907 KAR 14:005. Health care-acquired conditions and other provider preventable conditions.

RELATES TO: KRS 205.560, 42 C.F.R. 447.26

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 205.560, 42 C.F.R. 447.26, 42 U.S.C. 1396a

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services, has responsibility to administer the Medicaid Program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed, or opportunity presented, by federal law to qualify for federal Medicaid funds. This administrative regulation establishes the Medicaid program policies, including managed care and non-managed care, regarding health care-acquired conditions and provider preventable conditions.

Section 1. Definitions. (1) "Department" means the Department for Medicaid Services or its designee.

(2) "Health care-acquired condition" is defined by 42 C.F.R. 447.26.

(3) "In writing" means on paper or by electronic means.

(4) "Inpatient hospital" means an acute care hospital, critical access hospital, long-term acute care hospital, psychiatric hospital, rehabilitation hospital, psychiatric distinct part unit in an acute care hospital, or rehabilitation distinct part unit in an acute care hospital.

(5) "Managed care organization" means an entity for which the Department for Medicaid Services has contracted to serve as a managed care organization as defined in 42 C.F.R. 438.2.

(6) "Provider" is defined by KRS 205.8451(7).

(7) "Recipient" is defined by KRS 205.8451(9).

Section 2. Health Care-Acquired Conditions. (1) The department or a managed care organization shall not reimburse for medical assistance in any inpatient hospital setting for a health care-acquired condition.

(2) In accordance with 42 C.F.R. 447.26(d), if a health care-acquired condition occurs, an inpatient hospital shall report the health care-acquired condition to the department by:

(a) Identifying the health care-acquired condition on a claim or document attached to or associated with the services or course of treatment provided to the recipient that was not a health care-acquired condition; or

(b) If not submitting a claim for services or a course of treatment provided to the recipient, reporting the health care-acquired condition in writing to the department within twelve (12) months of the occurrence of the health care-acquired condition.

Section 3. Other Provider Preventable Conditions. (1) The department or a managed care organization shall not reimburse for a:

(a) Wrong surgical or other invasive procedure performed on a recipient;

(b) Surgical or other invasive procedure performed on the wrong body part; or

(c) Surgical or other invasive procedure performed on the wrong person.

(2) In accordance with 42 C.F.R. 447.26, a provider who performs a procedure listed in subsection (1) of this section shall report it to the department:

(a) By indicating the procedure on a claim or document attached to or associated with a claim for services, other than the services related to the procedure, provided to the recipient; or

(b) In writing within twelve (12) months of the procedure if the provider does not submit a

claim for payment to the department for services provided to the recipient.

(3) Subsection (1) and (2) of this section shall not apply to a nursing facility or an intermediate care facility for individuals with an intellectual or developmental disability.

Section 4. Compliance with 42 C.F.R. 447.26. The department's or managed care organization's reimbursement shall comply with 42 C.F.R. 447.26(c)(2) and (3).

Section 5. Supersede. If any policy stated in another administrative regulation within Title 907 of the Kentucky Administrative Regulations contradicts a policy stated in this administrative regulation, the policy stated in this administrative regulation shall supersede the policy stated elsewhere within Title 907. (36 Ky.R. 232; Am. 804; eff. 10-21-2009; 2258; 37 Ky.R. 380; eff. 8-18-2010; 37 Ky.R. 1605; 2223; 2400; eff. 5-6-2011; 38 Ky.R. 1395; 1736; eff. 5-4-2012; 39 Ky.R. 367, 1040; 1168; eff. 1-4-13.)