Health Advocate

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Medicaid's Early and Periodic, Screening, Diagnosis and Treatment in Schools and the Free Care Rule

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Key Resources

Model Medicaid Managed Care Contract Provisions: EPSDT Vision and Hearing Services

Survey of Medicaid Managed Care Contracts: EPSDT Vision and Hearing Services

Issue Brief: Vision Services for Children on Medicaid A Review of EPSDT Services

Issue Brief: Hearing Services for Children on Medicaid: A Review of EPSDT Services

Health Advocate: Early and Periodic Screening, Diagnosis and Treatment (EPSDT)

Coming in March's *Health Advocate*:

HCBS Settings and Trends

Introduction

Low-income children are more likely to be in poor health and are at risk for developing many health problems. Children living in poverty, particularly children of color, are more likely than other children to have anemia, asthma, lead poisoning, behavioral health problems, dental caries, and vision, hearing and speech problems.[1] Early detection and treatment can avoid or minimize the effects of many of these childhood conditions. For this reason, federal law requires state Medicaid programs to provide Early and Periodic Screening, Diagnostic and Treatment (EPSDT) services to virtually all Medicaid-eligible children under age 21. EPSDT covers a broad variety of preventive, diagnostic, and treatment services. It is designed to ensure that low-income children receive the health check-ups and treatment that they need as early as possible, so as to avoid or lesson chronic conditions and health care costs.

As the federal agency responsible for administering the Medicaid program has stated: "The goal of EPSDT is to ensure that individual children get the right health care they need when they need it – the right care to the right child in the right setting."[2] Given that virtually all children spend most of their waking hours in school, it makes sense for them to receive preventive and other services while they are there. For years, however, a federal Medicaid reimbursement ban made it more difficult for school districts to provide these services, particularly those with limited financial resources who served predominantly low-income children. In 2014, the federal Centers for Medicare and Medicaid Services (CMS) reversed this policy. This provides a welcome opportunity for school districts to significantly expand the range of services available for low-income children.

What is EPSDT?

EPSDT requires Medicaid agencies to provide medical, vision, hearing, and dental screening services. The medical screening must include five components: (1) a comprehensive health and developmental assessment of both physical and mental

[1] *See, e.g.,* Paul Newacheck et al., *Disparities in the prevalence of disabilities between black and white children,* 157 Archives of Pediatric & Adolescent Med., 244 (Mar. 2003).

[2] U.S. DEP'T OF HEALTH & HUMAN SERVS.,CTRS. FOR MEDICARE & MEDICAID SERVS., EPSDT: A GUIDE FOR STATES: COVERAGE IN THE MEDICAID BENEFIT FOR CHILDREN AND ADOLESCENTS (June 2014).

health; (2) a comprehensive, unclothed physical exam; (3) appropriate immunizations; (4) lab tests (including blood lead testing); and (5) health education, including anticipatory guidance to the child or child's parent. *See* 42 U.S.C. §§ 1396a(a)(43), 1396d(r). Screening services must be provided at scheduled intervals and when a condition or illness is suspected. The scheduled visits occur according to a "periodicity" schedule, which is based upon the recommendations of experts in each area of the screenings. States often base their periodicity schedule upon recommendations from the American Academy of Pediatrics or the American Academy of Pediatric Dentists.

Children are also entitled to all Medicaid services they need to "correct or ameliorate" conditions and illnesses revealed by screenings. This includes all services that can be covered under the Medicaid state plan, regardless of whether the state covers them for adults. State Medicaid programs also have an affirmative obligation to ensure that low-income families are aware of EPSDT services. States must engage in aggressive outreach and informing about the benefits of preventive health and services available under EPSDT through a variety of written and oral methods. In addition, families must be informed that services are available without charge and transportation and appointment scheduling assistance are available.[3]

Importance of Providers

Children can only receive the screening and treatment services they need if there are sufficient numbers and types of health care providers participating in the Medicaid program in their area. Accordingly, federal law requires the state Medicaid agency make available a variety of qualified and willing providers to deliver EPSDT services. It must also "take advantage of all resources available" to provide a "broad base" of EPSDT providers. *See* 42 C.F.R. § 441.61. In addition, the state must assure that payments to providers are consistent with quality care and will attract enough providers to make services available to Medicaid beneficiaries at least to the extent they are available in the geographic area. *See* 42 U.S.C. § 1396a(a)(30)(A).

Medicaid Services in Schools and the Free Care Policy

As CMS has emphasized, services provided in schools can play an important role in the health care of adolescents and children. School-based health programs can provide a range of medical and dental care to children where they live. This includes services provided under the Individuals with Disabilities Education Act (IDEA) or through school-based health services. Under some circumstances, these services can be covered by Medicaid. Currently, however, there are significant unmet health needs among school children. Fewer than 50% of schools have access to a full-time school nurse. As noted above, low-income children are more likely to have health problems that require attention; however, the schools they attend are less likely to provide access to necessary services.

For many years, a federal policy prohibited use of Medicaid funds for services that are available without charge, creating a significant barrier to services. Known as the "Free Care Rule," it prohibits Medicaid reimbursement for services available without charge to everyone in the community.[4] CMS interpreted this rule to mean that schools could not be reimbursed for services provided to Medicaid-eligible children if they were provided free of charge to all students. This policy denied them crucial financial support that would enable school districts to play a more active role in prevention, improving population health, and coordinating care. The policy was challenged before the CMS Departmental Appeals Board (DAB), which held in 2005 that the policy was not justified by the Medicaid Statute or regulations.

[3] 42 C.F.R. § 441.56; CMS STATE MEDICAID MANUAL § 5150.

[4] *See, e.g.,* CMS, Medicaid and School Health: A Technical Assistance Guide (1997); CMS, Medicaid School-Based Administrative Claiming Guide (2003).

In December 2014, CMS clarified the free care policy, announcing that Medicaid reimbursement is available for covered services provided to Medicaid beneficiaries, even if the services are made available to the community at large. It explained that public agencies or programs carrying out "general responsibilities to needed health care," such as schools, were no longer barred from receiving Medicaid reimbursement. It stated that "the goal of this new guidance is to facilitate and improve access to quality healthcare services and improve the health of communities."

According to the new guidance, federal financial participation (FFP) for Medicaid payments is available to Medicaid beneficiaries if:

- The services is a covered Medicaid service, including a service covered under EPSDT;
- The provider is a Medicaid-participating provider and meets all federal and state provider qualifications;
- The state Medicaid plan has a methodology for setting rates that are consistent with efficiency, economy and quality of care;
- Third-party liability requirements are met;
- Medicaid payment is not duplicative of other payments;
- States and providers maintain auditable documentation to support claims;
- The state conducts appropriate financial oversight of provider billing practices; and
- All other program requirements are for payment and administrative claiming are met.[5]

Conclusion

The reversal of the free care policy provides school officials, parents, advocates and providers with an opportunity to dramatically increase the supply of services available in schools. Implementing this change will require state Medicaid agencies to grapple with challenging issues. Most states' Medicaid programs are dominated by managed care, accordingly, states will need to work with plans to bring school-based services and providers into their networks. It may also be necessary to determine which states need to amend their state Medicaid plan to ensure that services provided in schools can be reimbursed. NHeLP will be analyzing these issues and working on strategies to support child health advocates as they push for implementation in their states. Watch our website for new materials on this issue.

About Us

The National Health Law Program protects and advances the health rights of low income and underserved individuals. NHeLP advocates, educates and litigates at the federal and state level.

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[5] CMS, Dear State Medicaid Director, *Re: Medicaid Payment for Services Provided Without Charge (Free Care)* (SMD #14-006) (Dec.15, 2014), https://www.medicaid.gov/federal-policy-guidance/downloads/smd-medicaid-payment-for-services-provided-without-charge-free-care.pdf