

7.4 Family Planning and Reproductive Health

Scope of Services

Family planning and reproductive health services comprise diagnostic, educational, counseling, and medically necessary treatments, medication, and supplies furnished or prescribed by, or under the supervision of, a provider or nurse practitioner for the purposes of:

- Contraception, including insertion or removal of an IUD, insertion or removal of Norplant, and injection procedures involving pharmaceuticals such as Depo-Provera
- Screening and treatment for STDs
- Screening for anemia, cervical cancer, glycosuria, proteinuria, hypertension, breast disease, pregnancy, and pelvic abnormality/pathology
- Termination of pregnancy services (provider must document the duration of the pregnancy)

HIV testing and pre- and post-test counseling (when performed within the context of a family planning encounter) is considered a free access service. HIV blood testing and counseling may also be obtained from Healthfirst PCPs, by referral from a PCP to a participating specialist, or by anonymous counseling and testing programs operated by New York State and New York City. Providers of family planning and reproductive healthcare services shall comply with all of the requirements set forth in Section 7 of the NYS Public Health Law, and 20 NYCRR, Section 751.9 and Part 753 relating to informed consent and confidentiality.

Consent Requirements for Sterilization – Medicaid, CHP, FHP, and Leaf Plans

Family planning and reproductive health services include sterilization. Sterilization is defined as any medical procedure, treatment, or operation performed for the purpose of rendering an individual permanently incapable of reproducing, or performed for other reasons, but which renders the individual permanently incapable of reproducing. Medicaid reimbursement is available for sterilization only if informed consent guidelines are met. The consent requirements for voluntary sterilization are described in this section. General requirements are summarized below, followed by specific disclosures that must be made to the member prior to the procedure.

General Requirements

Minimum Age

Members undergoing sterilization must be at least 21 years of age at the time of giving voluntary, informed consent to sterilization.

Restrictions:

The member undergoing sterilization must not be a mentally incompetent individual. For the purpose of this restriction, the term “mentally incompetent individual” refers to an individual who has been declared mentally incompetent by a Federal, State or Local court of competent jurisdiction for any purpose, unless the individual has been declared competent for purposes that include the ability to consent to sterilization

The member undergoing a sterilization procedure must not be an institutionalized person. For the purposes of this restriction, “institutionalized individual” refers to an individual who is (a) involuntarily confined or detained under a civil or criminal statute in a correctional or rehabilitative facility, including a mental hospital or other facility for the care and treatment of a mental illness; or (b) confined under a voluntary commitment, in a mental hospital or other facility for the cure and treatment of mental illness

Informed consent to sterilization may not be obtained while the member is in labor or childbirth, seeking to obtain or obtaining an abortion, or under the influence of alcohol or other substances that affect the member’s state of awareness

Translation Services

An interpreter must be provided if the member to be sterilized does not understand the language used on the consent form or the language used by the person obtaining informed consent.

Disabled Persons

Suitable arrangements must be made to ensure that the sterilization consent information is effectively communicated to deaf, blind, or otherwise disabled individuals.

Presence of Witnesses

The presence of a witness is optional when informed consent is obtained, except in New York City, where the presence of a witness is mandated by New York City Local Law No. 37 of 1977.

Waiting Period

Voluntary informed consent to sterilization must be given not less than 30 days or not more than 180 days prior to the sterilization procedure. When computing the number of days in this waiting period, the day the recipient signs the form is not included.

Waiver of Waiting Period

Waiver of the thirty (30)-day waiting period may occur only in cases of premature delivery, when the sterilization was scheduled for the expected delivery date or when there is emergency abdominal surgery. Since premature deliveries and emergency abdominal surgeries are unexpected, medically necessary procedures may be performed during the same hospitalization, as long as seventy-two (72) hours have passed between the original signing of the informed consent document and the sterilization procedure.

Reaffirmation Statement

In New York City, a statement signed by the member upon admission for sterilization, acknowledging again an understanding of the consequences of sterilization and his or her desire to be sterilized, is mandatory. New York City Local Law No. 37 of 1977 establishes guidelines to ensure appropriate informed consent for sterilization procedures performed in New York City. Medicaid will not pay for services that are rendered illegally; therefore, conformance to the New York City Sterilization Guidelines is a prerequisite for payment of claims associated with sterilization procedures performed in New York City.

Consent Form

A copy of the New York State Sterilization Consent Form DSS-3134 must be given to the member undergoing the procedure. Completed copies of the form must be submitted to Medical Management before prior authorization for the procedure is provided.

To obtain the New York State Sterilization Consent Form (DSS-3134) and the associated instructions in English and Spanish, contact: New York State Department of Social Services, 40 North Pearl Street, Albany, New York 12243, Re: Sterilization Consent Forms.

Specific Disclosures

The individual obtaining informed consent for a sterilization procedure must offer to answer any questions concerning the procedure, must provide a copy of the Medicaid Sterilization Consent Form (DSS-3134) for signature, and must verbally provide all of the following information or advice to the individual electing to undergo the procedure. In addition, the provider who performs the sterilization procedure must discuss the following points with the member at least thirty (30) days before the procedure, usually during the preparation examination:

Advise that the member is free to withhold or withdraw consent to the procedure at any time before the sterilization without affecting the right to future care or treatment and without loss or withdrawal of any federally funded program benefits to which the individual might be otherwise entitled.

A description of available alternative methods of family planning and birth control.

Advice that the sterilization procedure is considered to be irreversible.

A thorough explanation of the specific sterilization procedure to be performed.

A full description of the discomforts and risks that may accompany or follow the performance of the procedure, including an explanation of the type and possible effects of any anesthetic to be used.

A full description of the benefits or advantages that may be expected as a result of the sterilization.

Advice that the sterilization will not be performed for at least thirty (30) days except under the circumstances specified under the "Waiver of 30-Day Waiting Period."