

441.053 Required use of the Department of Corrections' pharmacy plan and medical, dental, and psychological care access plan -- Waivers -- Ineligible contractees -- Appeal -- Reimbursement not to exceed Medicaid rate.

- (1) Except as provided in subsection (2) of this section, each jail, regional jail, holdover, or other correctional facility owned or operated by a unit of local government, combination of units of local government, or regional jail authority shall utilize the Department of Corrections' contract pharmacy plan.
- (2)
 - (a) Except as provided in paragraph (b) of this subsection, the Department of Corrections shall, on a yearly basis, waive the requirement of subsection (1) of this section if the unit of local government, combination of units of local government, or regional jail authority proves to the Department of Corrections that the unit of local government, combination of units of local government, or regional jail authority has contracted with another vendor and that:
 1. The prescription plan covers pharmacy services, drugs, and medicine in a manner which is equal to or superior to the Department of Corrections' contract pharmacy plan; and
 2. The cost of the prescription plan is equal to or less in total cost, including the product cost and all other costs associated with the delivery of the drugs, than the Department of Corrections' contract pharmacy plan.
 - (b) If a unit of local government, combination of units of local government, or regional jail authority contracts with a private provider of comprehensive health services for inmates, then that private provider may elect not to use the Department of Corrections' contract pharmacy plan and a waiver under this subsection shall not be required.
- (3) Except as provided in subsection (4) of this section, each jail, regional jail, holdover, or other correctional facility owned or operated by a unit of local government, combination of units of local government, or regional jail authority shall utilize the Department of Corrections' contract medical, dental, and psychological care access plan, and the administrative service fee for the plan shall be paid by the Department of Corrections subject to the limits of 2007 Ky. Acts ch. 128, sec. 5.
- (4) The Department of Corrections may, on a yearly basis, waive the requirement of subsection (3) of this section if the unit of local government, combination of units of local government, or regional jail authority proves to the Department of Corrections that the unit of local government, combination of units of local government, or regional jail authority has contracted with another vendor and that:
 - (a) The medical, dental, and psychological care access plan provides services and access which is equal to or superior to the Department of Corrections' contract medical, dental, and psychological care access plan; and
 - (b) The cost of the medical, dental, and psychological care access plan is equal to or less in cost than the Department of Corrections' contract medical, dental, and psychological care access plan.

- (5) (a) An entity, corporation, or organization of any kind that assists the Department of Corrections in managing claims or evaluating an application for a waiver under subsection (2) or (4) of this section shall not seek or be awarded a contract to provide:
1. Medical care;
 2. Dental care;
 3. Psychological care;
 4. Pharmaceutical products; or
 5. Any other health care service;
- to inmates housed in any jail operated by any unit of local government, combination of units of local government, or regional jail authority.
- (b) The prohibition in this subsection shall also apply to the entity's, corporation's, or organization of any kind's:
1. Owners;
 2. Incorporators;
 3. Officers;
 4. Employees; or
 5. Other person who has a financial interest in the organization.
- (c) Nothing in this subsection shall be construed to prohibit or limit the ability of a state university to provide health care services to prison populations.
- (6) The provisions of subsection (5) of this section shall not apply if an entity, corporation, organization, or person referenced in subsection (5)(b) of this section is:
- (a) Already a party to a contract with any consolidated local government or urban-county government and is currently engaged in providing the services or products referenced in subsection (5)(a) of this section; and
 - (b) There is no material change to the existing contract with any consolidated local government or urban-county government within a reasonable time period;
- prior to seeking or being awarded a contract with the department to manage claims or evaluate an application for a waiver under subsection (2) or (4) of this section. No provision of this subsection shall be construed to prohibit or limit the ability of a state university to provide health care services to prison populations.
- (7) A unit of local government, combination of units of local government, or regional jail authority may appeal a decision of the Department of Corrections denying a waiver under subsection (2) or (4) of this section to the secretary of justice and public safety.
- (8) No program specified in this section shall require or permit reimbursement at a rate in excess of the Kentucky Medicaid program for the same or similar services or products but may permit a lesser rate of reimbursement.

Effective: June 24, 2015

History: Amended 2015 Ky. Acts ch. 111, sec. 1, effective June 24, 2015. -- Amended 2011 Ky. Acts ch. 2, sec. 76, effective June 8, 2011. -- Amended 2010 Ky. Acts ch. 64, sec. 1, effective July 15, 2010. -- Created 2007 Ky. Acts ch. 128, sec. 4, effective June 26, 2007.

Legislative Research Commission Note (6/26/07). 2007 Ky. Acts chs. 24, 47, and 85 instruct the Reviser of Statutes to correct statutory references to agencies and officers whose names have been changed in 2007 legislation confirming the reorganization of the executive branch. Such a correction has been made in this section.