



STATEMENT OF CONSIDERATION RELATING TO
907 KAR 1:680.

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Medicaid Services
Division of Health Care Policy

Not Amended After Comments

I. A public hearing on 907 KAR 1:680 was not requested, and therefore, not held. However, written comments were received during the public comment period.

II. The following individuals submitted comments during the public comment period:

<u>Name and Title</u>	<u>Agency/Organization/Entity/Other</u>
Steven C. Anderson, FASAE, CAE, IOM, President and Chief Executive Officer	National Association of Chain Drug Stores
Rebecca Randall, Vice President, Operations	WellCare Health Plans of Kentucky
Shannon Stiglitz, Senior VP of Government Affairs	Kentucky Retail Federation

III. The following individuals from the promulgating agency responded to comments received regarding 907 KAR 1:680.

<u>Name and Title</u>	<u>Agency/Organization/Entity/Other</u>
Lisa Lee, Commissioner	Department for Medicaid Services, Commissioner's Office
Veronica Judy-Cecil, Senior Deputy Commissioner	Department for Medicaid Services, Commissioner's Office
Dr. Judy Theriot, Medical Director	Department for Medicaid Services, Commissioner's Office
Dr. Fatima Ali, Pharmacy Director	Department for Medicaid Services, Commissioner's Office
Dr. Reyna Vangilder, Associate Pharmacy Director	Department for Medicaid Services, Commissioner's Office
Dr. April Prather, Associate Pharmacy Director	Department for Medicaid Services, Commissioner's Office

<p>Erica Davis, Maternal and Child Health Branch Manager</p>	<p>Department for Medicaid Services Division of Health Care Policy</p>
<p>Jonathan Scott, Regulatory and Legislative Advisor</p>	<p>Department for Medicaid Services, Commissioner's Office</p>

IV. SUMMARY OF COMMENTS AND AGENCY'S RESPONSES

(1) Subject: Scope of term "not readily available"

(a) Comment: Rebecca Randall, Vice President, Operations, WellCare Health Plans of Kentucky submitted comments asking what situations DMS considers to fall into the category of "not readily available" when a provider may need to utilize vaccine stock that is not from the Vaccines for Children Program (VFC).

(b) Response: It is the department's position that a vaccine is not "readily available" unless it is on-site or otherwise capable of being administered during or immediately after a scheduled encounter with a recipient. If a recipient would need to wait longer than fifteen minutes or return at a later date in order for a vaccine delivery to be made to the provider then the vaccine is not "readily available" to the provider or the recipient. The department will not be amending the administrative regulation in response to the comment.

(2) Subject: Scope of Pharmacy utilization and participation

(a) Comment: Shannon Stiglitz, Senior VP of Government Affairs, Kentucky Retail Federation, submitted comments discussing difficulties confronting pharmacies administering vaccinations to Medicaid children. The commenter further requests an explanation as to whether DMS intends for pharmacies to provide vaccinations to children who are three (3) and older.

(b) Response: It is the department's understanding that the limitation on providing vaccinations to children who are younger than nine (9) is a licensure-based restriction established in statute. The department does not have authority to unilaterally extend authority to vaccinate children beyond existing statutory and licensure based limits. If these limits change, the department is prepared to implement, promulgate, or otherwise facilitate childhood vaccinations to the youngest children allowed by state and federal law and clinical appropriateness. The administrative regulation will not be amended in response to the comment.

(a) Comment: Shannon Stiglitz, Senior VP of Government Affairs, Kentucky Retail Federation, submitted comments inquiring whether a pharmacy would be required to register as a VFC provider in order to receive reimbursement.

(a) Comment: Steven C. Anderson, FASAE, CAE, IOM, President and Chief Executive Officer, National Association of Chain Drug Stores submitted comments expressing concerns about a potential conflict between the definition of "program registered provider" within the VFC

program and if this requires pharmacies to be enrolled in the VFC program in order to provide childhood vaccinations.

(b) Response: A pharmacy will not be required to register as a VFC provider in order to receive reimbursement. The goal of the amendments to 907 KAR 1:680 and 3:010 is to decouple the VFC program from vaccination reimbursement within the Medicaid program. The VFC program will remain as a voluntary option for providers who choose to utilize it. Otherwise, vaccination will be provided according only to existing Medicaid policy and federal and state law. The department will not be amending the administrative regulation in response to the comment.

(a) Comment: Shannon Stiglitz, Senior VP of Government Affairs, Kentucky Retail Federation, submitted comments inquiring as to whether pharmacists and pharmacy staff will be reimbursed for ordering and administering vaccinations and advocating that the reimbursement for vaccinations should equal the reimbursement of other healthcare providers. The commenter points out that "if reimbursement for vaccinations continues to be below the costs of ordering and administering vaccinations, pharmacies realistically cannot participate."

(b) Response: The department will take this recommendation under advisement and continue to study all options. DMS is prepared to facilitate vaccination to children at the youngest age possible consistent with state and federal law and clinical appropriateness. Any modification to reimbursement rates would be outside the scope of either regulation involved in these VFC program amendments, and therefore will be addressed pursuant to other administrative regulations. The department will not be amending the administrative regulation in response to the comment.

V. SUMMARY OF STATEMENT OF CONSIDERATION

AND

ACTION TAKEN BY PROMULGATING ADMINISTRATIVE BODY

The Department for Medicaid Services (DMS) has considered the comments received regarding 907 KAR 1:680. This administrative regulation will not be amended after comments.

