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Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Services in Massachusetts

Children and youth under age 21 enrolled in MassHealth Standard or CommonHealth are entitled to a broad range of benefits under a provision of the Medicaid law called Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Services. The “Treatment” benefit entitles children and youth eligible for EPSDT to any service that the MassHealth agency could cover under a Medicaid state plan if the service is medically necessary to “correct or ameliorate” physical or mental illnesses and conditions. If a service is not specifically covered in the MassHealth regulations, a MassHealth provider can request prior authorization for it under EPSDT. In addition, most of the regulations governing MassHealth services that are subject to limitations explicitly state that, with prior authorization to establish medical necessity, the service limitations do not apply to EPSDT.

EPSDT and Managed Care

Most children under age 21 who have no other insurance coverage than MassHealth are required to participate in some type of managed care plan. 130 CMR 508.001. Where the child is enrolled in a MassHealth Managed Care Organization (MCO) or Accountable Care Organization Partnership Plan (ACO PP), under the State’s contracts with the MCO or ACO PP, it is responsible for providing EPSDT services, but it may have different procedural rules governing authorization for services than those set out in MassHealth regulations. The MCO or ACO PP “Evidence of Coverage” document on its website should describe its coverage rules in more detail. However, its scope of coverage cannot be more restrictive than the coverage described in applicable MassHealth regulations. See, 42 CFR 438.206.

EPSDT and Behavioral Health

Behavioral health services for children and youth under 21 are almost always provided by managed care organizations, the ACO Partnership Plans, or the Massachusetts Behavioral Health Partnership (130 CMR 508.001(e) and 508.002) and are more extensive than the services described in the MassHealth regulations. Children’s behavioral health services are more fully described in subregulatory materials available online at the website for the Children’s Behavioral Health Initiative (<https://www.mass.gov/masshealth-childrens-behavioral-health-initiative>), the Massachusetts Behavioral Health Partnership, or the websites of the MassHealth Managed Care Organizations or ACO Partnership Plans.

MassHealth EPSDT Regulations

Set out below are portions of the general MassHealth EPSDT regulation, examples of the EPSDT provisions in a sampling of MassHealth regulations governing specific services, and an excerpt from a 2006 federal court decision explaining the scope of EPSDT in the Rosie D. case finding that MassHealth failed to supply needed behavioral health services for children with serious emotional disturbances in violation of EPSDT.

130 CMR 450.140 EPSDT Introduction

(A) Legal Basis.

(1) In accordance with federal law at 42 U.S.C. 1396d(a)(4)(b) and 1396d(r), and 42 CFR 441.50, and **notwithstanding any limitations implied or expressed elsewhere in MassHealth regulations or other publications**, the MassHealth agency has established a program of Early and Periodic Screening, Diagnosis and Treatment (EPSDT) for MassHealth Standard and MassHealth CommonHealth members younger than 21 years old, including those who are parents.

450.144: EPSDT Services: Diagnosis and Treatment

(A) (1) **EPSDT diagnosis and treatment services consist of all medically necessary services listed in 1905(a) of the Social Security Act (42 U.S.C. 1396d(a) and (r)) that are (a) needed to correct or ameliorate physical or mental illnesses and conditions discovered by a screening, whether or not such services are covered under the State Plan; and (b) payable for MassHealth Standard and MassHealth CommonHealth members younger than 21 years of age, if the service is determined by the MassHealth agency to be medically necessary.**

(2) **To receive payment for any service described in 130 CMR 450.144(A)(1) that is not specifically included as a covered service under any MassHealth regulation, service code list, or contract, the requester must submit a request for prior authorization** in accordance with 130 CMR 450.303. This request must include, without limitation, a letter and supporting documentation from a MassHealth-enrolled physician, physician assistant, certified nurse practitioner, certified nurse midwife, or certified clinical nurse specialist documenting the medical need for the requested service. If the MassHealth agency approves such a request for service for which there is no established payment rate, the MassHealth agency will establish the appropriate payment rate for such service on an individual-consideration basis in accordance with 130 CMR 450.271. If the request is for a member who is enrolled in an MCO or Accountable Care Partnership Plan, as defined in 130 CMR 450.000, the requestor must submit the request to the MCO or Accountable Care Partnership Plan according to the MCO's or Accountable Care Partnership Plan's prior-authorization process. If the request is for a behavioral health service for a member who is enrolled with MassHealth's behavioral health contractor, as defined in 130 CMR 508.000, the requestor must submit the request to the behavioral health contractor according to the behavioral health contractor's prior authorization process.

Examples of cross-references to EPSDT in MassHealth service regulations

Acute Inpatient Hospital

130 CMR 415.412: Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Services

The MassHealth agency pays for all medically necessary acute inpatient hospital services for EPSDT-eligible members in accordance with 130 CMR 450.140 through 450.149: *EPSDT Services: Recordkeeping Requirements*, without regard to service limitations described in 130 CMR 415.000, and with prior authorization.

Community Health Center

130 CMR 405.467: Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Services

The MassHealth agency pays for all medically necessary community health care for EPSDT-eligible members in accordance with 130 CMR 450.140: *Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Services: Introduction*, without regard to service limitations described in 130 CMR 405.000, and with prior authorization.

Dental

130 CMR 420.408: Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Services

The MassHealth agency pays for all medically necessary dental services for EPSDT-eligible members in accordance with 130 CMR 450.140 et seq., without regard to service limitations described in 130 CMR 420.000, and with prior authorization.

Durable Medical Equipment

130 CMR 409.407: Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Services

The MassHealth agency pays for all medically necessary DME services for EPSDT-eligible members in accordance with 130 CMR 450.140 et seq., without regard to service limitations described in 130 CMR 409.000, and with prior authorization.

Hearing Instruments

130 CMR 416.410: Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Services

The MassHealth agency pays for all medically necessary hearing instrument specialist services for EPSDT-eligible members in accordance with 130 CMR 450.140 et seq., without regard to service limitations described in 130 CMR 416.000, and with prior authorization.

Home Health Agency

130 CMR 403.413: Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Services

The MassHealth agency pays for all medically necessary home health agency services for EPSDT-eligible members in accordance with 130 CMR 450.140: *Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Services: Introduction*, without regard to service limitations described in 130 CMR 403.415(C), and with prior authorization.

Independent Nurse

130 CMR 414.409: Conditions of Payment

(M) Prior Authorization. Nursing services provided by an independent nurse require prior authorization. See 130 CMR 414.413 and 450.303: Prior Authorization for requirements. The MassHealth agency pays for all medically necessary nursing services for EPSDT-eligible members in accordance with 130 CMR 450.140: Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Services: Introduction, et seq., without regard to service limitations described in 130 CMR 414.000, and with prior authorization.

Prosthetics

130 CMR 428.415: Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Services

The MassHealth agency pays for all medically necessary prosthetics services for EPSDT-eligible members in accordance with 130 CMR 450.140 et seq., without regard to service limitations described in 130 CMR 428.000, and with prior authorization.

Transportation

130 CMR 407.404: Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Services

The MassHealth agency pays for all medically necessary transportation services for EPSDT-eligible members in accordance with 130 CMR 450.140: *Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Services: Introduction*, et seq., without regard to service limitations described in 130 CMR 407.000, and with prior authorization.

Vision

130 CMR 402.409: Early and Periodic Screening, Diagnostic, and Treatment (EPSDT)

The MassHealth agency pays for all medically necessary vision care services for EPSDT eligible members in accordance with 130 CMR 450.140: *Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) Services: Introduction*, without regard to service limitations described in 130 CMR 402.000, and with prior authorization.

Rosie D. v. Romney, 410 F. Supp.2d 18, 26 (D. Mass. 2006)

Because the only limit placed on the provision of EPSDT services is the requirement that they be “medically necessary,” the scope of the EPSDT program is broad. See, e.g., *S.D.*, 391 F.3d at 594–95 (finding disposable incontinence underwear qualifies under “home health care services”, § 1396d(a)(7), as a form of medical assistance for which the state must cover the costs); *Pediatric Specialty Care, Inc. v. Ark. Dep't of Human Servs.*, 293 F.3d 472, 480 (8th Cir.2002) (holding that Medicaid-eligible children have “a federal right to early intervention day treatment when a physician recommends such treatment”); *Pittman ex rel. Pope v. Sec'y, Fla. Dep't of Health & Rehab. Servs.*, 998 F.2d 887, 892 (11th Cir.1993) (holding that the discretion Medicaid gives states to elect not to cover organ transplants for adults does not extend to cases involving qualified Medicaid recipients under age twenty one); *Chisholm v. Hood*, 133 F.Supp.2d 894 (E.D.La.2001) (holding that the state must provide services rendered by a licensed psychologist because services by psychiatrists or other practitioners cannot substitute).

The breadth of EPSDT requirements is underscored by the statute's definition of “medical services.” Section 1396d(a)(13) defines as covered medical services any “diagnostic, screening, preventative, and rehabilitative services, including any medical or remedial services ... for the maximum reduction of physical or mental disability and restoration of an individual to the best possible functional level.” 42 U.S.C. § 1396d(a)(13) (emphasis added). **Thus, if a licensed clinician finds a particular service to be medically necessary to help a child improve his or her functional level, this service must be paid for by a state's Medicaid plan pursuant to the EPSDT mandate.** See §§ 1396d(a)(13), 1396d(r)(5); *Pediatric Specialty Care*, 293 F.3d 472.

Courts construing EPSDT requirements have ruled that so long as a competent medical provider finds specific care to be “medically necessary” to improve or ameliorate a child's condition, the 1989 amendments to the Medicaid statute require a participating state to cover it. See, e.g., *Collins*, 349 F.3d at 375 (holding that if a competent medical service provider determines that a specific type of care or service is medically necessary, state may not substitute a different service that it deems equivalent); see also *Rosie D.*, 310 F.3d at 232; *John B. v. Menke*, 176 F.Supp.2d 786, 800 (M.D.Tenn.2001) (noting that a state “is bound by federal law to provide ‘medically necessary’ EPSDT services”).