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COMMONWEALTH OF KENTUCKY

DEPARTMENT OF INSURANCE

FRANKFORT, KENTUCKY

ADVISORY OPINION

2021-0001

The following Advisory Opinion is to advise the reader of the current position of the Kentucky Department of Insurance (the "Department") on the specified issue. The Advisory Opinion is not legally binding on either the Department or the reader.

TO: ALL HEALTH INSURERS AUTHORIZED TO OFFER HEALTH BENEFIT PLANS IN THE COMMONWEALTH OF KENTUCKY

FROM: SHARON P. CLARK, COMMISSIONER
KENTUCKY DEPARTMENT OF INSURANCE

RE: COLORECTAL CANCER SCREENINGS

DATE: May 27, 2021

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This Advisory Opinion replaces Advisory Opinion 2015-03.

The purpose of this Advisory Opinion is to clarify the use of "complete colorectal cancer screening" as that term is used in KRS 304.17A-257. Senate Bill 30 (SB 30) from the 2019 Kentucky Legislative Session amended KRS 304.17A-257 to require insurers to cover, without any patient cost, all colorectal cancer examinations and laboratory tests specified in the most recent version of the American Cancer Society guidelines for complete colorectal cancer screening of asymptomatic individuals. Covered individuals shall be forty-five (45) years of age or older or less than forty-five (45) years of age and at high risk for colorectal cancer according to the most recent version of the American Cancer Society guidelines for complete colorectal cancer screening.

Coverage for colorectal examinations and laboratory tests required under KRS 304.17-257 shall not be subject to a deductible, coinsurance, or any other cost-sharing requirements for services received from participating providers under the insured's health benefit plan. For example, if a Fecal immunochemical Test (FIT) or a DNA stool test result indicates that the insured needs further testing to complete colorectal cancer screening, such as a colonoscopy, then the FIT or DNA stool test and the screening completion colonoscopy shall be covered as preventative services, and no deductible, coinsurance, or any other cost-sharing amount shall be billed to the insured.

The American Cancer Society periodically updates its guidelines for colorectal cancer screenings, and any of those recommended examinations shall continue to be covered and not be subject to a deductible or coinsurance or any other cost-sharing requirements amount, pursuant to KRS 304.17A-257.

In addition to the passage of SB30 in the 2019 Session, House Bill 108 was passed into law in the 2021 Session that mandates the Kentucky Medicaid Program and Medicaid health plans adhere to the same colorectal cancer coverage for their insured. Medicaid will now adhere to KRS 304.17A-257 and KRS 304.17A-259 per the language of HB-108 amending KRS 205.522.

The provisions of this statute apply to fully insured health benefit plans as defined in KRS 304.17A-005(22). The statute does not apply to self-insured employer plans that are subject to federal ERISA law. Additionally, because KRS 304.17A-257 provides coverage to Kentucky insureds that could be more generous than the requirements for colorectal cancer screenings recommended by the United States Preventive Services Task Force, the provisions of the Kentucky state law are not preempted by the Affordable Care Act.

Please contact the Department's Health and Life Insurance and Managed Care Division at (502) 564-6088 with any questions about this Advisory Opinion.



Sharon P. Clark, Commissioner
Kentucky Department of Insurance