

## 7. Obstetrics and Gynecology

### 7.1 Definition of Services

All female members have access to Obstetrician/Gynecologist (OB/GYN) care from any in-network provider without referral from their assigned PCP. An OB/GYN is responsible for providing and managing medical care for obstetrical and gynecological conditions.

In addition, Medicaid members may choose to receive Family Planning and Reproductive Health services from a nonparticipating provider who accepts Medicaid for these services (also known as “Free Access Policy”). Family Planning and Reproductive Health services mean the offering, arranging, and furnishing of those health services that enable members, including minors who may be sexually active, to prevent or reduce the incidence of unwanted pregnancies. This DOES NOT include obstetrical care for pregnancy. All members, including Medicaid members, MUST use an in-network provider for obstetrical care for pregnancy.

The following medically necessary services are subject to “free access” for Medicaid female members and include related drugs and supplies that are furnished or administered under the supervision of a provider, licensed midwife, or certified nurse practitioner during the course of a Family Planning and Reproductive Health visit:

- Family Planning and Reproductive Health services which include those education and counseling services necessary to effectively render the services

- Contraception, including all FDA-approved birth control methods and devices, including diaphragms, insertion/removal of an intrauterine device (IUD) or insertion/removal of contraceptive implants and injection procedures involving pharmaceuticals such as Depo-Provera (FHPlus does not cover OTC products such as condoms and contraceptive foam)

- Emergency contraception and follow-up

- Sterilization\*

  - \* requires sterilization consent and hysterectomy consent form as applicable.

- Screening, related diagnosis, and referral to a participating provider for pregnancy

- Medically necessary induced abortions, which are procedures—either medical or surgical—that result in the termination of pregnancy. The determination of medical necessity shall include positive evidence of pregnancy, with an estimate of its duration

When clinically indicated, the following services may be provided as a part of a Family Planning and Reproductive Health visit:

- Screening, related diagnosis, ambulatory treatment, and referral as needed for dysmenorrhea, cervical cancer, or other pelvic abnormality/pathology

- Screening, related diagnosis, and referral for anemia, cervical cancer, glycosuria, proteinuria, hypertension, and breast disease

- Screening and treatment for sexually transmissible disease

- HIV testing and pre- and post-test counseling

### Specialty Areas under OB/GYN

Healthfirst includes the following seven (7) specialty areas in its definition of obstetrics and gynecology. Practitioners in the specialties will be referred to as OB/GYN providers in this Provider Manual unless otherwise indicated:

- Gynecology

- Gynecology (Nurse Practitioner)

- Midwifery

- Obstetrics

- Obstetrics and Gynecology

- Obstetrics and Gynecology (Nurse Practitioner)

Women's Health (Nurse Practitioner)  
Maternal and Fetal Medicine  
Obstetrics and Gynecology – High-Risk

## PCP and OB/GYN Care

In certain circumstances, a member may choose the same provider to serve as both her PCP and OB/GYN. This might occur if a member selects a family practitioner as her PCP or HIV Specialist PCP who also provides routine OB/GYN services.

Healthfirst members may access OB/GYN services directly, without a referral from a PCP, for routine care. The PCP, however, may refer a member to an OB/GYN for consultation. Reports of all diagnostic tests must be forwarded to the PCP for inclusion in the member's medical record. See Section 7.2 for additional details.

## 7.2 Diagnostic Testing

All testing, procedures, and consultations related to pregnancy and OB/GYN conditions may be performed or ordered directly by the participating OB/GYN without consulting the PCP, including:

- Sonograms performed during pregnancy
- Cervical biopsy
- Cesarean section
- Referral to a cardiologist for evaluation of heart murmur/dyspnea during pregnancy
- Referral to an endocrinologist for evaluation of metabolic disorders during pregnancy

When a PCP refers a member to the OB/GYN for consultation, the OB/GYN may order or perform certain diagnostic tests. The OB/GYN must communicate all test results to the PCP.

OB/GYN providers should not order tests or consultations for the evaluation of any condition that is not obstetric or gynecological. For example, if a member expresses concern about knee pain during a routine exam and requests referral to an orthopedist, the OB/GYN may not provide such a referral. The member must be referred back to her PCP for follow-up on this condition.

## 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.**

## 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."