205.646 External independent third-party review of Medicaid managed care organization's final decision denying a health care service or a claim for reimbursement -- Submission of multiple claims in a single review -- Appeal -- Administrative regulations -- Applicability of statute.

(1) As used in this section:

(a) "Administrative appeals hearing" means a formal adjudicatory proceeding conducted by the administrative hearing tribunal of the Cabinet for Health and Family Services in accordance with KRS Chapter 13B;

(b) "Department" means the Department for Medicaid Services;

(c) "External independent third-party review" means a review performed by an independent third party outside of the Medicaid managed care organization's internal appeal process pursuant to administrative regulations promulgated by the department;

(d) "Medicaid 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. sec. 438.2; and

(e) "Provider" means any person or entity licensed in Kentucky as defined in KRS 304.17A-700(9) that provides covered services to enrollees.

(2) Notwithstanding any law to the contrary, a provider who has exhausted the written internal appeals process of a Medicaid managed care organization shall be entitled to an external independent third-party review of the Medicaid managed care organization's final decision that denies, in whole or in part, a health care service to an enrollee or a claim for reimbursement to a provider for a health care service rendered by the provider to an enrollee of the Medicaid managed care organization. A provider may submit multiple claims to be appealed in a single external independent third-party review if the provider alleges that a Medicaid managed care organization has implemented a policy or practice that results in the denial, in whole or in part, of those claims.

(3) A Medicaid managed care organization's letter to a provider reflecting the final decision of the provider's internal appeal shall include:

(a) A statement that the provider's internal appeal rights within the Medicaid managed care organization have been exhausted;

(b) A statement that the provider is entitled to an external independent third-party review; and

(c) The time period and address to request an external independent third-party review.

(4) A Medicaid managed care organization or provider shall be entitled to appeal a final decision of the external independent third-party review to the administrative hearing tribunal within the Cabinet for Health and Family Services for an administrative hearing to be held in accordance with KRS Chapter 13B. An appeal shall be filed within thirty (30) days from the appealing party's receipt of the final decision of the external independent third-party review. A decision of the administrative hearing tribunal shall be final for purposes of judicial appeal. Any appeal of a final decision

of an external independent third-party review involving the submission of multiple claims as allowed under subsection (2) of this section shall be conducted as a single administrative hearing under this subsection.

(5) Within one hundred twenty (120) days after April 8, 2016, the department shall promulgate administrative regulations to implement the external independent third-party review as required by this section.

(6) The department shall promulgate administrative regulations to establish reasonable fees, not to exceed one thousand dollars ($1,000), to defray expenses associated with an administrative hearing that shall be paid by the party who does not prevail in the administrative hearing. If the administrative hearing is an appeal of a final decision of an external independent third-party review involving the submission of multiple claims as allowed under subsection (2) of this section, only one (1) fee shall be assessed under this subsection against the party who does not prevail.

(7) This section shall apply to all contracts or master agreements between Medicaid managed care organizations and the Commonwealth of Kentucky entered into or renewed on or after July 1, 2016.

Effective: June 27, 2019

History: Amended 2019 Ky. Acts ch. 36, sec. 1, effective June 27, 2019. -- Created 2016 Ky. Acts ch. 55, sec. 1, effective April 8, 2016.