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Amy Darnell
REGULATIONS COMPILER

STATEMENT OF EMERGENCY

806 KAR 17:512E

This emergency administrative regulation is being promulgated, as prescribed in KRS 13A.190(1)(a)3., to meet an imminent deadline for the promulgation of an administrative regulation that is established by state law. This emergency administrative regulation will be followed by an ordinary administrative regulation. The ordinary administrative regulation is identical to this emergency administrative regulation.

Senate Bill 188 (SB 188) was enacted during the 2024 legislative session of the Kentucky General Assembly. SB 188 was signed by the Governor and became effective on January 1, 2025.

SB 188 created a new section of KRS Chapter 304 Subtitle 17A. This new section was codified as KRS 304.17A-595. KRS 304.17A-595(2)(c)2.c.ii. requires the Kentucky Department of Insurance (Department) to conduct a study of dispensing fee data submitted to the Commissioner by the Kentucky Board of Pharmacy from the ambulatory pharmacies located in Kentucky. Based on this study, the Department shall establish the professional dispensing fee for a prescription by an ambulatory pharmacy in Kentucky to become effective on January 1, 2027. This study was not finalized by actuaries retained by the Department until April 15, 2026, after which the Department had to independently review and verify the conclusions that were reached. Because that process could not be reasonably completed in time to promulgate an ordinary regulation that would be effective in advance of the January 1, 2027 deadline established by state law, this emergency regulation is being promulgated to meet that deadline pursuant to KRS 13A.190(1)(a)3.

The above-referenced study has determined that the professional dispensing fee for a prescription by an ambulatory pharmacy in Kentucky is $16.31. KRS 304.17A-595(2)(c)2.a. reads, in relevant part, "To the extent permitted under federal law, every contract between a pharmacy or pharmacist and an insurer, a pharmacy benefit manager, or any other administrator of pharmacy benefits for the provision of pharmacy or pharmacist services under a health plan...shall...provide the following minimum reimbursements to the pharmacy or pharmacist for each prescription drug or other service provided by the pharmacy or pharmacist... for health plan years beginning on or after January 1, 2027, reimbursement for a professional dispensing fee that is not less than the average cost to dispense a prescription drug in an ambulatory pharmacy located in Kentucky, as determined by the commissioner in an administrative regulation promulgated in accordance with KRS Chapter 13A." This emergency regulation is being promulgated pursuant to the directive of KRS 304.17A-595(2)(c)2.a.

For plan years beginning on or after January 1, 2027, the minimum professional dispensing fee for a prescription by an ambulatory pharmacy in Kentucky shall be $16.31, in accordance with KRS 304.17A-595.

Sharon P. Clark

9/8/2026

Sharon P. Clark
Commissioner, Department of Insurance

Date

Andy Beshear

9/4/2026

Andy Beshear
Governor, Commonwealth of Kentucky

Date

PUBLIC PROTECTION CABINET

Department of Insurance

Division of Health, Life, and Managed Care

(New Emergency Administrative Regulation)

806 KAR 17:512E. Professional dispensing fee for dispensing a prescription drug or providing other services.

RELATES TO: KRS 304.1-050, 304.2-110, 304.17A-591, 304.17A-595.

STATUTORY AUTHORITY: KRS 304.17A-595

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110(1) authorizes the commissioner to promulgate reasonable administrative regulations necessary for or as an aid to the effectuation of the Kentucky Insurance Code as defined in KRS 304.1-010. KRS 304.17A-595 requires the commissioner to promulgate an administrative regulation to establish the reimbursement for a professional dispensing fee that is not less than the average cost to dispense a prescription drug in a Kentucky ambulatory pharmacy. The purpose of this administrative regulation is to establish the professional dispensing fee to be paid by insurers and pharmacy benefit managers to Kentucky ambulatory pharmacies for each prescription drug or other service provided by the pharmacy or pharmacist. This fee is established by the commissioner pursuant to the requirements of KRS 304.17A-595(2)(c)2.c.ii.

Section 1. Definitions.

(1) "Ambulatory pharmacy" is defined by KRS 304.17A-595(1)(b).

(2) "Commissioner" is defined by KRS 304.1-050(1).

(3) "Dispensing Fee," means the professional dispensing fee established pursuant to KRS 304.17A-595(2)(c)2.c.ii.

(4) "Health plan" is defined by KRS 304.17A-591(2).

(5) "Insurer" is defined by KRS 304.17A-591(4).

(6) "Pharmacy benefit manager" is defined by KRS 304.9-020 and KRS 304.17A-161(4).

Section 2. Dispensing Fee. For health plan years beginning on or after January 1, 2027, insurers and pharmacy benefit managers shall reimburse a Kentucky ambulatory pharmacy a professional dispensing fee of $16.31 for each prescription drug or other service provided by the pharmacy or pharmacist delivered pursuant to a Health plan.

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READ AND APPROVED:

Sharon P. Clark

Sharon P. Clark
Commissioner, Department of Insurance

9/11/2026
Date

DJ Wasson

DJ Wasson
Secretary, Public Protection Cabinet

9/11/2026

Date

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall be held at 9:00 AM on October 22, 2026, at 500 Mero Street, Frankfort, KY 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. If held, this hearing will be open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through 11:59 PM on October 31, 2026. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person below.

Contact Person: Shaun T. Orme
Title: Executive Advisor
Address: 500 Mero Street, Frankfort, KY 40601
Phone: +1 (502) 782-1698
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Email: shaun.orme@ky.gov

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

806 KAR 17:512E

Contact Person: Shaun T. Orme
Phone: 502-782-1698
Email: shaun.orme@ky.gov

Subject Headings: Insurance, Health, Pharmacy

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the professional dispensing fee to be paid to a Kentucky ambulatory pharmacy for each prescription or other service provided by a pharmacy or pharmacist in Kentucky.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to meet the requirements of KRS 304.17A-595(2)(c)2.a.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 304.17A-595(2)(c)2.a. requires the commissioner to promulgate a regulation establishing the professional dispensing fee to be paid to a Kentucky ambulatory pharmacy for each prescription or other service provided by a pharmacy or pharmacist in Kentucky, for health plan years beginning on or after January 1, 2027. This new regulation establishes the dispensing fee.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation establishes the professional dispensing fee to be paid to a Kentucky ambulatory pharmacy for each prescription or other service provided by a pharmacy or pharmacist in Kentucky, for health plan years beginning on or after January 1, 2027.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: Not applicable

(b) The necessity of the amendment to this administrative regulation: Not applicable.

(c) How the amendment conforms to the content of the authorizing statutes: Not applicable.

(d) How the amendment will assist in the effective administration of the statutes: Not applicable.

(3) Does this administrative regulation or amendment implement legislation from the previous five years? Yes, 2024 Regular Session Senate Bill 188.

(4) List the type and number of individuals, businesses, organization, or state and local governments affected by this regulation: All ambulatory pharmacies in Kentucky will be paid the dispensing fee for each prescription or for providing other services. In addition, all insurers, as defined in KRS 304.17A-591(4), and all Pharmacy Benefit Managers (PBMs), as defined by KRS 304.17A-591(7), will have to pay the dispensing fee to a Kentucky ambulatory pharmacy. Finally, the Kentucky Employee Health Plan (KEHP) will have to pay the dispensing fee to a Kentucky ambulatory pharmacy.

(5) Provide an analysis of how the entities identified in question (4) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (4) will have to take to comply with this administrative regulation or amendment: Ambulatory pharmacies will need to ensure that they submit the correct information to insurers, PBMs, and the KEHP identifying the filling a prescription. Insurers, PBMs, and the KEHP will need to verify the information submitted and pay the correct dispensing fee to the pharmacy.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): The cost associated for Kentucky ambulatory pharmacies is expected to be *de minimus*. At this point in time, the cost associated for health insurers, PBMs, and KEHP cannot be ascertained. The cost will be determined by the amount of prescriptions filled or other services provided by Kentucky ambulatory pharmacies for the insureds of insurers, PBMs, and KEHP.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): Kentucky ambulatory pharmacies will receive $16.31 for every prescription filled or service provided for the insureds of insurers, PBMs, and the KEHP.

(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: The cost associated with engaging an outside expert to conduct a study of the dispensing fee data submitted to the Commissioner by the Kentucky Board of Pharmacy.

(b) On a continuing basis: The cost associated with engaging an outside expert to conduct a study of the dispensing fee data submitted to the Commissioner by the Kentucky Board of Pharmacy.

(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Department of Insurance's operational budget.

(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: None is anticipated.

(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fee is associated with the promulgation of this regulation.

(10) TIERING: Is tiering applied? (Explain why or why not) Tiering is not applied as the provisions of this administrative regulation apply to all affected entities equally.

FISCAL IMPACT STATEMENT

806 KAR 17:512E

Contact Person: Shaun T. Orme
Phone: 502-782-1698
Email: shaun.orme@ky.gov

(1) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 304.2-110(1), 304.17A-595.

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: Yes, 2024 Regular Session Senate Bill 188.

(3) (a) Identify the promulgating agency and any other affected state units, parts, or divisions: The Kentucky Department of Insurance as the implementer and the Kentucky Employee Health Plan (KEHP).

(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):

1. Expenditures: Kentucky Department of Insurance:
   For the first year: $0
   For subsequent years: $0
2. Revenues:
   For the first year: $0
   For subsequent years: $0
3. Cost Savings:
   For the first year: $0
   For subsequent years: $0

1. Expenditures: KEHP:
   For the first year: Unable to determine
   For subsequent years: Unable to determine
2. Revenues:
   For the first year: $0
   For subsequent years: $0
3. Cost Savings:

For the first year: $0
For subsequent years: $0

(4) (a) Identify affected local entities (for example: cities, counties, fire departments, school districts): No local entities affected.

(b) Estimate the following for each affected local entity identified in (4)(a):
1. Expenditures:
For the first year: N/A
For subsequent years: N/A

2. Revenues:
For the first year: N/A
For subsequent years: N/A

3. Cost Savings:
For the first year: N/A
For subsequent years: N/A

(5) (a) Identify additional regulated entities not listed in (3)(a) or (4)(a): Health Plans as defined by KRS 304.17A-591(2) and pharmacy benefit managers (PBMs) as defined by KRS 304.17A-591(7).

(b) Estimate the following for each regulated entity identified in 5(a):
1. Expenditures: Health Plans as defined by KRS 304.17A-591(2):
For the first year: Unable to determine
For subsequent years: Unable to determine

2. Revenues:
For the first year: $0
For subsequent years: $0

3. Cost Savings:
For the first year: $0
For subsequent years: $0

Expenditures: PBMs as defined by KRS 304.17A-591(7):
1. For the first year: Unable to determine
For subsequent years: Unable to determine

2. Revenues:
For the first year: $0
For subsequent years: $0

3. Cost Savings:
For the first year: $0
For subsequent years: $0

(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a):

(a) Fiscal Impact of this administrative regulation: The cost to administer the program in the first year, and subsequent years, for the KEHP, health plans, and PBMs cannot be determined. The cost will depend on the number of prescriptions filled by Kentucky ambulatory pharmacies for insureds under the various plans.

(b) Methodology and resources used to reach this conclusion. Not applicable.

(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):

(a) Whether this administrative regulation will have an overall negative or adverse "major economic impact", as defined by KRS 13A.010(14). Yes, this administrative regulation will likely have a major economic impact.

(b) The Methodology and resources used to reach this conclusion. Not applicable. For every prescription filled by a Kentucky ambulatory pharmacy the KEHP, health plans, and PBMs will pay a dispensing fee of $16.31. This cost will likely exceed $500,000.