



ADMINISTRATIVE RULES OF MONTANA



37.86.104 PHYSICIAN SERVICES, REQUIREMENTS

- (1) These requirements are in addition to those rule provisions generally applicable to Medicaid providers.
- (2) The department or its designated review organization may conduct utilization and peer review of physician services.
- (3) Physician services for conditions or ailments that are generally considered cosmetic in nature are not a benefit of the Medicaid program except in such cases where it can be demonstrated that the physical and psycho-social well being of the recipient is severely affected in a detrimental manner by the condition or ailment. Such services must be prior authorized by the Medicaid services bureau, based on recommendations of the designated peer review organization.
 - (a) A request for prior authorization must include all relevant information to justify the need for the service. This information includes statements from a physician qualified in the area of concern and a potential provider.
 - (b) The information must clearly document the necessity for the service and include assurances that the plan will be followed to completion.
- (4) Coverage of physician services for sterilization is limited as follows:
 - (a) The recipient to be sterilized must not be declared mentally incompetent by a federal, state, or local court of law.
 - (b) The recipient to be sterilized must be 21 years of age or older at the time informed consent to sterilization is obtained from the recipient.
 - (c) The recipient to be sterilized must not be institutionalized in a corrective, penal, mental, or rehabilitative facility.
- (5) Physician services for sterilization must meet the following requirements in order to receive Medicaid reimbursement:
 - (a) The recipient to be sterilized must give informed consent, in accordance with the Medicaid approved informed consent to sterilization form, not less than 30 days nor more than 180 days prior to sterilization except in the case of premature delivery or emergency abdominal surgery. For these exceptions, at least 72 hours must pass between informed consent and the sterilization procedure. In cases of premature delivery, informed consent must be given at least 30 days before the expected delivery date.
 - (b) The recipient to be sterilized, the person who obtained the consent, and the interpreter (if required) must sign the informed consent form at least 30 days but not more than 180 days

prior to the sterilization. The physician performing the sterilization must sign and date the informed consent form after the sterilization has been performed.

- (c) A copy of the informed consent to sterilization form must be attached to the Medicaid claim when billing for sterilization procedures.
- (6) Coverage of physician services for hysterectomies is limited as follows:
- (a) The surgery must not be solely for the purpose of rendering the recipient incapable of reproducing; and
 - (b) The surgery must be medically necessary to treat injury or pathology.
- (7) Physician services for hysterectomies must meet the following requirements in order to receive Medicaid reimbursement:
- (a) The physician must inform the recipient that the hysterectomy will render her permanently incapable of reproducing;
 - (b) A completed copy of the approved acknowledgment of receipt of hysterectomy information form must be attached to the Medicaid claim when billing for hysterectomy services;
 - (c) In a case where the recipient is sterile before the hysterectomy or there is a life-threatening emergency that precludes the recipient from giving prior acknowledgment of receipt of hysterectomy information, the requirements in (7)(a) and (7)(b) do not apply. Instead, the physician who performed the hysterectomy either:
 - (i) must certify in writing that the recipient was sterile before the hysterectomy and state the cause of sterility; or
 - (ii) must certify in writing that the hysterectomy was performed during a life-threatening emergency situation that precluded the recipient from giving prior acknowledgment of receipt of hysterectomy information and gives a description of the nature of the emergency.
- (8) Coverage of physician services for abortions is limited as follows:
- (a) the life of the mother will be endangered if the fetus is carried to term;
 - (b) the pregnancy is the result of an act of rape or incest; or
 - (c) to the extent required by statute, when an abortion is a medically necessary service, even if the abortion does not meet the standard in (8)(a) and (9).
- (9) Physician services for abortions, in a case of endangerment of the mother's life, must meet the following requirements in order to receive Medicaid reimbursement:
- (a) The physician must find, and certify in writing, that in the physician's professional judgement, the life of the mother will be endangered if the fetus is carried to term. The certification must contain the name and address of the patient and must be on or attached to the Medicaid claim.
- (10) Physician services for abortions in cases of pregnancy resulting from an act of rape or incest must meet the following requirements in order to receive Medicaid reimbursement:
- (a) the recipient certifies in writing that the pregnancy resulted from an act of rape or incest; and

- (b) the physician certifies in writing either that:
 - (i) the recipient has stated to the physician that she reported the rape or incest to a law enforcement or protective services agency having jurisdiction over the matter, or if the recipient is a child enrolled in a school, to a school counselor; or
 - (ii) in the physician's professional opinion, the recipient was and is unable for physical or psychological reasons to report the act of rape or incest.
- (11) Abortion is a medically necessary service and eligible for coverage under the Montana Medicaid program when:
 - (a) a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would, as certified by a physician, place the woman in danger of death unless an abortion is performed; or
 - (b) although it does not place the woman in danger of death unless an abortion is performed, a woman suffers from:
 - (i) a physical condition that would, as certified by a physician, be significantly aggravated by the pregnancy; or
 - (ii) a psychological condition that would, as certified by a physician, be significantly aggravated by the pregnancy.
- (12) Physician services for abortions require prior authorization. If prior authorization is not obtained, due to an emergency situation or otherwise, a claim for payment for such physician services will undergo post-service, prepayment review. The request for prior authorization or the claim for payment must be accompanied by a completed and signed Physician Certification for Abortion Services Form (MA-037 form).
- (13) Supporting documentation must be submitted for abortions covered under (8)(a) or (c). The following documentation must be submitted with the prior authorization request or with any claim for payment for which prior authorization was not received to support the determination of medical necessity:
 - (a) History and Physical, which should include (at a minimum) as it relates to the pregnancy:
 - (i) medical history, including age, current medications and allergies, number of times the patient has been pregnant and number of times she has had a live birth, last menstrual period, status and results of any pregnancy test, allergies, chronic illnesses, surgeries, behavioral health issues, smoking, substance abuse, and obstetric history;
 - (ii) brief review of systems to identify symptoms a patient may be experiencing;
 - (iii) the results of a physical examination, including vital signs, heart, lungs, abdomen, extremities, and estimate of gestational age (if imaging is not available);
 - (iv) results of laboratory tests (if available), including Rh factor, Hemoglobin, and Human Chorionic Gonadotropin;
 - (v) imaging (if available), to estimate gestational age;
 - (vi) documentation that the diagnosis of the physical or psychological condition leading to the medical necessity determination has been made by a medical professional

qualified by education, training, and/or experience to make such diagnosis and that the woman is receiving care for such condition;

- (vii) reason for the abortion procedure;
 - (viii) for medication/chemical abortions, documentation confirming review of contraindications, adequate patient education, and compliance with the requirements of the Physician-Related Services Manual;
 - (ix) treatment plan; and
 - (x) signed informed consent for the proposed abortion procedure.
- (14) Physician services for abortions must be performed by a physician as defined in 37-3-102, MCA.
- (15) Prior authorization is not required for treatments for incomplete abortions, miscarriages, or septic abortions.
- (16) Physician services for routine podiatric care and orthotics must be in accord with the definitions of ARM 37.86.501 and meet the requirements of ARM 37.86.505.
- (17) The department adopts and incorporates by reference the Physician-Related Services Manual governing the administration of the Physician program dated December 1, 2017. The Physician-Related Services Manual is available for public viewing at the Department of Public Health and Human Services, Health Resources Division, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951 and at the department's web site at <http://medicaidprovider.mt.gov>.

Authorizing statute(s): 53-2-201, 53-6-113, MCA

Implementing statute(s): 53-2-201, 53-6-101, 53-6-111, 53-6-113, 53-6-141, MCA

History: NEW, 1980 MAR p. 1747, Eff. 6/27/80; AMD, 1980 MAR p. 2664, Eff. 9/26/80; AMD, 1981 MAR p. 1061, Eff. 9/18/81; AMD, 1983 MAR p. 757, Eff. 7/1/83; AMD, 1988 MAR p. 1255, Eff. 7/1/88; AMD, 1991 MAR p. 824, Eff. 5/31/91; AMD, 1991 MAR p. 1030, Eff. 7/1/91; AMD, 1994 MAR p. 2975, Eff. 11/11/94; AMD, 1995 MAR p. 1580, Eff. 8/11/95; TRANS, from SRS, 2000 MAR p. 481; AMD, 2012 MAR p. 2625, Eff. 1/1/13; AMD, 2017 MAR p. 1522, Eff. 9/9/17; AMD, 2017 MAR p. 2445, Eff. 12/23/17; AMD, 2023 MAR p. 414, Eff. 5/1/23.