Family Planning Service

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Introduction

Authority

1. Pub. L. 92-603, Sec. 299E (Family planning service mandatory under Medicaid).
2. Title IV-A of the Social Security Act, Section 402a (15) (A) and (B) and Section 403 f.
3. Title XIX of the Social Security Act, Section 1903 (a) (5) and Section 1905 (a) (4) (c).
4. 42 CFR 441.20 (Family Planning Services).
5. 42 CFR 441.200-208 ( Abortions).
6. 42 CFR 441.250-259 ( Sterilizations).
15. Minnesota Rules, parts 9550.0100 to 9550.0092 (Department of Human Services, Administration of Community Social Services).
17. Minnesota Rules, parts 9565.0100 to 9565.0900 (Department of Human Services, Family Planning Service).

Court Ruling

Relf v. Weinberger, Civil Action No. 1557-73, and National Welfare Rights Organization v. Weinberger, Civil Action No. 74-243 (39 FR 5313,9178). (Federal funds are not authorized for the sterilization of any person legally incapable of giving consent, and when any person is capable of giving legal consent, that person shall be advised that no benefits may be withheld by reason of their decision not to be sterilized.)
Family Planning Service

Not revised

Definitions

1. Family Planning Service: Services provided by the local social services agency to enable individuals to control family size or prevent an unplanned pregnancy. 

   Adapted from Part 9565.0200

2. Title IV-A: Section of the Social Security Act which provides for federal financial participation in Aid to Families with Dependent Children (AFDC).

3. Title XIX: Section of the Social Security Act which provides for federal financial participation in Medical Assistance (MA).

4. Title XX: Section of the Social Security Act which provides for federal financial participation in social services.

Purpose

The purpose of family planning service is to arrange for and provide social, educational, and medical services (including sterilization) and supplies to enable individuals to determine family size or prevent unplanned pregnancies.

Part 9565.0200

Provision of Family Planning Service

Provision of Service

Family planning service shall be offered to all recipients of Aid to Families with Dependent Children (AFDC), and shall be provided to all AFDC recipients who request it.

Part 9565.0600

1. Family planning service shall be offered in writing and provided to all current recipients of AFDC who desire such service. The offer shall describe family planning service and the means of obtaining the service. The offer must be made within 31 days of the first assistance payment and once a year thereafter.

2. Family planning service must be offered in writing and may be provided to all recipients of AFDC who request it for three months after their grant is discontinued, if they are eligible under the AFDC State Plan.

3. Family planning service must be offered in writing to all applicants for AFDC who request it for three months if their application is withdrawn or denied, if they are eligible under the AFDC State Plan.

Pub. L. 92-603

Optional Provision of Service

The local agency shall provide family planning service to any individual who requests it.

Part 9565.0200
Age and Marital Status

Individuals may not be denied service because of age or marital status.

Minors may receive family planning service on the basis of their own consent.

Right to Accept or Reject Services

Family planning shall be voluntary on the part of the client and may not be a prerequisite or impediment to eligibility for receipt of any other service or aid.

Regulations on Sterilization for Family Planning Purposes

Mandatory Procedures

At the request of any individual served by Minnesota state institutions, local social services agencies, and mental health centers, information shall be provided relating to mandatory procedures governing consents for nontherapeutic sterilizations.

NOTE: The state agency recommends that individuals requesting information regarding nontherapeutic sterilization be referred to health or medical agencies knowledgeable in the regulations and procedures governing consents for nontherapeutic sterilizations.

Federal Requirements

FFP is available in expenditures for the sterilization of an individual only if:

1. The individual is at least 21 years old at the time consent is obtained;
2. The individual is not a mentally incompetent individual;
3. The individual has voluntarily given informed consent; and
4. At least 30 days, but no more than 180 days, have passed between the date of informed consent and the date of sterilization, except in the case of premature delivery or emergency abdominal surgery. An individual may consent to be sterilized at the time of a premature delivery or emergency abdominal surgery if at least 72 hours have passed since he or she gave informed consent for the sterilization. In the case of premature delivery, the informed consent must have been given at least 30 days before the expected date of delivery.
Individuals Who Cannot Give Legal Consent to Sterilization

Restricted Individuals

Individuals who cannot give effective legal consent for sterilization include:

1. Persons committed to state guardianship as mentally retarded.
   
   Minn. Stat. 252A.13, subd. 4

2. Persons committed to state conservatorship as mentally retarded and whose right to consent to sterilization has been restricted.
   
   Minn. Stat. 252A.13, subd. 3 and 4

3. Persons committed to general guardianship or conservatorship "of the person".
   
   Minn. Stat. 525.56

4. Persons committed to state guardianship as dependent and neglected minors.
   
   Part 9560.0450, subpart 2,F

Funding

The local agency may use local funds for sterilization of individuals who are legally incapable of giving effective consent.

Abortion

The Department recommends that women requesting information regarding abortion be referred to health and medical agencies who are knowledgeable in the law and regulations governing this procedure.

Abortion is considered a medical procedure not covered by social services funding. Federal financial participation is available under certain circumstances (life of mother would be endangered or certain instances of rape and incest).

Local Agency Responsibility

Internal Agreements

Family planning services shall be offered to all recipients of Aid to Families with Dependent Children and may be provided to all such recipients who request it.
The local agency is responsible for offering and providing family planning service to clients who are eligible for Title XX services if provided for in the Community Social Services plan and the agency's local social services plan. (See SSM VI on Social Services Planning.)

Individuals may not be denied family planning services based on age or marital status. Family planning shall be voluntary on the part of the client and may not be a prerequisite or impediment to eligibility for receipt of any other service or aid.

Service Components

The local agency's family planning service may include:

1. Counseling service to help clients decide whether they wish to use a family planning method.
2. Information about where medical contraceptive service can be obtained, and assistance in obtaining the service.
3. Facilitative service, such as transportation and child care, to enable clients to avail themselves of family planning services.

Public Information

The local agency shall establish public information programs to inform the community and potential clients about the availability of family planning service from the agency.

Purchase of Service

The local agency may purchase family planning service from a provider of this service, such as Planned Parenthood or State Health Department projects.

Adapted from Part 9565.0200

Funding of Family Planning Service

Local Agency Funds

The local agency may use local funds to provide family planning services to individuals who are not eligible for service under Title XIX.

Sterilization

Federal financial participation is not available for the expense of sterilization of a person who is mentally in competent or an institutionalized individual.
The following mandatory services shall be documented in the income maintenance record:

1. The offer of family planning service to all current recipients of AFDC. The offer shall:
   a. Be in writing.
   b. Describe the services and the means of obtaining it.
   c. Be made once a year.

   The annual offer and documentation of the offer of service to current recipients of AFDC will be made by the State Agency through Central Disbursement. The local agency need not document the offer.

2. The offer of family planning service for three months to all applicants for AFDC who withdraw their application, or who are denied assistance.

3. The offer of family planning service for three months after a recipient's grant has been terminated.

4. The provision of service within 30 days to all eligible persons who request this service.

Social Services Case Records

For general case recording requirements, see SSM IV-5400-5500.

Specific recording requirements for family planning service, as applicable, include:

1. A request for family planning service in writing. (This is required in 42 CFR 441.253(c) to ensure that the request is voluntary.)

2. Documentation that service was provided, when requested by the client. This documentation includes:
   a. The date service was requested.
   b. The date service was provided.
   c. The nature of the service provided by the agency.

3. If the client was referred to another agency, the record shall indicate:
   a. The date the client was referred.
   b. The name of the agency.
c. The reason for referral.

d. The follow-up services that were provided.

**Sterilization Report**

**Title XIX**

Title XIX information concerning sterilizations is reported directly to the Department.

**Local Agency Record**

Local social services agencies shall maintain a separate record of nontherapeutic sterilization when the agency has been:

1. Involved in counseling in regard to nontherapeutic sterilization.
2. Billed for nontherapeutic sterilization.

The following information shall be available at the request of the Department:

1. Person's name.
2. County of Responsibility.
3. Where sterilization performed.
4. Date consent form was signed.
5. Date the procedure was performed.
6. Doctor's name.
7. Financial resource used.