

7.3 Consent Requirements for Hysterectomy – Medicaid, CHPlus, FHPlus, and Leaf Plans

Hysterectomy and other sterilization procedures are subject to special informed consent guidelines for members receiving Medicaid benefits as well as for members covered under the CHPlus, FHPlus, and Leaf Plan programs. Medical necessity and informed consent for hysterectomy are discussed in this section; information on family planning and sterilization procedures follows.

Before a hysterectomy is performed on a Healthfirst member, an adequately documented informed consent procedure must be completed. In addition, the hysterectomy will only be authorized if it is not being performed solely for the purpose of rendering the member incapable of reproduction and there are clinical indications for performing the hysterectomy— these cannot include rendering the individual permanently incapable of reproducing.

Informed consent policies and procedures for hysterectomy are strictly regulated. Providers must ensure that they are in full compliance with appropriate documentation standards to be reimbursed for performing these procedures. Providers must comply with the Informed Consent Procedures for Hysterectomy and Sterilization specified in 42CFR, Part 441, sub-part F, and 18NYCRR 505.13, and with applicable EPSDT requirements specified in 42CFR, part 441, sub-part B, 18NYCRR, 508, the NYSDOH C/THP Manual and all applicable public health laws.

All women undergoing hysterectomies must be informed, verbally and in writing, prior to surgery, that the procedure will render them permanently incapable of reproducing. Members or authorized representatives must sign Part 1 of the DSS-3113 Acknowledgment of Receipt of Hysterectomy Information Form. This documents that the member received all pertinent information or certifies that there are reasons to waive the receipt of information. It also contains the surgeon's statement that the hysterectomy is not being performed for the purpose of sterilization.

Copies of the DSS-3113 and associated instructions may be obtained by contacting:

New York State Department of Social Services
40 North Pearl Street
Albany, New York 12243
Re: Hysterectomy Information Forms

The requirement that the member sign Part 1 of the form may be waived under certain circumstances, such as evidence that the woman was sterile prior to the hysterectomy and the hysterectomy was performed in a life-threatening emergency situation in which prior receipt of hysterectomy information was not possible.

In either of these situations, the surgeon performing the hysterectomy must certify in writing on a DSS-3113 form that one (1) of these two (2) conditions existed. He/she must attest to the reason for the member's sterility or indicate the nature of the emergency that precluded transmittal of the Receipt of Hysterectomy Information Form. For example, the member may already be post-menopausal at the time of the hysterectomy, or she may have been admitted to the hospital via the emergency room requiring immediate surgery.

In certain situations, a member may not have been a Medicaid recipient at the time of her hysterectomy, but if she subsequently applied for Medicaid and was determined to qualify for retroactive eligibility, the surgeon might receive payment from Medicaid for this procedure. He/she must certify in writing that the woman received information prior to surgery indicating that the hysterectomy would make her permanently incapable of reproducing, or that one (1) of the extenuating circumstances existed allowing waiver of Part 1 of DSS-3113. **Providers must submit the DSS-3113 form to Medical Management before prior authorization for the procedure will be provided.**