908 KAR 1:370 shall apply to any provider of a service to
15 a recipient for a substance use disorder or co-occurring mental health and substance use disorders.

16 (b) The detoxification program requirements established in 908 KAR 1:370 shall apply to a pro-
17 vider of a detoxification service.

18 (6) The extent and type of assessment performed shall depend upon the problem of the individual
19 seeking or being referred for services.

20 (7) A diagnosis or clinical impression shall be made using terminology established in the most
21 current edition of the American Psychiatric Association Diagnostic and Statistical Manual of Mental
22 Disorders.

23 (8)(a) Direct contact between a provider or practitioner and a recipient shall be required for each

1 service except for a collateral service for a child under the age of twenty-one (21) years if the collat-
2 eral service is in the child's plan of care.

3 (b) A service that does not meet the requirement in paragraph (a) of this subsection shall not be
4 covered.

5 (9) A billable unit of service shall be actual time spent delivering a service in an~~[a face-to-face]~~
6 encounter.

7 (10) A service shall be:

8 (a) Stated in the recipient's treatment plan;

9 (b) Provided in accordance with the recipient's treatment plan;

10 (c) Provided on a regularly scheduled basis except for a screening or assessment; and

11 (d) Made available on a nonscheduled basis if necessary during a crisis or time of increased stress
12 for the recipient.

13 (11) The following services or activities shall not be covered under this administrative regulation:

14 (a) A behavioral health service provided to:

15 1. A resident of:

16 a. A nursing facility; or

17 b. An intermediate care facility for individuals with an intellectual disability;

18 2. An inmate of a federal, local, or state:

19 a. Jail;

20 b. Detention center; or

21 c. Prison; or

22 3. An individual with an intellectual disability without documentation of an additional psychiatric
23 diagnosis;

1 (b) Psychiatric or psychological testing for another agency, including a court or school, that does
2 not result in the individual receiving psychiatric intervention or behavioral health therapy from the
3 independent provider;

4 (c) A consultation or educational service provided to a recipient or to others;

5 (d) Collateral outpatient therapy for an individual aged twenty-one (21) years or older;

6 (e) A telephone call, an email, a text message, or other electronic contact that does not meet the
7 requirements stated in the definition of telehealth established pursuant to KRS 205.510(16) and im-
8 plemented pursuant to 907 KAR 3:170[face-to-face];

9 (f) Travel time;

10 (g) A field trip;

11 (h) A recreational activity;

12 (i) A social activity; or

13 (j) A physical exercise activity group.

14 (12) A third party contract shall not be covered under this administrative regulation.

15 Section 4. Provision of Services. A[An] RHC shall comply with the service provision require-
16 ments established by 42 C.F.R. 491.9.

17 Section 5. Immunizations. A[An] RHC shall provide, upon request from a recipient, the following
18 covered immunizations:

19 (1) Diphtheria and tetanus toxoids and pertussis vaccine (DPT);

20 (2) Measles, mumps, and rubella virus vaccine live (MMR);

21 (3) Poliovirus vaccine, live, oral (any type(s)) (OPV); ~~[or]~~

22 (4) Hemophilus B conjugate vaccine (HBCV);

23 (5) Hepatitis A;

1 (6) Meningococcal vaccines; or

2 (7) Meningococcal ACWY vaccine (MenACWY).

3 Section 6. Medical Necessity Requirement. To be covered pursuant to this administrative regula-
4 tion, a service shall be:

5 (1) Medically necessary for the recipient; and

6 (2) Provided to a recipient.

7 Section 7. Noncovered Services. (1) The following services shall not be covered as rural health
8 clinic services:

9 (a) Services provided in a hospital as defined in 42 U.S.C. 1395x(e);

10 (b) Institutional services;

11 (c) Housekeeping, babysitting, or other similar homemaker services;

12 (d) Services which are not provided in accordance with restrictions imposed by law or administra-
13 tive regulation.

14 (2) A third party contract shall not be covered under this administrative regulation.

15 Section 8. No Duplication of Service. (1) The department shall not reimburse for a service pro-
16 vided to a recipient by more than one (1) provider of any program in which the service is covered
17 during the same time period.

18 (2) For example, if a recipient is receiving a service from an independent behavioral health ser-
19 vice provider, the department shall not reimburse for the same service provided to the same recipient
20 during the same time period by a rural health clinic.

21 Section 9. Protection, Security, and Records Maintenance Requirements for All Services. (1)(a) A
22 provider shall maintain a current health record for each recipient.

23 (b)1. A health record shall document each service provided to the recipient including the date of

1 [the] service and [the] signature of the individual who provided the service.

2 2. The individual who provided the service shall date and sign the health record within seventy-
3 two (72) hours of~~on~~ the date that the individual provided the service.

4 (2)(a) Except as established in paragraph (b) of this subsection, a provider shall maintain a health
5 record regarding a recipient for at least five (5) years from the date of the service or until any audit
6 dispute or issue is resolved beyond five (5) years.

7 (b) If the secretary of the United States Department of Health and Human Services requires a
8 longer document retention period than the period referenced in paragraph (a) of this subsection, pur-
9 suant to 42 C.F.R. 431.17, the period established by the secretary shall be the required period.

10 (3)(a) A provider shall comply with 45 C.F.R. Part 164.

11 (b) All information contained in a health record shall:

12 1. Be treated as confidential;

13 2. Not be disclosed to an unauthorized individual; and

14 3. If requested, be disclosed to an authorized representative of:

15 a. The department; or

16 b. Federal government.

17 (c)1. Upon request, a provider shall provide to an authorized representative of the department or
18 federal government information requested to substantiate:

19 a. Staff notes detailing a service that was rendered;

20 b. The professional who rendered a service; and

21 c. The type of service rendered and any other requested information necessary to determine, on an
22 individual basis, whether the service is reimbursable by the department.

23 2. Failure to provide information referenced in subparagraph 1_ of this paragraph shall result in

1 denial of payment for any service associated with the requested information.

2 Section 10. Documentation and Records Maintenance Requirements for Behavioral Health Ser-
3 vices. (1) The requirements in this section shall apply to health records associated with behavioral
4 health services.

5 (2) A health record shall:

6 (a) Include:

7 1. An identification and intake record including:

8 a. Name;

9 b. Social Security number;

10 c. Date of intake;

11 d. Home (legal) address;

12 e. Health insurance or Medicaid information;

13 f. Referral source and address of referral source;

14 g. Primary care physician and address;

15 h. The reason the individual is seeking help including the presenting problem and diagnosis;

16 i. Any physical health diagnosis, if a physical health diagnosis exists for the individual, and in-
17 formation regarding:

18 (i) Where the individual is receiving treatment for the physical health diagnosis; and

19 (ii) The physical health provider; and

20 j.[k-] The name of the informant and any other information deemed necessary by the independent
21 provider to comply with the requirements of:

22 (i) This administrative regulation;

23 (ii) The provider's licensure board;

- 1 (iii) State law; or
- 2 (iv) Federal law;
- 3 2. Documentation of the:
 - 4 a. Screening;
 - 5 b. Assessment;
 - 6 c. Disposition; and
 - 7 d. Six (6) month review of a recipient's treatment plan each time a six (6) month review occurs;
- 8 3. A complete history including mental status and previous treatment;
- 9 4. An identification sheet;
- 10 5. A consent for treatment sheet that is accurately signed and dated; and
- 11 6. The individual's stated purpose for seeking services; and
- 12 (b) Be:
 - 13 1. Maintained in an organized central file;
 - 14 2. Furnished to the Cabinet for Health and Family Services upon request;
 - 15 3. Made available for inspection and copying by Cabinet for Health and Family Services' person-
 - 16 nel;
 - 17 4. Readily accessible; and
 - 18 5. Adequate for the purpose of establishing the current treatment modality and progress of the re-
 - 19 cipient.
- 20 (3) Documentation of a screening shall include:
 - 21 (a) Information relative to the individual's stated request for services; and
 - 22 (b) Other stated personal or health concerns if other concerns are stated.
- 23 (4)(a) A provider's notes regarding a recipient shall:

- 1 1. Be made within seventy-two (72)~~forty-eight (48)~~ hours of the reconciliation of the record of
- 2 each service visit; and
- 3 2. Describe the:
 - 4 a. Recipient's symptoms or behavior, reaction to treatment, and attitude;
 - 5 b. Therapist's intervention;
 - 6 c. Changes in the treatment plan if changes are made; and
 - 7 d. Need for continued treatment if continued treatment is needed.
- 8 (b)1. Any edit to notes shall:
 - 9 a. Clearly display the changes; and
 - 10 b. Be initialed and dated.
- 11 2. Notes shall not be erased or illegibly marked out.
- 12 (c)1. Notes recorded by a practitioner working under supervision shall be co-signed and dated by
- 13 the supervising professional providing the service.
- 14 2. If services are provided by a practitioner working under supervision, there shall be a monthly
- 15 supervisory note recorded by the supervising professional reflecting consultations with the practi-
- 16 tioner working under supervision concerning the:
 - 17 a. Case; and
 - 18 b. Supervising professional's evaluation of the services being provided to the recipient.
- 19 (5) Immediately following a screening of a recipient, the provider shall perform a disposition re-
- 20 lated to:
 - 21 (a) An appropriate diagnosis;
 - 22 (b) A referral for further consultation and disposition, if applicable; and
 - 23 (c)1. Termination of services and referral to an outside source for further services; or

1 2. Termination of services without a referral to further services.

2 (6)(a) A recipient's treatment plan shall be reviewed at least once every six (6) months.

3 (b) Any change to a recipient's treatment plan shall be documented, signed, and dated by the ren-
4 dering provider.

5 (7)(a) Notes regarding services to a recipient shall:

6 1. Be organized in chronological order;

7 2. Dated;

8 3. Titled to indicate the service rendered;

9 4. State a starting and ending time for the service; and

10 5. Be recorded and signed by the rendering provider and include the professional title (for exam-
11 ple, licensed clinical social worker) of the provider.

12 (b) Initials, typed signatures, or stamped signatures shall not be accepted.

13 (c) Telephone contacts, family collateral contacts not covered under this administrative regulation,
14 or other nonreimbursable contacts shall:

15 1. Be recorded in the notes; and

16 2. Not be reimbursable.

17 (8)(a) A termination summary shall:

18 1. Be required, upon termination of services, for each recipient who received at least three (3) ser-
19 vice visits; and

20 2. Contain a summary of the significant findings and events during the course of treatment includ-
21 ing the:

22 a. Final assessment regarding the progress of the individual toward reaching goals and objectives
23 established in the individual's treatment plan;

1 b. Final diagnosis of clinical impression; and

2 c. Individual's condition upon termination and disposition.

3 (b) A health record relating to an individual who terminated from receiving services shall be fully
4 completed within ten (10) days following termination.

5 (9) If an individual's case is reopened within ninety (90) days of terminating services for the same
6 or related issue, a reference to the prior case history with a note regarding the interval period shall be
7 acceptable.

8 (10) If a recipient is transferred or referred to a health care facility or other provider for care or
9 treatment, the transferring provider shall, if the recipient gives the provider written consent to do so,
10 forward a copy or summary of the recipient's health record to the health care facility or other provid-
11 er who is receiving the recipient.

12 (11)(a) If a provider's Medicaid program participation status changes as a result of voluntarily
13 terminating from the Medicaid program, involuntarily terminating from the Medicaid program, a li-
14 censure suspension, or death of the provider, the health records of the provider shall:

15 1. Remain the property of the provider; and

16 2. Be subject to the retention requirements established in Section 9(2) of this administrative regu-
17 lation.

18 (b) A provider shall have a written plan addressing how to maintain health records in the event of
19 the provider's death.

20 Section 11. Medicaid Program Participation Requirements. (1)(a) A participating RHC shall be
21 currently:

22 1. Enrolled in the Kentucky Medicaid program in accordance with 907 KAR 1:672; and

23 2. Except as established in paragraph (b) of this subsection, participating in the Kentucky Medi-

1 **caid program in accordance with 907 KAR 1:671.**

2 **(b) In accordance with 907 KAR 17:015, Section 3(3), a provider of a service to an enrollee shall**
3 **not be required to be currently participating in the fee-for-service Medicaid program.**

4 **(2)(a) To be initially enrolled with the department, a[an] RHC shall:**

5 1. **Enroll in accordance with 907 KAR 1:672; and**

6 2. **Submit proof of its certification by the United States Department of Health and Human Ser-**
7 **vices, Health Resources and Services Administration as a[an] RHC.**

8 **(b) To remain enrolled and participating in the Kentucky Medicaid program, a[an] RHC shall:**

9 1. **Comply with the enrollment requirements established in 907 KAR 1:672;**

10 2. **Comply with the participation requirements established in 907 KAR 1:671; and**

11 3. **Annually submit proof of its certification by the United States Department of Health and Hu-**
12 **man Services, Health Resources and Services Administration as a[an] RHC to the department.**

13 **(3) A[An] RHC that has been terminated from federal participation shall be terminated from Ken-**
14 **tucky Medicaid program participation.**

15 **(4) A participating RHC and its staff shall comply with all applicable federal laws and regula-**
16 **tions, state laws and administrative regulations, and local laws and regulations regarding the admin-**
17 **istration and operation of a[an] RHC.**

18 **(5)(a) If a[an] RHC receives any duplicate payment or overpayment from the department, regard-**
19 **less of reason, the provider shall return the payment to the department.**

20 **(b) Failure to return a payment to the department in accordance with paragraph (a) of this subsec-**
21 **tion may be:**

22 1. **Interpreted to be fraud or abuse; and**

23 2. **Prosecuted in accordance with applicable federal or state law.**

1 Section 12. Third Party Liability. A provider shall comply with KRS 205.622.

2 Section 13. Use of Electronic Signatures. (1) The creation, transmission, storage, and other use of
3 electronic signatures and documents shall comply with the requirements established in KRS 369.101
4 to 369.120.

5 (2) A provider that chooses to use electronic signatures shall:

6 (a) Develop and implement a written security policy that shall:

- 7 1. Be adhered to by each of the provider's employees, officers, agents, or contractors;
- 8 2. Identify each electronic signature for which an individual has access; and
- 9 3. Ensure that each electronic signature is created, transmitted, and stored in a secure fashion;

10 (b) Develop a consent form that shall:

- 11 1. Be completed and executed by each individual using an electronic signature;
- 12 2. Attest to the signature's authenticity; and
- 13 3. Include a statement indicating that the individual has been notified of his or her responsibility
14 in allowing the use of the electronic signature; and

15 (c) Provide the department, immediately upon request, with:

- 16 1. A copy of the provider's electronic signature policy;
- 17 2. The signed consent form; and
- 18 3. The original filed signature.

19 Section 14. Auditing Authority. The department shall have the authority to audit any claim, medi-
20 cal record, or documentation associated with any claim or medical record.

21 Section 15. Federal Approval and Federal Financial Participation. The department's coverage of
22 services pursuant to this administrative regulation shall be contingent upon:

23 (1) Receipt of federal financial participation for the coverage; and

1 (2) Centers for Medicare and Medicaid Services' approval for the coverage.

2 Section 16. Appeals. (1) An appeal of an adverse action by the department regarding a service and
3 a recipient who is not enrolled with a managed care organization shall be in accordance with 907
4 KAR 1:563.

5 (2) An appeal of an adverse action by a managed care organization regarding a service and an en-
6 rollee shall be in accordance with 907 KAR 17:010.

907 KAR 1:082
REVIEWED:

4/25/2022

Date

DocuSigned by:

Lisa Lee
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Lisa D. Lee, Commissioner
Department for Medicaid Services

APPROVED:

4/25/2022

Date

DocuSigned by:

Eric Friedlander
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Eric C. Friedlander, Secretary
Cabinet for Health and Family Services

PUBLIC HEARING AND PUBLIC COMMENT PERIOD:

A public hearing on this administrative regulation shall, if requested, be held on July 25, 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 July 18, 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 July 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.

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.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation Number: 907 KAR 1:082

Cabinet for Health and Family Services

Department for Medicaid Services

Agency Contact Persons: Jonathan Scott, (502) 564-4321, ext. 2015, jonathant.scott@ky.gov; and
Krista Quarles, (502) 564-6746, CHFSregs@ky.gov

- (1) Provide a brief summary of:
 - (a) What this administrative regulation does: This administrative regulation establishes the coverage provisions and requirements regarding Medicaid program rural health clinic (RHC) services.
 - (b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the coverage provisions and requirements regarding Medicaid program RHC services.
 - (c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by establishing the coverage provisions and requirements regarding Medicaid program RHC services.
 - (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the effective administration of the authorizing statutes by establishing the coverage provisions and requirements regarding Medicaid program RHC services.

- (2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
 - (a) How the amendment will change this existing administrative regulation: The amendments to the regulation define new terms “adult peer support specialist”, “approved behavioral health practitioner”, “approved behavioral health practitioner under supervision”, “ASAM Criteria”, “certified alcohol and drug counselor”, “co-occurring disorder”, “family peer support specialist”, “in-person”, “licensed clinical alcohol and drug counselor”, “licensed clinical alcohol and drug counselor associate”, “medication assisted treatment”, “registered alcohol and drug peer support specialist”, “registered behavior technician”, “withdrawal management”, and “youth peer support specialist”. The regulation is further amended to combine the service description with the providers who can perform the service. This is consistent with recent changes made to the service descriptions in 907 KAR Chapter 15. The regulation is also amended to require compliance with the appropriate level of care of the ASAM Criteria when treating substance use disorder for several types of services. The regulation is also amended to allow for telehealth in several additional services, if the telehealth service is appropriate pursuant to 907 KAR 3:170. Services such as comprehensive community support services and therapeutic rehabilitation programs are expanded. New services of peer support, partial hospitalization, withdrawal management, medication assisted treatment, and applied behavior analysis are introduced and are now reimbursable when performed within rural health clinics. In addition, laboratory services are now allowed to be reimbursable if the RHC has the appropriate certifi-

cate. Finally, the documentation requirement for providers is being increased to within 72 hours of the date that the individual provided the service instead of on the same day that the service was provided.

- (b) The necessity of the amendment to this administrative regulation: The amendments serve to synchronize and expand behavioral health services that can be provided by RHCs consistent with recent changes to 907 KAR Chapter 15.
 - (c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the content of the authorizing statutes by implementing recent changes and service expansions to an additional population of behavioral health practitioners.
 - (d) How the amendment will assist in the effective administration of the statutes: The amendment will assist in the effective administration of the authorizing statutes by complying with an approved Section 1115 waiver to implement the ASAM Criteria as well as implementing recent changes and service expansions for an additional population of behavioral health practitioners.
- (3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: Approximately 295 rural health clinics will be affected by this amendment. Additionally, certain behavioral health professionals and practitioners will be impacted by this amendment. Finally, Medicaid recipients who qualify for substance use disorder services or the enhanced scope of behavioral health services will be affected by this amendment.
- (4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
- (a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment. The expanded services are voluntary so no new actions are required. To provide the additional and enhanced behavioral health services permitted in this administrative regulation, some new provider types or licensure and certification requirements may be needed.
 - (b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3). No cost is anticipated as expanding the scope of services is voluntary.
 - (c) As a result of compliance, what benefits will accrue to the entities identified in question (3). RHCs will benefit by being authorized to provide more services. The expanded types of behavioral health practitioners/professionals will benefit by having more employment opportunities in which to provide services. Medicaid recipients will benefit by having enhanced access to behavioral health services including substance use disorder services.
- (5) Provide an estimate of how much it will cost to implement this administrative regulation:
- (a) Initially: DMS does not anticipate additional costs in implementing this administrative regulation on an initial basis.
 - (b) On a continuing basis: On a continuing basis, DMS does not anticipate additional costs in implementing this administrative regulation.

- (6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The sources of revenue to be used for implementation and enforcement of this administrative regulation are federal funds authorized under the Social Security Act, Title XIX, and matching funds of agency and general fund appropriations.
- (7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment. Neither an increase in fees nor funding is necessary to implement this administrative regulation.
- (8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation neither establishes nor increases any fees.
- (9) Tiering: Is tiering applied? (Explain why tiering was or was not used.) Tiering is not applied as the policies apply equally to the regulated entities.

FEDERAL MANDATE ANALYSIS COMPARISON

Regulation Number: 907 KAR 1:082

Agency Contact Persons: Jonathan Scott, (502) 564-4321, ext. 2015, jonathant.scott@ky.gov; and Krista Quarles, (502) 564-6746, CHFSregs@ky.gov

1. Federal statute or regulation constituting the federal mandate. Section 1302(b)(1)(E) of the Affordable Care Act.

2. State compliance standards. KRS 205.520(3) states:

“Further, it is the policy of the Commonwealth to take advantage of all federal funds that may be available for medical assistance. To qualify for federal funds the secretary for health and family services may by regulation comply with any requirement that may be imposed or opportunity that may be presented by federal law. Nothing in KRS 205.510 to 205.630 is intended to limit the secretary's power in this respect.”

3. Minimum or uniform standards contained in the federal mandate. Section 1302(b)(1)(E) of the Affordable Care Act mandates that “essential health benefits” for Medicaid programs include “mental health and substance use disorder services, including behavioral health treatment.”

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The administrative regulation does not impose stricter than federal requirements.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The administrative regulation does not impose stricter than federal requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation Number: 907 KAR 1:082

Agency Contact Persons: Jonathan Scott, (502) 564-4321, ext. 2015, jonathant.scott@ky.gov; and Krista Quarles, (502) 564-6746, CHFSregs@ky.gov

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department for Medicaid Services will be affected by the amendment to this administrative regulation as will any RHC owned by a local government agency.
2. Identify each state or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 205.520(3), Section 1302(b)(1)(E) of the Affordable Care Act.
3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.
 - (a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? DMS does not anticipate that this administrative regulation will generate revenue for the state or local government in the first year of implementation.
 - (b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? DMS does not anticipate that this administrative regulation will generate revenue for the state or local government in subsequent years of implementation.
 - (c) How much will it cost to administer this program for the first year? DMS does not anticipate that this administrative regulation will generate costs in the first year of implementation.
 - (d) How much will it cost to administer this program for subsequent years? DMS does not anticipate that this administrative regulation will generate costs in subsequent years of implementation.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

Other Explanation:

- (4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.
 - (a) How much cost savings will this administrative regulation generate for the regulated entities for the first year? DMS does not anticipate that cost savings will be generated for regulated entities as a result of the amendments to this administrative regulation in the first year.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years? DMS does not anticipate that cost savings will be generated for regulated entities as a result of the amendments to this administrative regulation in subsequent years.

(c) How much will it cost the regulated entities for the first year? DMS does not anticipate that regulated entities will incur costs as a result of this amendment in the first year.

(d) How much will it cost the regulated entities for subsequent years? DMS does not anticipate that regulated entities will incur costs as a result of this amendment in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Cost Savings(+/-):

Expenditures (+/-):

Other Explanation:

(5) Explain whether this administrative regulation will have a major economic impact, as defined below. *"Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)]*

The administrative regulation will not have a major economic impact – as defined by KRS 13A.010 – on regulated entities. DMS does anticipate that this amendment will result in additional practice opportunities for certain behavioral health providers.

