

EPSDT AND TREATMENT:

ACCESS TO SERVICES AND BENEFITS BEYOND THE STATE PLAN

EPSDT AND TREATMENT:

<u>Topic</u>	<u>Page</u>
Introduction	3
What is EPSDT?	3
What benefits and services can be provided under EPSDT?	4
What does that mean in terms of specific services?	6
Why is it important that providers know what options are available under EPSDT?	7
How can providers request EPSDT services?	11
What if a benefit or service requested under EPSDT is denied?	11
Additional sources	12

Introduction

The information that follow describes treatment considerations under Early and Periodic Screening, Diagnostic and Treatment, the expansive federal program for Medicaid beneficiaries under the age of 21.¹ It is not intended to recommend specific solutions, other than improved education for providers and families in Colorado, and improved methods to ensure that children have access to the full slate of treatment options to which they are entitled.

What is EPSDT?

States are required to provide comprehensive screening and diagnostic services and to furnish all Medicaid coverable, appropriate, and medically necessary services needed to correct and ameliorate identified health conditions, based on certain federal guidelines.² EPSDT is made up of the following services:

Screening Services

Vision Services

Dental Services

Hearing Services

Other Necessary Health Care Services: States are required to provide any additional health care services described in § 1905(a) of the Act that are coverable under the Federal Medicaid program and found to be medically necessary to treat, correct or reduce illnesses and conditions discovered regardless of whether the service is covered in a state's Medicaid plan. It is a state's responsibility to determine medical necessity on a case-by-case basis, and the state is not obligated to provide any items or services which the state determines are not safe and effective or which are considered experimental.

Diagnostic Services.

Treatment: Necessary health care services must be made available for treatment of all physical and mental illnesses or conditions discovered by any screening and diagnostic procedures.

¹ 42 USC § 1396d(a), 42 USC §1396d(r)(5), 42 USC § 1396a(a)(19). See also *EPSDT – A Guide for States; Coverage in the Medicaid Benefit for Children and Adolescents*. CMS, June 2014. Available at http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Benefits/Downloads/EPSDT_Coverage_Guide.pdf

² <http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Benefits/Early-and-Periodic-Screening-Diagnostic-and-Treatment.html>

What benefits and services can be provided under EPSDT?

Services and treatment must be provided when medically necessary to correct and ameliorate physical and mental conditions discovered during screening services whether or not included in the state plan.

Federal regulations list the following categories of services within which treatments under EPSDT may be requested:³

- Inpatient hospital services
- Outpatient hospital services
- Rural health clinic services
- Federally-qualified health center services
- Other laboratory and x-ray services
- EPSDT
- Family planning services and supplies
- Physician services
- Medical and surgical services furnished by a dentist
- Home health care services (nursing, home health, medical supplies, equipment and appliances, occupational therapy, speech, audiology services provided by a home health agency)
- Private duty nursing services
- Clinic services
- Dental services
- Physical therapy, occupational therapy, and services for individuals with speech, hearing and language disorders
- Prescribed drugs
- Dentures
- Prosthetic devices
- Eyeglasses
- Services in an intermediate care facility for the mentally retarded
- Medical care, or any other type of remedial care recognized under state law, furnished by licensed practitioners within the scope of their practice as defined by State law, specified by the Secretary (also includes transportation by a provider to whom a direct vendor payment can appropriately be made)
- Other diagnostic, screening, preventive, and rehabilitative services, including any medical or remedial services (provided in a facility, a home, or other setting) recommended by a physician or other licensed practitioner of the healing arts within the scope of their practice under State law, for the maximum reduction of physical or mental disability and restoration of an individual to the best possible functional level
- Inpatient psychiatric hospital services for individuals under age 21
- Services furnished by a midwife, which the nurse-midwife is legally authorized to perform under state law, without regard to whether the nurse-midwife is under the

³ 42 USC § 1396d(a)

supervision of, or associated with, a physician or other health care provider throughout the maternity cycle

- Hospice care
- Case-management services
- TB-related services
- Respiratory care services
- Services furnished by a certified pediatric nurse practitioner or certified family nurse practitioner, which the practitioner is legally authorized to perform under state law
- Personal care services (in a home or other location) furnished to an individual who is not an inpatient or resident of a hospital, nursing facility, intermediate care facility for the mentally retarded, or institution for mental disease
- Primary care case management services⁴

Services must be medically necessary, safe and effective, and not experimental or investigational.

Definitions of the above federal Medicaid services can be found in the Code of Federal Regulations 42 CFR 440.1-440.170.

⁴ Definitions of the federal Medicaid services can be found in the Code of Federal Regulations 42 CFR 440.1-440.170 at http://www.access.gpo.gov/nara/cfr/waisidx_06/42cfr440_06.html.

What does that mean in terms of specific services?

The range of services covered by EPSDT is too broad to be rendered in a list. Common services that are beyond many states' Medicaid coverage include: hearing aids, orthodontia, durable medical equipment such as wheelchairs and prosthetic devices; OT and PT, prescribed medical formula and nutritional supplements, assistive communication devices, therapeutic behavioral services, private duty nursing, transportation, particular prescription drugs, behavioral rehabilitation and substance abuse treatment.

Court cases have supported the provision of incontinence supplies and ABA therapy through EPSDT. Colorado Medicaid provides some of the above services, though many are limited. The Department has pointed out that since the exclusion of circumcision as a state plan benefit in 2011, EPSDT has allowed coverage of some circumcisions. In general, if another state provides a service or benefit to children, that service or benefit should be available in Colorado under EPSDT.

In addition to being able to access services or benefits outside the state plan, children can get more of a service or treatment than is allowed in the state plan. Essentially, under EPSDT, the usual service limit can be waived. In Colorado, for example, a child must have access to more physical therapy, speech or occupational therapy than the 30 annual visits allowed in the state plan, or more dental care, or a child could be able to receive more than one pair of eyeglasses, if justified by medical necessity. Other restrictions in the clinical coverage policies, such as the location of the service, prohibitions on multiple services on the same day or at the same time (e.g., day treatment and residential treatment) must also be waived under EPSDT as long as the services are medically necessary to correct or ameliorate a defect, physical or mental illness, or condition.

Several states provide non-exhaustive lists of services available under EPSDT. North Carolina states that case management must be available under EPSDT, and out-of-state services where medical necessity is demonstrated. Another example is skilled nursing for the purpose of monitoring, though that function is not covered under the state plan. Other listed services include pediatric mobility systems, cochlear/auditory brainstem implants and accessories, oral nutrition formula, augmentative and alternative communication devices and over-the-counter medications.

Kentucky's EPSDT provider manual lists the following services as coverable: additional pairs of eyeglasses, additional dental cleanings, nitrous oxide when used in dental treatment, nutritional products when used as a supplement, speech therapy, occupational therapy or physical therapy when the therapy does not meet the criteria for the Home Health Program, substance abuse treatment.

California calls these non-state plan services "EPSDT Supplemental Services" and lists some possibilities in a dental provider manual.⁵ These supplemental services can help a child who has a craniofacial anomaly and needs non-conventional prosthetics; another needs periodontal scaling though this benefit is only available for those 18 and older; another does not qualify for

⁵ http://www.denti-cal.ca.gov/provsrvcs/bulletins/Volume_22_Number_34.pdf

orthodontic services, but his speech pathologist has determined that his speech issues can't be resolved without orthodonture.

California documents state that if an individual is covered for a service through a waiver, she or he would not be able to access that service through EPSDT. However, if a child is on a wait list for a waiver, she or he may access waiver services through EPSDT if they fit within the listed services and "correct or ameliorate...."

Why is it important that providers know what options are available under EPSDT?

If providers and families are not aware of the very wide range of services and benefits available under EPSDT, or of the process for requesting such services, children are unlikely to be able to access the benefits of this vital federal program. Court proceedings in other states have led to enhanced requirements for provider training, and for provision of information to consumers.⁶

Colorado's posted information is minimal. The online "Provider Help" page does not refer to EPSDT or to requests for EPSDT benefits and services.⁷ A page for providers on EPSDT does not cover the "T" of EPSDT, though the page links to a "family friendly" version of EPSDT regulations that covers federal requirements without elaboration or examples.⁸ The EPSDT provider billing informational pages do not appear to include this information.⁹ And Colorado's EPSDT Manual contains no information about an exceptions process or requesting non-covered benefits.¹⁰ The form contained within the manual is limited to screening and diagnosis. Recent billing materials state that treatments must be made available if medically necessary even if not available under the state plan, and can be requested where the code list shows it is not a benefit. It does not give examples, or provide explanation regarding benefits for greater extent or duration, or at a different location.

North Carolina, in one example, posts a 71-page training module for providers:¹¹ The North Carolina training module gives an overview of EPSDT, with criteria in line with pages 2-4 of this document, and elaborates further with sections entitled "EPSDT Features" "Important Points About EPSDT," "EPSDT Operational Principles" and "EPSDT Coverage and CAP Waivers," "Documentation Requirements," and "Due Process Procedures."

From *EPSDT Features*:

No Waiting List for EPSDT Services

No Monetary Cap on the Total Cost of EPSDT Services

⁶ Texas, for example, was subject to ongoing corrective actions through a 1996 consent decree related to failure to adequately implement EPSDT. One focus was poor training for participating health care providers, including pharmacists' knowledge of benefits available under EPSDT, including the requirement that a 72-hour emergency supply of medications be dispensed where a prior authorization is unavailable. More recently in Ohio, a consent decree addressed advocates' view that families' and providers' lack of information about what EPSDT provides, as well as difficulties involving billing of EPSDT treatment services led to clients going untreated. Available at: <http://www.disabilityrightsohio.org/sites/default/files/ux/gd-consent-decree-1-7-11.pdf> A 2007 consent order in Pennsylvania required, among other things, that the state provide more comprehensive information about the EPSDT benefit to families, improve training for physicians with annual training that includes the "correct or ameliorate" standard and lists the Medicaid-coverable services found in 12 USC 1396d(a). Available at: <http://www.pilcop.org/wp-content/uploads/2012/01/Settlement-Agreement.pdf>

⁷ <https://www.colorado.gov/pacific/hcpf/provider-help>

⁸ <https://www.colorado.gov/pacific/hcpf/early-and-periodic-screening-diagnostic-and-treatment-epsdt-providers>

⁹ https://www.colorado.gov/pacific/sites/default/files/CMS1500_EPSDT_2.pdf

¹⁰ [https://www.colorado.gov/pacific/sites/default/files/Early%20Periodic%20Screening,%20Diagnosis,and%20Treatment%20\(EPSDT\)_0.pdf](https://www.colorado.gov/pacific/sites/default/files/Early%20Periodic%20Screening,%20Diagnosis,and%20Treatment%20(EPSDT)_0.pdf)

¹¹ <http://www.ncdhhs.gov/dma/epsdt/EPSTTTraining.pdf>

No Upper Limit on the Number of Hours or Units under EPSDT

No Limit on the Number of EPSDT Visits to a Physician, Therapist, Dentist, or Other Licensed Clinician

No Set List that Specifies When or What EPSDT Services or Equipment May Be Covered

No Co-payment or Other Cost to the Recipient

Coverage for Services That Are Never Covered for Recipients 21 Years of Age and Older

Coverage for Services Not Listed in the N.C. State Medicaid Plan

A sampling of information from other sections:

EPSDT services do not have to be services that are covered under the North Carolina State Medicaid Plan or under any of the Division of Medical Assistance's (DMA) clinical coverage policies or service definitions or billing codes.

EPSDT covers short-term and long-term services as long as the requested services will correct or ameliorate the child's condition. For example, a service must be covered under EPSDT if it is necessary for immediate relief (e.g., pain medication). Treatment need not ameliorate the child's condition taken as a whole, but need only be medically necessary to ameliorate one of the child's diagnoses or medical conditions.

Other restrictions in the clinical coverage policies, such as the location of the service (e.g., PCS only in the home), prohibitions on multiple services on the same day or at the same time (e.g., day treatment and residential treatment) must also be waived under EPSDT as long as the services are medically necessary to correct or ameliorate a defect, physical or mental illness, or condition [health problem].

EPSDT also covers personal care services, wheelchairs, and other medical services or equipment which are needed to compensate for a health problem or maintain the child's health in the best condition possible.

Durable medical equipment (DME), assistive technology, orthotics, prosthetics, or other service requested do **NOT** have to be included on DMA's approved lists or be covered under a CAP waiver program in order to be covered under EPSDT subject to meeting the criteria specified in this policy.

Case management is an EPSDT service and must be provided to a child with a Medicaid card if medically necessary to correct or ameliorate regardless of eligibility for a CAP waiver.

In the section on documentation requirements, the training document provides a link to forms for specific EPSDT services (beyond what is provided on the state plan), as well as a catch-all form.¹²

The “Due Process” section notes that requests for EPSDT services must be decided with reasonable promptness, usually within 15 days, describes the notice requirements and opportunity to appeal, etc.

¹² <https://www.nctracks.nc.gov/content/public/providers/prior-approval.html>

How can providers request EPSDT services outside a state plan?

Colorado has no distinct procedure for requesting benefits and services for beneficiaries under the age of 21, when those benefits or services, or the extent, duration or location of such services are beyond what is delineated in the state plan. (One current exception to that policy is that requests for personal care must be made through a specific phone number.) From a legal perspective, a specific EPSDT “exceptions” form should not be mandatory, since any request for pediatric services should take EPSDT into account.

However, in conjunction with robust training, the availability of a form may help make clear to providers that a very wide range of services and benefits may be requested, even though they are not included in the state plan.

Examples of procedures in other states vary. South Dakota’s prior authorization manual specifies that EPSDT requests for special nutrition, DME, or other non-covered services for children require the use of the general PAR, but provide a separate address for those requests. West Virginia provides a form entitled “EPSDT Prior Authorization Form” for services not included in the state plan. South Dakota states that PARs should be submitted to the attention of the EPSDT coordinator.

North Carolina requests submission of PARs online via their provider portal, but accepts paper forms via mail or fax. They provide a PAR supplement for services or benefits outside the state plan for pediatric patients. The form elicits information on the provider role, patient health history, related diagnoses, past treatments, and a description of how the requested benefit or service will “correct or ameliorate” the health condition. Further questions cover whether the requested service is experimental or investigational, safe, and effective, with opportunity provided to explain those answers.

What if a benefit or service requested under EPSDT is denied?

The due process protections that apply to Medicaid denials in general also apply to EPSDT denials.

Decisions must be made with reasonable promptness, and beneficiaries must be provided with timely notice that includes the basis for the denial, along with the related rule, and information on how and when to appeal.

A denial must also contain enough information to allow beneficiaries meaningful opportunity for an appeal, i.e. specific, detailed information regarding why the medical service or benefit was denied.

Sources:

<http://www.nashp.org/sites/default/files/ManagingTheTinEPSDT.pdf>

<http://www.healthlaw.org/component/jsfsubmit/showAttachment?tmpl=raw&id=00Pd00000077e9tEAA>

NAMI report on some creative mental health programs available in other states that – therefore – should be options under EPSDT:

http://www2.nami.org/Content/ContentGroups/Policy/Issues_Spotlights/Medicaid/Other_states_Medicaid_Services_support_EPSDT_claim.pdf