



Medicaid coverage of sexual health services

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I. What Is Sexual Health?

The World Health Organization (WHO) currently defines sexual health as “a state of physical, emotional, mental and social well-being in relation to sexuality; it is not merely the absence of disease, dysfunction or infirmity. Sexual health requires a positive and respectful approach to sexuality and sexual relationships, as well as the possibility of having pleasurable and safe sexual experiences, free of coercion, discrimination and violence.”¹

Sexuality is a necessary consideration when understanding behaviors and outcomes related to sexual health. WHO defines sexuality as “a central aspect of being human throughout life [that] encompasses sex, gender identities and roles, sexual orientation, eroticism, pleasure, intimacy and reproduction. Sexuality is experienced and expressed in thoughts, fantasies, desires, beliefs, attitudes, values, [behaviors], practices, roles and relationships.”² Moreover, WHO establishes that sexual health is “fundamental to the overall health and well-being of individuals...and to the social and economic development of communities and countries.”³

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¹ World Health Org., *Sexual health: Definitions*, <https://www.who.int/health-topics/sexual-health>. Sexual health is distinct from reproductive health. WHO defines the latter as “a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity, in all matters relating to the reproductive system and to its functions and processes. Reproductive health implies that people are able to have a satisfying and safe sex life and that they have the capability to reproduce and the freedom to decide if, when and how often to do so.” World Health Org., *Reproductive health in the Western Pacific*, <https://www.who.int/westernpacific/health-topics/reproductive-health>.

² *Id.*

³ *Id.*

WHO identifies a broad range of sexual health issues, including: Prevention, diagnosis, and treatment of reproductive tract infections (RTIs); sexually transmitted infections (STIs), including HIV; prevention and management of cancers related to sexual health; education, care, and counseling related to sexuality, gender identity, sexual function, sexual violence, and sexual relationships.⁴

II. Medicaid Coverage of Sexual Health Care

The Medicaid Act requires states to cover a broad array of services for all categorically needy enrollees, including, but not limited to: hospital services, family planning services and supplies, physician services, rural health clinic services, and laboratory and X-ray services.⁵ Medicaid also permits states to cover additional services like prescription drugs (which all states have chosen to do).⁶ States providing outpatient prescription drug coverage must cover all FDA-approved drugs that are offered by any manufacturer that agrees to provide rebates.⁷ Health care services encompassing sexual health and well-being covered by Medicaid may include (1) preventive services; (2) family planning services and supplies, education, and counseling; and (3) treatment of sexual organs and sexually transmitted diseases.⁸

⁴ Human Reproduction Special Programme, World Health Org., *Sexual health and well-being*, [https://www.who.int/teams/sexual-and-reproductive-health-and-research-\(srh\)/areas-of-work/sexual-health](https://www.who.int/teams/sexual-and-reproductive-health-and-research-(srh)/areas-of-work/sexual-health). See also, World Health Org., *Sexual Health: Overview*, https://www.who.int/health-topics/sexual-health#tab=tab_1 (last visited Dec. 16, 2024).

⁵ 42 U.S.C. §§ 1396a(a)(10)(A), 1396d(a).

⁶ 42 U.S.C. §§ 1396a(a)(10)(A), 1396d(a)(12).

⁷ 42 U.S.C. § 1396r-8(k)(2)(i).

⁸ See Human Reproduction Special Programme, WHO, *Sexual health and well-being*, *supra* note 4; CMS, *Mandatory & Optional Medicaid Benefits*, <https://www.medicaid.gov/medicaid/benefits/mandatory-optional-medicaid-benefits/index.html>; Priscilla Huang, Madeline Morcelle & Amy Chen, Nat'l Health Law Prog., *An Advocate's Guide to Reproductive and Sexual Health in the Medicaid Program* (2019), <https://healthlaw.org/wp-content/uploads/2019/09/NHeLP-ReproGuide-F.pdf>. For a discussion on gender-affirming care coverage in Medicaid, see Charly Gilfoil, Michele Yiu & Wayne Turner, Nat'l Health Law Program, *Protect Medicaid Funding Issue # 12: LGBTQI+ People* (Updated Sept. 2024), <https://healthlaw.org/wp-content/uploads/2024/09/12-PMF-LGBTQIPeople-FINAL-9.12.2024.pdf>.

A. Preventive Services

Several Medicaid provisions address coverage of preventive services for adults. One concerns Medicaid expansion for low-income adults. The Medicaid Act requires most Medicaid expansion adults to obtain services through an Alternative Benefits Plan (ABP).⁹ ABPs must cover a minimum of ten essential health benefits (EHBs), including preventive services.¹⁰ According to the Affordable Care Act (ACA), “the Secretary [of Health and Human Services] shall define the essential health benefits.”¹¹ The Secretary has chosen to define EHBs by adopting services recommended by the U.S. Preventive Services Task Force (USPSTF), the Health Services and Resources Administration (HRSA), and the Advisory Committee on Immunization Practices (ACIP).¹² These required preventive services include breast and cervical cancer screening; screening and counseling for interpersonal and intimate partner violence; screening and counseling for STIs like chlamydia, gonorrhea, and syphilis; HIV screening, risk assessment, and prevention education; the HPV vaccine; and wellness visits to ensure the provision of these preventive services.¹³

Most states have opted to provide some form of preventive services for adults eligible through other eligibility pathways. The CMS State Medicaid Manual states that “there is no uniformly accepted nationwide standard that specifies a single set of preventive services...as being the most effective,” but mandates that such services must be both “directly and primarily

⁹ 42 U.S.C. § 1396a(k)(1); 42 U.S.C. § 1396u-7(b).

¹⁰ 42 U.S.C. § 1396u-7(b)(5), 42 U.S.C. § 18022(b)(1)(I).

¹¹ 42 U.S.C. § 18022(b)(1).

¹² See 42 C.F.R. § 440.347, 45 C.F.R. §§ 147.130, 156.115, 440.3. Judge Reed O’Connor held that “[t]he U.S. Preventive Services Task Force’s (PSTF) recommendations operating *in conjunction with* 42 U.S.C. § 300gg-13(a)(1) violate Article II’s Appointments Clause and are therefore unlawful.” *Braidwood Mgmt., Inc. v. Becerra*, No. 4:20-cv-00283-O, 2023 WL 2703229 (N.D. Tex. Mar. 30, 2023) (emphasis added). Coverage of preventive services in Medicaid ABPs relies only on the Secretary’s designation pursuant to 42 U.S.C. § 18022(b)(1).

¹³ HRSA, *Women’s Preventive Services Guidelines* (2022), <https://www.hrsa.gov/womens-guidelines>; USPSTF, *Published Recommendations*, https://www.uspreventiveservicestaskforce.org/uspstf/topic_search_results?topic_status=P; CDC, *Vaccine-Specific Recommendations and Guidelines of the ACIP*, <https://www.cdc.gov/vaccines/hcp/acip-recs/vacc-specific/index.html>. See generally KFF, *Preventive Services Tracker* (2024), <https://www.kff.org/report-section/preventive-service-tracker-sexual-health/>.

concerned with the [enrollee’s] health.”¹⁴ Preventive services may include “immunizations, screenings for common chronic and infectious diseases and cancers, clinical and behavioral interventions to manage chronic disease and reduce associated risks, and counseling to support healthy living and self-management of chronic disease.”¹⁵ All of these types of services are relevant in the context of sexual health. As of 2021, at least 41 states plus the District of Columbia cover STI testing, treatment, and counseling under their traditional Medicaid program.¹⁶ Nearly all of these states also cover routine HIV screening.¹⁷ In addition, Medicaid in all 50 states and the District of Columbia covers cervical cancer screening.¹⁸

In 2022, Congress amended the Medicaid Act to require all state Medicaid programs to provide immunizations recommended by the Advisory Committee on Immunization Practices, without cost sharing, for adults in all Medicaid eligibility categories.¹⁹ The HPV vaccine must also be covered by the federal Vaccines for Children Program (VFC), which provides no-cost immunization to children covered by Medicaid.²⁰

Coverage of PreExposure Prophylaxis (PrEP) to prevent HIV infection can also take place through the outpatient prescription category in Medicaid.²¹ Furthermore, FDA approval of HIV treatments for use as PrEP means that states must cover for people regardless of HIV status. States must also cover laboratory testing and doctor’s visits associated with the PrEP regimen because laboratory testing and doctor’s visits are mandatory Medicaid services.²²

¹⁴ CMS, *State Medicaid Manual* § 4385 (emphasis in original).

¹⁵ CMS, *Prevention*, <https://www.medicaid.gov/medicaid/benefits/prevention/index.html>.

¹⁶ Usha Ranji et al., KFF, *Medicaid Coverage of Family Planning Benefits: Findings from a 2021 State Survey* (Feb. 2022), <https://www.kff.org/womens-health-policy/report/medicaid-coverage-of-family-planning-benefits-findings-from-a-2021-state-survey/>.

¹⁷ *Id.*

¹⁸ Am. Cancer Soc’y, *Cervical Cancer Prevention and Screening: Financial Issues* (2020), <https://www.cancer.org/cancer/types/cervical-cancer/detection-diagnosis-staging/prevention-screening-financial-issues.html>.

¹⁹ See Inflation Reduction Act (IRA) of 2022, Pub. L. 117–169, § 11405 (Aug. 16, 2022) (amending 42 U.S.C. §§ 1396a(a)(10)(A), 1396a(a)(10)(C)(iv), 1396o–1(b)(3)(B)).

²⁰ Nat’l Health Law Program, *CDC Recommends HPV Vaccine for girls between the ages of 11 and 12: How advocates can build upon this positive momentum* (Aug. 24, 2006), <https://healthlaw.org/resource/cdc-recommends-hpv-vaccine-for-girls-between-the-ages-of-11-and-12-how-advocat/>.

²¹ 42 U.S.C. § 1396d(a)(12). 42 C.F.R. §§ 440.120(a), .90, .100.

²² *Id.* § 1396d(a)(5)(A).

Early and Periodic Screening, Diagnostic and Treatment (EPSDT) Services is a comprehensive benefit available to all Medicaid beneficiaries under age 21.²³ The EPSDT medical screening is especially important for the overall health of young people.²⁴ Medical screenings include a comprehensive health and developmental history, a comprehensive physical exam, appropriate immunizations, laboratory testing, as well as health education and anticipatory guidance.²⁵ An example curriculum approved by CMS recommends that medical screenings include STI screening, the HPV vaccine, HIV testing, family planning, sexuality education and counseling, as well as a discussion about sexual health.²⁶ Additionally, if a screening identifies the need for diagnostic or treatment services, EPSDT requires states to connect adolescents with those services.²⁷ In fact, EPSDT requires coverage of a broader scope of treatment than Medicaid services for adults.²⁸

B. Family Planning Services and Supplies, Education, and Counseling

As discussed earlier, family planning services and supplies is a mandatory benefit category under federal Medicaid law.²⁹ Although there is no standardized definition of family planning services, the CMS State Medicaid Manual lists “counseling services and patient education, examination and treatment by medical professionals..., [and] laboratory examinations and tests” as examples of federally funded services.³⁰

²³ 42 U.S.C. § 1396d(r).

²⁴ See *An Advocate’s Guide to Reproductive and Sexual Health in the Medicaid Program*, *supra* note 8, at 88.

²⁵ CMS, *EPSDT - A Guide for States: Coverage in the Medicaid Benefit for Children and Adolescents* 4 (2014), <https://www.medicaid.gov/medicaid/benefits/downloads/epsdt-coverage-guide.pdf>.

²⁶ Am. Acad. of Pediatrics, *Bright Futures: Guidelines for Health Supervision of Infants, Children, and Adolescents* 174 (2017), <https://www.aap.org/en/practice-management/bright-futures/bright-futures-materials-and-tools/bright-futures-guidelines-and-pocket-guide/>.

²⁷ *EPSDT - A Guide for States*, *supra* note 25, at 5, 8; CMS, *State Medicaid Manual* § 5124.B.

²⁸ See Jane Perkins & Sarah Somers, *Medicaid’s Gold Standard Coverage for Children and Youth: Past, Present, and Future*, 30 ANNALS HEALTH L. 153 (2021), <https://lawcommons.luc.edu/annals/vol30/iss2/5>.

²⁹ 42 U.S.C. § 1396d(a)(4)(C); 42 C.F.R. § 440.335.

³⁰ CMS, *State Medicaid Manual* § 4270.

Family planning-*related* services—medical, diagnosis, and treatment services provided “pursuant to” a family planning visit—must also be covered by Medicaid.³¹ For example, CMS guidance states that diagnosis and treatment services for STIs are always provided “pursuant to” a family planning service regardless of the initial purpose of the visit, and therefore will always be eligible for Medicaid coverage as family planning-related services.³²

It is also important to note that in 2010 Congress expanded access to family planning services by establishing a new, limited coverage eligibility category for family planning services.³³ States using the state plan option can provide family planning services to persons at higher income levels who are otherwise ineligible for Medicaid.³⁴

Also as discussed above, Medicaid beneficiaries under the age of 21 have access to EPSDT-mandated medical screenings, which must include health education and anticipatory guidance.³⁵ More specifically, recommended guidance states that these medical screenings should include family planning, sexuality education and counseling, and a discussion about sexual health.³⁶

C. Treatment for STIs and other sexual organ conditions

Because Medicaid must cover a wide array of services that include hospital visits, physician care, laboratory and x-ray services, people living with HIV and other STIs like chlamydia, syphilis, and gonorrhea may gain from these services for treatment. Medicaid is the largest public funder of HIV treatment and care.³⁷ In addition, Medicaid covers specialized services

³¹ CMS, State Medicaid Director Letter (SMDL #14-003), *Family Planning and Family Planning Related Services Clarification 1* (Apr. 16, 2014), <https://www.medicaid.gov/federal-policy-guidance/downloads/SMD-14-003.pdf>.

³² *Id.* at 1–2.

³³ 42 U.S.C. § 1396a(a)(10)(A)(ii)(XXI); (ii); 42 C.F.R. § 435.214.

³⁴ *Id.* See also DSMD Letter #10-013, Re: *Family Planning Services Option and New Benefit Rules for Benchmark Plans* (Jul. 2, 2010); <https://www.medicaid.gov/sites/default/files/Federal-Policy-Guidance/downloads/SMD10013.pdf>.

³⁵ *EPSDT - A Guide for States*, *supra* note 25, at 4.

³⁶ *Bright Futures: Guidelines for Health Supervision of Infants, Children, and Adolescents*, *supra* note 26, at 174.

³⁷ Kaiser Family Found., *Sexually Transmitted Infections (STIs): An Overview, Payment, and Coverage* (Feb. 18, 2020), <https://www.kff.org/womens-health-policy/fact-sheet/sexually->

that benefit people living with HIV who undergo various types of treatments. For instance, Medicaid covers long-term care, which is critical to people living with HIV/AIDS who are at an increased risk of developing a permanent or episodic disability from their condition. States may also choose to cover many important optional services, such as the outpatient prescription drug benefit, which all states cover, and personal care services.³⁸

Medicaid additionally allows states to use other optional categories or to seek approval for innovative pilot programs to provide coverage for people living with HIV. For example, Section 2703 of the Affordable Care Act (Health Home for Enrollees with Chronic Conditions) offers a Medicaid State Plan option to provide coordinated care to individuals with chronic conditions, which may include individuals living with HIV. As of March 2022, 34 health homes had approval in 19 states and the District of Columbia. Two states (Washington and Michigan) included HIV among other qualifying conditions for enrollment into the health home and one state, Wisconsin, designed a health home specifically for enrollees with HIV/AIDS.³⁹

Medicaid covers cancer treatments related to sexual organs and functions. All fifty states and the District of Columbia have elected to extend Medicaid coverage to women diagnosed with breast and/or cervical cancer under the Breast and Cervical Cancer Prevention and Treatment Act of 2000.⁴⁰ States have flexibility in how they implement the BCCPT program. Additionally, federal Medicaid funds are available for hysterectomies performed for a reason other than sterilization.⁴¹ One example of a medically indicated hysterectomy that may be covered by Medicaid is the removal of a cancerous uterus.⁴²

[transmitted-infections-stis-an-overview-payment-and-coverage/](#); Lindsey Dawson et al., Kaiser Family Found., Medicaid and People with HIV (Mar. 27, 2023), <https://www.kff.org/hivaids/issue-brief/medicaid-and-people-with-hiv/>.

³⁸ Catherine McKee, Michelle Yiu & Madeline T. Morcelle, Nat'l Health Law Prog., *Protect Medicaid Funding Issue #9: People Living with HIV* (Mar. 15, 2023).

³⁹ Lindsey Dawson et al., Kaiser Family Found., Medicaid and People with HIV (Mar. 27, 2023), <https://www.kff.org/hivaids/issue-brief/medicaid-and-people-with-hiv/>.

⁴⁰ 42 U.S.C. § 1396a(10)(A)(ii)(XVIII).

⁴¹ CMS, *State Medicaid Manual* § 4435.

⁴² *Id.* Uterine cancer is the most common gynecological cancer in the United States. In 2024, it was estimated that 67,880 new cases of uterine cancer would be diagnosed and that 13,250 women would die from cancers of the uterus. Am. Cancer Soc'y, *Key Statistics for Endometrial Cancer*,

<https://www.cancer.org/cancer/types/endometrial-cancer/about/key-statistics.html> (last visited Sept. 18, 2024).

III. Conclusion

Sexual health service categories often go hand-in-hand. For example, counseling for STIs may be covered as a preventive service, while testing and treatment for STIs may be covered as a family planning-related service—and states may classify the HPV vaccine as both a preventive and a family planning-related service. Treatment for infections, diseases, and dysfunction of sex organs may be covered under other mandatory benefits like physician and hospital services as well as benefits that all states have decided to cover like prescription drugs. Sexual health care services are not siloed, mutually exclusive forms of health care; rather, each one complements and reinforces the others, and a holistic approach to sexual health care coverage is necessary to reflect that dynamic.