

**907 KAR 3:030. Coverage and payments for IMPACT Plus services.**

RELATES TO: KRS 205.520, 205.8451(9), 309.080, 309.130, 314.042, 319.050, 319.056, 319.064, 335.080, 335.100, 335.300, 335.332, 335.500, 335.505, 42 C.F.R. 431.615, 440.130, 447 Subpart B, 42 U.S.C. 1396a, d, n(g)

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 205.560, EO 2004-726

NECESSITY, FUNCTION, AND CONFORMITY: EO 2004-726, effective July 9, 2004, reorganized the Cabinet for Health Services and placed the Department for Medicaid Services and the Medicaid Program under the Cabinet for Health and Family Services. 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 for the provision of medical assistance to Kentucky's indigent citizenry. This administrative regulation provides for coverage and payments for IMPACT Plus services provided through an interagency agreement with the state Title V agency, the Department for Public Health.

Section 1. Definitions. (1) "Behavioral health organization" means:

(a) A hospital licensed and operating in accordance with:

1. 902 KAR 20:009, 902 KAR 20:012 and 902 KAR 20:016; or
2. 902 KAR 20:170 and 902 KAR 20:180;

(b) A community mental health center;

(c) A child-caring facility licensed in accordance with 922 KAR 1:305 and operating in accordance with 922 KAR 1:300, 902 KAR 1:380 and 902 KAR 1:390;

(d) A child-placing facility licensed in accordance with 922 KAR 1:305 and operating in accordance with 922 KAR 1:310;

(e) An organization accredited by the Joint Commission on Accreditation of Healthcare Organizations, the Commission on Accreditation of Rehabilitative Facilities or the Council on Accreditation for Children and Family Services; or

(f) A facility, agency, institution, organization, or business that is approved by DCBS and DMHMRS to provide a service covered by this administrative regulation.

(2) "Behavioral health professional" means:

(a) A psychiatrist;

(b) A physician licensed in Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the practice of official duties;

(c) A psychologist licensed and practicing in accordance with KRS 319.050;

(d) A certified psychologist with autonomous functioning or licensed psychological practitioner certified and practicing in accordance with KRS 319.056;

(e) A clinical social worker licensed and practicing in accordance with KRS 335.100;

(f) An advanced registered nurse practitioner licensed and practicing in accordance with KRS 314.042;

(g) A marriage and family therapist licensed and practicing in accordance with KRS 335.300;

(h) A professional clinical counselor licensed and practicing in accordance with KRS 335.500;

(i) A professional art therapist certified and practicing in accordance with KRS 309.130; or

(j) An alcohol and drug counselor certified and practicing in accordance with KRS 309.080 to 309.089.

(3) "Behavioral health professional under clinical supervision" means:

(a) A psychologist certified and practicing in accordance with KRS 319.056;

(b) A licensed psychological associate licensed and practicing in accordance with KRS 319.064;

(c) A marriage and family therapist associate permitted and practicing in accordance with KRS 335.300;

(d) A social worker certified and practicing in accordance with KRS 335.080; or

(e) A professional counselor associate licensed and practicing in accordance with KRS 335.500.

(4) "Collaborative service plan" means an individualized written plan that meets the requirements of Section 4(5) of this administrative regulation.

(5) "College or university" means an institution that is:

(a) Accredited by one (1) of eleven (11) regional accrediting organizations recognized by the U.S. Department of Education, Office of Postsecondary Education;

(b)1. If it is a Kentucky institution, licensed by the Kentucky Council on Postsecondary Education or the Kentucky Board for Proprietary Education; or

2. If it is an out-of-state institution, licensed in its home state if licensure is required in that state.

(6) "Community mental health center" means an organization licensed and operating in accordance with 902 KAR 20:091.

(7) "DCBS" means the Department for Community Based Services.

(8) "Department" means the Department for Medicaid Services or its designee.

(9) "DMHMRS" means the Department for Mental Health and Mental Retardation Services.

(10) "Home-based service" means a service delivered to a recipient who resides in the home of a parent or guardian or in the recipient's own home.

(11) "IMPACT Plus" means a program of community based behavioral health services provided through an agreement between the department and the Department for Public Health.

(12) "Medically necessary" or "medical necessity" means that a covered benefit shall be provided in accordance with 907 KAR 3:130.

(13) "Professional equivalent" means an individual who meets the requirements established in 907 KAR 1:044.

(14) "Psychiatric residential treatment facility" is defined in KRS 216B.450(4).

(15) "Recipient" is defined in KRS 205.8451(9).

(16) "Subcontractor" means a person, facility, agency, institution, organization, or business that is subcontracted by DCBS or DMHMRS to provide a service in accordance with this administrative regulation.

(17) "Title V agency" means the Department for Public Health.

Section 2. Eligibility. A recipient under twenty-one (21) years of age shall be eligible to receive a medically-necessary service covered in Section 5 of this administrative regulation if the recipient:

(1) Was determined eligible for IMPACT Plus services prior to May 21, 2002 and has not been determined ineligible pursuant to Section 3(2) of this administrative regulation; or

(2) Is in the custody or under the supervision of the state or at risk of being in the custody of the state; and

(a) Is in a hospital or psychiatric residential treatment facility, and would meet the criteria of Section 3(1) of this administrative regulation if discharged; or

(b) Is not in a hospital or psychiatric residential treatment facility, and meets the criteria of Section 3(1) of this administrative regulation.

Section 3. Criteria for At Risk of Institutionalization. (1) A recipient shall be at risk of institutionalization if the recipient:

(a) Has been individually assessed face-to-face by a behavioral health professional or a behavioral health professional under clinical supervision and determined to require immediate short-term crisis stabilization as the sole service in accordance with Section 5(14) of this administrative regulation; or

(b)1. Meets all of the following criteria:

a. Has a severe, persistent, Axis I diagnosis other than dementia or substance abuse, with a diagnosis code in accordance with 45 C.F.R. 162.1000;

b. Has documentation of a severe behavioral health problem related to the diagnosis that has persisted in the home, school, and community setting during the past six (6) months and has been determined by a behavioral health professional to be at high risk of continuing for six (6) months; and

c. Requires a coordinated and intensive plan of medically-necessary community based behavioral health services that can reasonably be expected to improve the recipient's condition or prevent further regression so that the recipient may be discharged to a less intensive behavioral health service or program in an anticipated six (6) month time frame; and

2. Meets one (1) of the following criteria:

a. A less intensive behavioral health service or program will not meet the recipient's treatment needs;

b. An appropriate and less intensive behavioral health service or program is not available or accessible; or

c. An appropriate and less intensive behavioral health service or program is available and accessible, but the recipient has a severe concurrent Axis II or Axis III diagnosis with a diagnosis code in accordance with 45 C.F.R. 162.1000 that complicates the treatment of the Axis I condition.

(2) A recipient shall be considered no longer at risk of institutionalization and not eligible for IMPACT Plus services if:

(a) A determination has been made by a behavioral health professional or a behavioral health professional under clinical supervision that the only service necessary was immediate short-term crisis stabilization; and

1. A period of less than ten (10) days of crisis stabilization was provided, and the recipient no longer needs the service; or

2. Ten (10) days of crisis stabilization has been provided; or

(b) The recipient no longer meets the criteria specified in subsection (1)(b) of this section.

Section 4. Standards for a Covered Service. (1) A service covered in accordance with Section 6 of this administrative regulation shall be prior authorized by the department based upon documentation of medical necessity.

(2) A covered service shall be provided in the least restrictive setting appropriate for the recommended treatment or care.

(3) Except for a targeted case management service authorized in accordance with Section 5(1)(e) of this administrative regulation, the department shall:

(a) Not authorize another service covered by this administrative regulation for a recipient who is receiving a therapeutic group residential service; and

(b) If medically necessary, authorize a maximum of three (3) combined hours per week of individual or group therapy for a recipient of therapeutic foster care services as established in Section 5(3) and (4) of this administrative regulation.

(4) The department shall not authorize multiple services that are duplicative in nature.

(5) A collaborative service plan shall:

(a) Support the level and type of care to be provided;

(b) Be recommended by a team in a face-to-face meeting that shall include:

1. The parent, guardian, or caregiver of a recipient who is under eighteen (18) years of age or the recipient if over eighteen (18) years of age;

2. A clinical professional that shall be one (1) of the following:

a. A behavioral health professional;

b. A behavioral health professional under clinical supervision; or

c. A community mental health center professional equivalent who is currently providing therapy services for the recipient;

3. A provider of targeted case management services as specified in Section 5(1)(c) of this administrative regulation; and

4. If recommended by the parent, guardian, or caregiver of a recipient who is under eighteen (18) years of age or the recipient if over eighteen years (18) of age, other individuals who have knowledge or special expertise regarding the recipient who are willing to participate;

(c) Describe a comprehensive coordinated plan of medically-necessary community based behavioral health services that specifies a modality, frequency, intensity and duration of services sufficient to maintain the recipient in the community; and

(d) Identify the following:

1. A program of therapies, activities, interventions or experiences designed to accomplish the plan;

2. The behavioral health professional, behavioral health professional under clinical supervision or the professional equivalent who shall manage the continuity of care;

3. Interventions by caregivers in the home, school, and community setting that support a recipient's ability to be maintained in the community;

4. Behavioral, social and physical problems with interventions and objective, measurable goals;

5. Discharge criteria for each of the requested services that specifies the recipient-specific behavioral indicators for discharge from the service, the expected service level that would be required upon discharge, and the identification of the intended provider to deliver services upon discharge;

6. A crisis action plan that progresses through a continuum of care that begins with the use of natural supports and progresses through low to high intensity services or inpatient services;

7. A plan for transition to a lower intensity of services and for discharge from IMPACT Plus services; and

8. For therapeutic foster care and therapeutic group residential services, development and monitoring of a collaborative service plan that shall include:

a. An individualized behavior management plan;

b. A plan for the involvement and visitation of a recipient with the birth family, guardian, or other significant persons unless prohibited by the court, including overnight off-site family visits pursuant to the collaborative service plan; and

c. Services and planning beginning at admission to facilitate discharge of a recipient to an identified plan for home-based services.

#### Section 5. Covered Services. (1) Targeted case management.

(a) A targeted case management service shall be an activity that assists a recipient in accessing needed medical, social, educational, and other support services that shall include the following:

1. A case management assessment that shall include:

a. Documentation of a multi-axial assessment that includes descriptions of the behaviors or symptoms upon which the diagnosis is based;

b. Documentation of the date of a recipient's initial diagnosis including the professional and agency providing the diagnosis;

c. Description of the impact of the diagnosis over a period of time; and

d. Description of all systems for which the recipient needs coordination of services;

2. Assistance in developing, coordinating, and accessing services in the collaborative service plan;

3. Coordination of collaborative team meetings to develop, review and modify a collaborative service plan;

4. Facilitation of the implementation of a collaborative service plan;

5. Four (4) documented contacts per month made on separate days including one (1) face-to-face contact with a recipient and one (1) face-to-face contact with a parent or guardian or primary caregiver;

6. Monitoring a recipient's progress and compliance with treatment;

7. Advocating for a recipient to ensure appropriate, timely, and effective treatment and support services;

8. Participation in the development of other human service plans for a recipient;

9. Development of a plan of transition from IMPACT Plus services for a recipient;

10. Provision to a recipient of a list of the IMPACT Plus enrolled subcontractors authorized to provide a service, pursuant to a collaborative service plan, for the purpose of selecting a provider; and

11. Provision to a recipient of information about the availability of a service if a service pursuant to this administrative regulation is not available.

(b) Targeted case management shall not include:

1. The actual provision of a treatment;

2. An outreach activity to a potential recipient;

3. An administrative activity associated with a Medicaid eligibility determination or application processing;

4. Institutional discharge planning;

5. A transportation service; or

6. A duplicate payment made to another public agency or private entity for the same purpose.

(c) A provider of targeted case management shall be a person who is employed by:

1. DCBS as a case manager or social worker providing services to an individual in the custody of or under the supervision of DCBS;



2. A community mental health center as a provider of targeted case management services in accordance with 907 KAR 1:525; or

3. A behavioral health organization and who shall meet the following requirements:

a. Have a Bachelor of Arts or Sciences degree in a behavioral science from a college or university. A behavioral science shall include:

(i) Psychology;

(ii) Sociology;

(iii) Social work;

(iv) Special education; or

(v) Human services, if the curriculum includes thirty (30) hours of course work on the understanding of individual, family and social behavior, and the department approves the transcript identifying the course work;

b. Have completed the equivalent of one (1) year of full-time employment working directly with children after completion of educational requirements. A master's degree in a behavioral science may substitute for the one (1) year of experience;

c. Have completed a case management training program provided by DMHMRS within six (6) months of the date of employment; and

d. Receive weekly documented face-to-face supervision by a behavioral health professional, a behavioral health professional under clinical supervision, or a case manager who meets the requirements of this subparagraph and has two (2) years of case management experience.

(d) The department may prior authorize one (1) unit of targeted case management service upon determination by the department that a recipient meets the eligibility requirements in Section 2 of this administrative regulation.

(e) One (1) unit of targeted case management service shall be authorized for delivery in the county to which the child shall be discharged from the therapeutic group residential or therapeutic foster care placement prior to the anticipated discharge to home-based services.

(f) Targeted case management shall be documented by:

1. A written targeted case management assessment;

2. A contact list that includes the date, place, and content of contacts made with the recipient, parent, guardian or caregiver, and other members of the team described in Section 4(5)(b) of this administrative regulation; and

3. A monthly case management summary that includes:

a. The recipient's progress in accessing services in the collaborative service plan;

b. The recipient's progress toward the goals specified in the collaborative service plan or an explanation of failure to progress;

c. The recipient's response to services provided pursuant to the collaborative service plan and a change in services to address failure to progress or problems in the response;

d. Documentation of permission by the parent or guardian, if the recipient is under eighteen (18) years of age, or the recipient, if the recipient is over eighteen (18) years of age, to release and receive information about the recipient in accordance with state and federal law;

e. Documentation of a referral for a service identified in a collaborative service plan in which the person providing a targeted case management service participated; and

f. A plan for the delivery of targeted case management services for the following month.

(2) A behavioral health evaluation shall:

(a) Be a face-to-face specialty evaluation of a recipient provided in accordance with a recipient's collaborative service plan;

(b) Answer specific clinical questions not addressed in routine clinical interviews, psychosocial assessments, or behavioral checklists;

(c) Result in a diagnosis code which is in accordance with 45 C.F.R. 162.1000;

(d) Result in specific treatment recommendations; and

(e) Be provided by a behavioral health professional.

(3) An individual therapy service shall be:

(a) A face-to-face behavioral therapy service provided in accordance with a recipient's collaborative service plan and provided to a recipient individually; and

(b) Provided by a behavioral health professional or a behavioral health professional under clinical supervision.

(4) A group therapy service shall be:

(a) A face-to-face behavioral health therapy service provided in accordance with a recipient's collaborative service plan and provided to a recipient in a group setting not to exceed eight (8) individuals; and

(b) Provided by a behavioral health professional or a behavioral health professional under clinical supervision.

(5) A collateral service shall be:

(a) A face-to-face behavioral health consultation or service planning meeting with a parent, legal representative, school personnel, or other person with custodial control or supervision of the recipient;

(b) Provided in accordance with a collaborative service plan or as part of the service planning process; and

(c) Provided by a behavioral health professional or a behavioral health professional under clinical supervision.

(6) A therapeutic child support service shall be:

(a) A therapeutic service provided in accordance with a recipient's collaborative service plan to assist the recipient or the recipient's family on behalf of the recipient, in understanding, treating, identifying, or coping with the recipient's behavioral health disorder;

(b) Provided directly to a recipient or family and shall include:

1. Therapeutic intervention and support provided to a recipient transitioning to adulthood including:

a. An assessment of the recipient's aptitude for vocational or skill training;

b. Monitoring of the recipient's progress toward transition; or

c. Assistance with developing skills and emotional readiness for an independent living setting;

2. Behavior management skills training including:

a. Therapeutic intervention and support provided to a parent, guardian, or caregiver in implementing a behavioral management plan;

b. Individual instruction for a recipient or a parent, guardian, or caregiver on recognizing or coping with a recipient's disruptive behavior; and

c. Training a recipient, parent, guardian, or caregiver about appropriate behavior and supportive adult intervention; or

3. In-home support including:

a. Assessment of a recipient's living situation;

b. Consultation in a recipient's home with a recipient or a recipient's parent, guardian, or caregiver;

c. Training of a parent, guardian, caregiver, or a family member in therapeutic techniques; and

d. Mentoring with a recipient to model appropriate social behavior or to assist a recipient with building social skills; and

(c) Provided by a person who is employed by a behavioral health organization and:

1. Meets the following minimum qualifications for a professional providing a therapeutic support service:

a. Has a bachelor's degree from a college or university or is a registered nurse licensed in accordance with KRS 314.041;

b. Has the equivalent of one (1) year full-time experience working with children who have behavioral health needs. A master's degree from a college or university shall substitute for the required experience;

c. Has sixty (60) hours of training in children's behavioral health or three (3) college level credits from a college or university in courses related to child development or services to children; and

d. Receives weekly documented face-to-face supervision by a behavioral health professional or a behavioral health professional under clinical supervision; or

2. Meets the following requirements for a paraprofessional providing a therapeutic support service:

a. Has a high school or general equivalency diploma;

b. Has the equivalent of:

(i) One (1) year of full-time documented supervised experience working with individuals who have behavioral health needs, six (6) months of which shall be with children under age twenty-one (21) in a human service program; or

(ii) One (1) year of education from a college or university and six (6) months experience with children under age twenty-one (21) in a human service program; and

c. Receives weekly documented face-to-face supervision from a behavioral health professional or a behavioral health professional under clinical supervision.

(7) A parent-to-parent support service shall be:

(a) Provided face-to-face to a recipient's parent, guardian, or caregiver and shall consist of:

1. Provision of information about IMPACT Plus services including how to effectively participate in the service planning process and how to access needed services, including emergency services;

2. Assistance in advocating on behalf of the recipient;

3. Provision of information regarding the nature, purpose, and anticipated benefits obtained from accessing targeted case management and other IMPACT Plus services;

4. Therapeutic intervention and support provided to a parent, guardian, or caregiver in implementing a behavioral management plan;

5. Assistance in understanding how to implement and how to document implementation of a recipient's behavior management plan;

6. Provision of information concerning the scope of responsibility of the principal child-serving agencies;

7. Assistance in the establishment and maintenance of linkages with formal and informal supportive services;

8. Assistance in the establishment of and the sustaining of support groups for parents, guardians, and caregivers of recipients; or

9. Assistance in the development of and implementation of a plan to transition the recipient from IMPACT Plus services;

(b) Provided in accordance with a recipient's collaborative service plan by a parent of a child who has a behavioral health disorder and who has received at least one (1) state -funded service for that child's disability and who:

1. Is employed by a behavioral health organization;

2. Has been approved by DMHMRS following completion of:

a. Ten (10) hours of initial training provided or approved by DMHMRS; and

b. Ten (10) hours of continuing annual training provided or approved by DMHMRS thereafter;

3. Is directly supervised by a behavioral health professional or a behavioral health professional under clinical supervision; and

4. Receives weekly documented face-to-face supervision from a behavioral health professional or a behavioral health professional under clinical supervision; and

(c) Provided by a person not related to or living with the recipient receiving the parent-to-parent support service.

(8) An after-school or summer program service shall:

(a) Be provided within a structured program of rehabilitative and therapeutic activities that focus on the development of appropriate behaviors and social skills that includes the following:

1. Individual and group therapy;

2. Behavior management and social skills training;

3. Independent living skills training for a recipient fourteen (14) years of age and older; and

4. Scheduled activities to promote parent or caregiver involvement and to empower the family to meet the individual's needs;

(b) Be provided in accordance with the recipient's collaborative service plan;

(c) Have a minimum recipient-to-staff ratio of four (4) children to one (1) staff. A therapeutic activity shall be led by a behavioral health professional or behavioral health professional under clinical supervision; and

(d) Be provided by a behavioral health organization and shall have daily on-site supervision by a behavioral health professional or a behavioral health professional under clinical supervision.

(9) A day treatment service shall:

(a) Consist of an organized, behavioral health program of treatment and rehabilitative services;

(b) Have unified policies and procedures approved by the local education authority and the provider of the day treatment service that shall address program philosophy, admission and discharge criteria, admission and discharge process, staff training and integrated case planning and include the following:

1. Individual and group therapies;
2. Behavior management and social skill training;
3. Independent living skills training for recipients fourteen (14) years of age and older;
4. Scheduled activities to promote parent or caregiver involvement and to empower the family to meet the recipient's needs; and
5. Services designed to explore and link with community resources before discharge and to assist the recipient and family with transition to community services after discharge;

(c) Be provided:

1. In collaboration with the special education services or other available education services of the local education authority;
2. On school days or during scheduled breaks;
3. In coordination with the recipient's individual educational plan, if the recipient has an individual educational plan;
4. By a behavioral health organization;
5. Under the supervision of a behavioral health professional or a behavioral health professional under clinical supervision;
6. Through a linkage agreement with the local education authority that specifies the responsibility of the authority and the provider for:

- a. Appropriately-licensed teachers and provision for their professional development;
- b. Educational supports including classroom aides and textbooks;
- c. Educational facilities;
- d. Physical education and recreational therapies;
- e. Transportation; and
- f. Transition planning; and

7. In accordance with a recipient's collaborative service plan;

(d) Not be provided as homebound instruction;

(e) Have a minimum recipient-to-staff ratio of four (4) children to one (1) staff. Therapy activities shall be led by a behavioral health professional or behavioral health professional under clinical supervision;

(f) Exclude a service covered by 907 KAR 1:715; and

(g) Exclude time spent on educational instruction.

(10) A partial hospitalization service shall:

(a) Consist of a therapeutic environment with an organized, intensive program that provides for the comprehensive assessment, diagnosis, and treatment of complex behavioral health needs that shall:

1. Have unified policies and procedures that address program philosophy, admission and discharge criteria, admission and discharge process, staff training and integrated case planning;

2. Offer less than twenty-four (24) hour daily care five (5) to seven (7) days per week;

3. Not be provided as homebound instruction; and

4. Include the following:

a. Daily oversight and management by a psychiatrist that includes daily communication with staff delivering direct services and face-to-face contact with the recipient one (1) or more times per week;

b. Continuous nursing coverage;



- c. A multidisciplinary treatment team;
- d. Rehabilitative therapy;
- e. Individual and group therapies;
- f. Medication evaluation, education, and management;
- g. Behavior management and social skills training;
- h. Schooling provided by the local education authority as required by KRS 158.100;  
and
- i. Scheduled activities that promote family involvement;

(b) Be provided by a hospital licensed in accordance with 902 KAR 20:009 and 902 KAR 20:016 or 902 KAR 20:170 or a community mental health center. A provider shall have a linkage agreement with the local education authority that specifies the responsibility of the authority and the provider for:

1. Appropriately licensed teachers and provisions for their professional development;
2. Educational supports including classroom aides and textbooks;
3. Educational facilities;
4. Physical education and recreational therapies;
5. Transportation; and
6. Transition planning;

(c) Be provided in accordance with a collaborative service plan;

(d) Have a minimum recipient-to-staff ratio of four (4) children to one (1) staff. Therapy activities shall be led by a behavioral health professional or behavioral health professional under clinical supervision;

(e) Not include a service covered by 907 KAR 1:715; and

(f) Not include time spent on educational instruction.

(11) An intensive outpatient behavioral health service shall:

(a) Consist of a structured behavioral health program of individual and group therapeutic activities provided in accordance with a recipient's collaborative service plan;

(b) Have a minimum recipient-to-staff ratio of four (4) children to one (1) staff;

(c) Be provided under the supervision of a behavioral health professional or a behavioral health professional under clinical supervision; and

(d) Be provided at least three (3) times per week for a minimum of two (2) hours per day by a:

1. Behavioral health professional;

2. Behavioral health professional under clinical supervision;

3. Behavioral health organization; or

4. Facility licensed as a nonmedical and nonhospital-based alcohol and other drug abuse treatment entity in accordance with 908 KAR 1:370 within its scope of practice.

(12) A therapeutic foster care service shall:

(a) Consist of a therapeutic environment and include twenty-four (24) hour supervision and treatment in a family home by a therapeutic foster parent who shall:

1. Be employed or contracted and supervised by a child-placing agency licensed in accordance with 922 KAR 1:305 and functioning in accordance with 922 KAR 1:310;

2. Complete thirty (30) hours of preservice training using a curriculum approved by DCBS and DMHMRS;

3. Receive twenty-four (24) hours of training annually related to the care of a child with complex treatment needs of which no more than six (6) hours shall be provided through individual consultation;

4. Implement the behavior management plan daily and document behaviors, responses and interventions;

5. Prepare a weekly progress summary; and

6. Receive documented face-to-face supervision and support in the therapeutic foster care home every other week by a behavioral health professional or a behavioral health professional under clinical supervision who is employed by a child-placing agency; and

(b) For services authorized after May 21, 2002, meet the following requirements:

1. Be provided in accordance with a collaborative service plan that can reasonably be expected to improve the recipient's condition so that the recipient may be discharged to a home-based services program of IMPACT Plus services in an anticipated three (3) month time frame;

2. Be provided in accordance with a collaborative service plan developed with the participation of the parent or guardian that identifies the level of family or guardian involvement that is required to facilitate the discharge to home-based services and the family agrees to participate as outlined in the collaborative service plan;

3. The recipient shall be discharged to a therapeutic foster care service from a hospital or crisis-stabilization service;

4. Home-based services shall not be immediately appropriate, available, or accessible; and

5. A prospective plan for home-based IMPACT Plus services shall be proposed that identifies home-based IMPACT Plus services and other service providers.

(13) A therapeutic group residential service shall:

(a) Consist of a therapeutic environment in a group residential facility with twenty-four (24) hour direct supervision that shall include:

1. A program of individual and group therapies;

2. Behavior management and social skills training;

3. Scheduled activities that promote family involvement;

4. Independent living skills training for recipients age fourteen (14) years of age and older;

5. After school and summer programs; and

6. Services designed to explore and link with community resources before discharge and to assist the recipient and family with transition to community services;

(b) Be directed by a collaborative service plan that meets the requirements of Section 4(5) of this administrative regulation;

(c) Have professional and support staff that implements the behavior management plan daily, documents observed behaviors, responses and interventions, and prepares a weekly summary note of status. Support staff shall receive weekly documented

supervision by a behavioral health professional or a behavioral health professional under clinical supervision;

(d) Be provided by a child-caring facility licensed in accordance with 922 KAR 1:305;

(e) Not be covered outside the geographical boundaries of Kentucky unless requirements established in 907 KAR 3:035 have been met;

(f) Except for the requirement established in subsection (12)(b)3 of this section, meet the requirements established in subsection (12)(b) of this section if authorized after May 21, 2002; and

(g) Be provided to a recipient discharged to a therapeutic group residential service from a hospital or crisis-stabilization service.

(14) A crisis-stabilization service shall:

(a) Not exceed ten (10) consecutive days in a therapeutic environment that has an organized, intensive program that provides for the comprehensive assessment, diagnosis, and treatment of complex behavioral health needs and shall include:

1. A face-to-face behavioral health assessment by a behavioral health professional or a behavioral health professional under clinical supervision;

2. Individual and group therapies and other behavioral health interventions necessary to stabilize the recipient; and

3. Discharge planning to link a recipient with community services and supports;

(b) Be provided by:

1. A child-caring facility licensed in accordance with 922 KAR 1:305;

2. A hospital licensed in accordance with 902 KAR 20:009 and 902 KAR 20:016 or 902 KAR 20:170; or

3. A community mental health center licensed in accordance with 902 KAR 20:091;

(c) Have a behavioral health professional with full-time clinical responsibility for the crisis-stabilization service; and

(d) Have a behavioral health professional or a behavioral health professional under clinical supervision that shall have daily, face-to-face contact with the recipient. There shall be a behavioral health professional or a behavioral health professional under clinical supervision on-site or on-call at all times.

Section 6. Provider Qualifications and Conditions for Participation. (1) The Title V agency shall provide a service directly or through an agreement with:

(a) DCBS as the Kentucky state agency responsible for the provision of child and adult protective services; or

(b) DMHMRS as the Kentucky state agency responsible for oversight of mental health and substance abuse services in the state.

(2) A service provided directly by the Title V agency, DCBS, DMHMRS, or a subcontractor shall meet the requirements established in this administrative regulation.

(3) A subcontractor or person employed by a subcontractor to provide services pursuant to this administrative regulation shall not:

(a) Have been convicted of a felony offense;

(b) Have been convicted of a misdemeanor offense involving an illegal substance within the five (5) years previous to becoming a subcontractor or person employed by a subcontractor to provide services;

(c) Have been convicted of or have entered a plea of guilty to a sex crime as defined in KRS 17.165;

(d) Have been convicted as or have entered a plea of guilty as a violent offender as defined in KRS 17.165; or

(e) Have had an incident of abuse or neglect of a child or adult substantiated by the Cabinet for Families and Children after having been provided an opportunity to appeal the substantiation to an administrative or judicial body:

1. For which the individual waived the right to appeal the substantiation; or

2. For which an administrative body upheld the substantiated incident.

(4) A provider or subcontractor shall maintain a written medical record that shall:

(a) Be current, readily retrievable, organized, complete, and legible in accordance with sound medical record keeping practice;

(b) Include a written record that is dated and signed for each individual encounter that shall include:

1. The collaborative service plan dated and signed by members of the team specified in Section 4(5)(b) of this administrative regulation; and

2. Documentation of a service that shall include:

a. A written description of the service that specifies the collaborative service plan goal to which the service is directed and documented progress made by the recipient toward the goal;

b. The date of the service;

c. The number of units of the service and the starting and ending times of the service;

d. The place of the service;

e. The name and qualifications of the person who provided the service; and

f. The signature and date of signature of the person who provided the service; and

(c) Be kept in a locked file and treated as confidential in accordance with KRS 194A.060, 434.840 to 434.860, 422.317 and 42 C.F.R. 431.300 to 431.307.

(5) For a service that requires supervision in accordance with Section 5 of this administrative regulation, the provider shall maintain a written supervision record for an employee that shall:

(a) Be current, readily retrievable, organized, complete, and legible in accordance with sound supervision record keeping practice;

(b) Be maintained in an employee's personnel file or in a separate supervision log;

(c) Be kept in a locked file and treated as confidential in accordance with KRS 194A.060, 434.840 to 434.860, 422.317 and 42 C.F.R. 431.300 to 431.307; and

(d) Include a written description of the face-to-face supervision meeting that is dated and signed for each session that shall include:

1. A description of the encounter that specifies the topics discussed and the specific action to be taken;

2. An update for a previous issue discussed that required follow-up; and

3. A plan for additional training needs that may be identified.

(6) A subcontractor, as part of an application process to provide services, shall provide a listing of the services the subcontractor intends to provide that shall describe for each service:

- (a) Staff qualifications, supervision and training; and
- (b) Oversight of staff and services by a behavioral health professional.

(7) DCBS and DMHMRS shall establish and annually evaluate a quality improvement program that monitors and evaluates access, continuity of care and behavioral health care outcomes relating to services provided in accordance with this administrative regulation.

(a) The monitoring and evaluation shall be based upon:

- 1. A recipient's demographic characteristics, risk factors, functional status, comorbidities and behavioral health status;
- 2. A recipient's access to a service;
- 3. Utilization and cost of a service;
- 4. A recipient's satisfaction with a service; and
- 5. Adverse incidents and complications.

(b) Behavioral health outcomes shall include:

- 1. Reduction of behavioral disability and restoration of an individual to the highest possible functioning level; and
- 2. Provision of a service in the least confining setting appropriate for the required treatment or care.

(c) A subcontractor of DCBS or DMHMRS shall:

- 1. Measure and report an outcome of the provision of a service;
- 2. Have a program for the improvement of the quality of a service; and
- 3. Monitor the utilization of a service.

(8) A recipient shall be informed of the right to select and shall select a subcontractor to provide a service covered by this administrative regulation from a list of subcontractors approved by DCBS or DMHMRS. A parent, custodial parent, person exercising custodial control or supervision as defined in KRS 600.020, or agency with

legal responsibility for an individual by virtue of voluntary commitment or an emergency or temporary custody order, shall be allowed to act on behalf of the recipient in selecting a subcontractor for services.

(9) A provider or subcontractor shall maintain documentation of services provided and billed for a minimum of six (6) years or until an audit dispute or issue is resolved, whichever is longer.

Section 7. Access to Records, Providers, and Recipients. (1) A provider or subcontractor shall provide to the department or a representative of an agency or office listed in subsection (4) of this section, upon request:

(a) Medical records and other information maintained by the provider to document the service provided;

(b) Information regarding a payment claimed by the provider for furnishing a service;  
or

(c) Information documenting the cost of the service.

(2) The department shall have the right to inspect medical and other records on site or to require the provider or subcontractor to provide written or electronic documentation for review as determined to be appropriate by the department.

(3) The department shall have the right to interview recipients, parents, guardians, primary caregivers or current or previous provider or subcontractor staff with regard to a service provided in accordance with Section 5 of this administrative regulation.

(4) Access to a provider's or subcontractor's records relating to a service provided shall be made available upon request to:

(a) A representative of the United States Department of Health and Human Services;

(b) The United States Attorney General's Office;

(c) The state Attorney General's Office;

(d) The state Auditor's Office; or

(e) The Office of the Inspector General.

(f) The department; or



(g) DMHMRS and DCBS as contractors of services.

Section 8. Reimbursement. (1) Reimbursement shall be the documented cost for the direct provision of a service as specified in this section. The department shall not reimburse administrative and indirect overhead costs of the Department for Public Health, DMHMRS, or DCBS.

(2) A payment shall be based on actual expenditures incurred for providing a service by the Title V agency, DMHMRS or DCBS.

(3) The Title V agency, DCBS and DMHMRS shall maintain service and cost records to document that payments for services provided do not exceed cost.

(4) For a service that is provided through a subcontractor, the applicable state agency shall maintain records of a payment made to a subcontractor for a service provided to a recipient that shall include:

- (a) The recipient's name;
- (b) The recipient's Medicaid identification number;
- (c) The date, service, and amount of payment for the service; and
- (d) Information necessary for the accountable administration of the program.

(5) The payment rate for a continuing service that was originally authorized for a child prior to May 21, 2002, shall be a negotiated rate between the provider and the subcontractor and a negotiated rate for a subcontracted service shall not be effective unless approved by the department.

(6) The payment rate for a service that is authorized for a child determined eligible after May 21, 2002, shall be uniformly set by the provider to all subcontractors based upon ninety-eight (98) percent of the weighted median of all IMPACT Plus paid claims for the service for the period of calendar year 2001.

(7) A billable unit of service shall not include rounding up of minutes or hours.

(8) The following costs shall not be reimbursed:

- (a) Room and board; or
- (b) Educational, vocational or transportation services.

Section 9. Appeal Rights. (1) An appeal of a department decision regarding a Medicaid beneficiary based upon an application of this administrative regulation shall be in accordance with 907 KAR 1:563.

(2) An appeal of a department decision regarding Medicaid eligibility of an individual shall be in accordance with 907 KAR 1:560.

(3) An appeal of a department decision as to the application of this administrative regulation regarding a provider shall be in accordance with 907 KAR 1:671. (24 Ky.R. 2790; Am. 25 Ky.R. 586; 868; eff. 9-16-98; 30 Ky.R. 471; 1311; 1547; eff. 1-5-2004.)