CHAPTER He-W 500 MEDICAL ASSISTANCE

PART He-W 541 FAMILY PLANNING SERVICES

Readopt with amendment He-W 541.01, effective 9-19-08 (Doc. #9272), as amended effective 7-1-12 (Doc. #10139), to read as follows:

He-W 541.01 Definitions.

(a) "Clean claim(s)" means a claim that can be processed without obtaining additional information from the dispensing provider or from a third party, including a claim with errors originating in the state's claims system, and not including a claim from a dispensing provider who is under investigation for fraud or abuse or a claim under review for medical necessity.

(b~~a~~) "Department" means the New Hampshire department of health and human services.

(c~~b~~) "Family planning services" means medical services, medical procedures, and pharmaceutical supplies and devices provided by or under the supervision of a physician or other health professional that allow a recipient to prevent or delay pregnancy or to otherwise control family size, and which receive an enhanced match rate of 90% federal match.

(d~~c~~) "Hysterectomy" means a surgical procedure for the purpose of removing the uterus.

(e~~d~~) "Institutionalized individual" means an individual who:

(1) Is involuntarily confined or detained under a civil or criminal statute, in a correctional or rehabilitative facility, including a mental hospital or other facility for the care and treatment of mental illness; or

(2) Is confined under a voluntary commitment in a mental hospital or other facility for the care and treatment of mental illness.

(f~~e~~) "Medicaid" means the Title XIX and Title XXI programs administered by the department which makes medical assistance available to eligible individuals.

(g~~f~~) "Mentally incompetent individual" means a mentally incompetent ~~n~~ individual as defined in 42 CFR 441.251~~who has been declared incompetent by a federal, state or local court of competent jurisdiction~~.

(h~~g~~) "Recipient" means any individual who is eligible for and receiving medical assistance under the medicaid program.

(i~~h~~) "Sterilization" means any medical procedure, treatment or surgical procedure which is intended to render an individual permanently incapable of reproducing.

(j~~i~~) "Title XIX program" means the joint federal-state program described in Title XIX of the Social Security Act and administered in New Hampshire by the department under the medicaid program.

(k~~j~~) "Title XXI" means the joint federal-state program described in Title XXI of the Social Security Act and administered in New Hampshire by the department under the medicaid program.

Readopt with amendment He-W 541.02 – 541.03, effective 9-19-08 (Doc. #9272), to read as follows:

He-W 541.02 Recipient Eligibility.

(a) All ~~Title XIX~~Medicaid recipients of child bearing age and not known to be pregnant shall be eligible for family planning services, in accordance with He-W 541.

(b) Acceptance of any family planning services shall be voluntary on the part of the recipient and shall not be a prerequisite or impediment to eligibility for any other service or assistance program administered by the department.

He-W 541.03 Provider Participation. All ~~participating~~ family planning providers shall be:

(a) Licensed by the state in which she or ~~/~~he practices or be a NH certified midwife; and

(b) A New Hampshire enrolled ~~Title XIX~~Medicaid provider.

Readopt He-W 541.04, effective 9-19-08 (Doc. #9272), to read as follows:

He-W 541.04 Service Limits. Family planning services for recipients shall be subject to the limits described in He-W 530.

Readopt with amendment He-W 541.05, effective 9-19-08 (Doc. #9272), to read as follows:

He-W 541.05 Covered Services. The following services ~~are~~ shall be covered as family planning services only if the items and procedures are clearly provided or performed for family planning purposes:

(a) Physician services, in accordance with He-W 531, certified midwife services in accordance with He-W 538, and ~~A~~advanced practice ~~R~~registered ~~N~~nurse ~~Practitioner~~ services in accordance with He-W 534;

(b) Contraceptive devices or drugs, both prescription and non-prescription, in accordance with He-W 570;

(c) Pregnancy tests and screening for sexually transmitted diseases only when performed routinely as part of an initial, regular, or follow-up family planning visit; and

(d) Sterilization, in accordance with 42 CFR 441.253 and 42 CFR 441.254, as follows:

(1) The recipient shall be at least 21 years old at the time consent is obtained;

(2) The recipient shall not be a mentally incompetent individual;

(3) The recipient shall not be an institutionalized individual;

(4) The recipient shall voluntarily give informed consent in accordance with the requirements at 42 CFR 441.257 through 42 CFR 441.258;

(5) The provider shall submit the federal health and human services office of management and budget form HHS-687 "Consent for Sterilization" (OMB No. 0937-0166) ~~a sterilization~~

~~consent form meeting the requirements of 42 CFR 441, Subpart F,~~ to the department prior to the department's payment for the sterilization claim;

(6) At least 30 days, but not more than 180 days, shall have passed between the date of informed consent and the date of sterilization, with the exception of cases of premature delivery or emergency abdominal surgery as described in (7) below; and

(7) A recipient 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~~ the recipient gave informed consent for the sterilization and, in the case of premature delivery, if the informed consent was given at least 30 days before the expected date of delivery.

Readopt He-W 541.06 – 541.07, effective 9-19-08 (Doc. #9272), to read as follows:

He-W 541.06 Non-Covered Services.

(a) The following services shall not be covered as family planning services:

(1) Sterilizations which do not meet the requirements of 541.05(d) above;

(2) Hysterectomies;

(3) Medical, surgical, or pharmaceutical treatment for the purpose of enhancing, promoting or restoring fertility;

(4) Medical procedures performed for medical reasons such as the removal of an IUD due to an infection, diagnostic examination of the cervix or vagina by means of a special microscope, colposcopy, biopsy, or cryotherapy of the cervix or vagina;

(5) Treatment of medical complications caused by, or following, a family planning procedure;

(6) Any medical service, procedure, or pharmaceutical supply or device provided to a recipient who is known to be pregnant; and

(7) Pregnancy and sexually transmitted disease tests, except for those performed as part of an initial or annual family planning examination.

(b) The services in (a)(2) and (a)(4) through (a)(7) above which are non-covered as family planning services shall be covered in accordance with He-W 531, He-W 534, He-W 538, He-W 570, and 42 CFR 441, Subpart F.

He-W 541.07 Co-Payments. In accordance with He-W 570, co-payments for family planning pharmaceutical products shall not be required.

Readopt with amendment He-W 541.08 – 541.10, effective 9-19-08 (Doc. #9272), to read as follows:

He-W 541.08 Utilization Review and Control. The department's ~~surveillance and utilization~~program integrity unit ~~review of subsystems unit (SURS)~~ shall monitor utilization of family planning services to identify, prevent, and correct potential occurrences of fraud, waste, and abuse, in accordance with 42 CFR 455, 42 CFR 447, ~~and~~ 42 CFR 456, and He-W 520.

He-W 541.09 Third Party Liability. All third party obligations shall be exhausted before ~~Title XIX~~medicaid shall be billed, in accordance with 42 CFR 433~~.139~~.

He-W 541.10 Payment for Services.

(a) Rates of payment for family planning services shall be established by the department in accordance with RSA 161:4, VI(a).

(b) The provider shall submit clean claims for payment~~. to the department's fiscal agen~~t.

(c) The provider shall maintain supporting records~~,~~ in accordance with He-W 520 and shall keep documentation supporting claims and records necessary to disclose the extent of services the provider furnishes to medicaid recipients in accordance with He-W 520.

APPENDIX B

Rule	**State or federal statute the rule implements**
He-W 541.01	42 CFR 441.251, 42 CFR 447
He-W 541.02	~~42 CFR 441.210;~~ 42 CFR 440.220; 42 CFR 440.225
He-W 541.03	42 CFR 431.51(b); 42 CFR 431.51(c)(2); 41 CFR 431.107(b)
He-W 541.04	42 CFR 440.230; 42 CFR 440.240
He-W 541.05	42 CFR 441.253; 42 CFR 441.254; 42 CFR 441.255; 42 CFR 441.257; 42 CFR 441.258
He-W 541.06	42 CFR 441.254; 42 CFR 441.255
He-W 541.07	42 CFR 447.53(b)(5)
He-W 541.08	42 CFR 456.3; 42 CFR 455, 42 CFR 447, 42 CFR 456
He-W 541.09	42 CFR 433~~.139~~
He-W 541.10	42 CFR 447.204; 42 CFR 431.107