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**OREGON ADMINISTRATIVE RULES
DEPARTMENT OF HUMAN SERVICES, PUBLIC HEALTH DIVISION
CHAPTER 333**

DIVISION 4

FAMILY PLANNING EXPANSION PROJECT

333-004-0010

Definitions

- (1) "Acquisition cost" means the net amount paid per invoice line item to a pharmaceutical manufacturer, supplier or distributor for a contraceptive supply, plus any shipping and handling that is supported by the invoice.
- (2) "Approved medical services agreement" means the completed Family Planning Expansion Project agreement, submitted to and approved by the Office of Family Health.
- (3) "Citizenship verification" means confirming a client's claim of U.S. citizenship through documentation of a certified birth record, passport or other document(s) deemed acceptable proof of U.S. citizenship by the federal government.
- (4) "CLIA" means the Clinical Laboratory Improvement Amendments of 1988, which establishes quality standards for all laboratory testing to ensure the accuracy, reliability and timeliness of patient test results, and allows for certification of clinical laboratories operating in accordance with these federal amendments.
- (5) "Client" means a person of any age or gender who is enrolled in and receives contraceptive management services from the Family Planning Expansion Project.
- (6) "Client Visit Record" or "CVR" means the form or set of information that is completed for each client visit, and that is used as a data collection instrument and a billing claim form for the Family Planning Expansion Project.
- (7) "CMS" means the Centers for Medicare and Medicaid Services, located within the federal Department of Health and Human Services.
- (8) "Contraceptive management" means a limited scope of family planning services as described in OAR 333-004-0040.
- (9) "DHS" means the Department of Human Services of the State of Oregon.
- (10) "DMAP" means the Division of Medical Assistance Programs, within the Department of Human Services.
- (11) "Established client" means a person who has been obtaining contraceptive services/supplies from the prescribing clinic for a minimum of three consecutive months.
- (1~~2~~) "Family Planning Expansion Project" or "FPEP" means the Medicaid waiver program that provides statewide family planning services to eligible clients, that is administered by the Office of Family Health within the Department of Human Services.
- (1~~3~~) "Family planning services" means services provided to clients of childbearing age, including minors who can be considered to be sexually active, who desire such services and that are intended to prevent pregnancy or otherwise limit family size.
- (1~~4~~) "Family planning service provider" or "provider" means a licensed health care provider operating within a scope of practice, who is authorized by the Office of Family Health to bill for contraceptive management services for eligible Family Planning Expansion Project clients.

| (154) "FPEP Eligibility Database" means the web-based database designed and managed by the Office of Family Health for the statewide collection, tracking and storage of FPEP client eligibility information.

| (165) "FPL" means the federal poverty level guidelines established each year by the Department of Health and Human Services, used to determine eligibility for the Family Planning Expansion Project and other federally funded programs.

| (176) "Lawful Permanent Resident" means a person who, notwithstanding other eligibility requirements, is a qualified non-citizen as described in OAR 461-120-0125(4).

| (187) "OFH" means the Office of Family Health, the office within the Department of Human Services, Public Health Division that administers the Family Planning Expansion Project.

| (198) "Project number" means the administrative number assigned by the Office of Family Health to a family planning agency.

| (2019) "School-Based Health Center" means a health center certified by the School-Based Health Center Program located within the Office of Family Health.

| (201) "Site number" means the administrative number assigned by the Office of Family Health to each clinic within a family planning agency.

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 409.010

333-004-0030

Client Enrollment

(1) A person is considered eligible upon submission of:

(a) A signed, completed, and dated FPEP enrollment form that includes Social Security Number and appropriate residency and income information; applicants under age 20 can be enrolled based on their own income, whether living at home or on their own; and

(b) If the client claims U.S. citizenship, acceptable proof of U.S. citizenship and identity.

(2) All FPEP client eligibility information must be recorded in the FPEP Eligibility Database.

(3) Final determination of eligibility and enrollment into FPEP is made by OFH based on the information recorded in the FPEP Eligibility Database. A current, signed enrollment form and a copy of the citizenship and identity documents must be stored on file at the enrolling clinic. Clients found to have been enrolled in error will be disenrolled.

(4) Eligibility is effective for one year from the date of enrollment. The date of enrollment must be on or before the first date of service.

(5) FPEP enrollment forms may not be backdated. Backdated forms will be construed as fraud.

(6) One-time exception visits, available to applicants who meet all eligibility criteria apart from acceptable proof of U.S. citizenship, do not confer regular FPEP eligibility.

| Clients who are granted a one-time exception visit may receive services for 100 days only ~~on a single day only~~ and must present documentation of U.S. citizenship before they can be enrolled in FPEP.

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333-004-0060

Standards of Care for Contraceptive Management Services

Participating FPEP providers must agree to provide contraceptive management services according to the following standards.

- (1) **Informed Consent.** The client's decision to participate in and consent to receive contraceptive management services must be voluntary and without bias or coercion.
 - (a) The informed consent process, provided verbally and supplemented with written materials, must be presented in a language the client understands.
 - (b) A signed consent must be obtained from the individual client receiving contraceptive management services.
 - (c) A separate, signed method-specific consent must be obtained from the client for each prescription contraceptive method received.
- (2) **Confidentiality.** Services must be provided in a manner that respects the privacy and dignity of the individual, as provided for in OAR 333-004-0080(8).
 - (a) Clients must be assured of the confidentiality of services and of their medical and legal records.
 - (b) Records cannot be released without written client consent, except as may be required by law, or otherwise permitted by the Health Insurance Portability and Accountability Act (HIPAA).
- (3) **Availability of Contraceptive Services.** A broad range of Federal Drug Administration (FDA)-approved contraceptive methods and their applications, consistent with recognized medical practice standards, as well as fertility awareness methods must be available on-site at the clinic for dispensing to the client at the time of the visit.
 - (a) If the provider organization's clinical staff lack the specialized skills to provide vasectomies, intra-uterine devices (IUDs) or subdermal contraceptives, or if there is insufficient volume to ensure and maintain high skill level for these procedures, clients must be referred to another qualified provider for these procedures. The provider must have an established referral arrangement, preferably with other FPEP providers, for these procedures. The clinician receiving the referral must not bill the client for FPEP-covered services.
 - (b) Clients should be able to get their first choice of contraceptive method during their visits unless there are specific contraindications.
- (4) **Linguistic and Cultural Competence.** All services, support and other assistance must be provided in a manner that is responsive to the beliefs, interpersonal styles, attitudes, language and behaviors of the individuals who are receiving services, and in a manner that has the greatest likelihood of ensuring their maximum participation in the program.
 - (a) The provider should employ bilingual or bicultural staff, personnel or volunteers skilled or certified in the provision of medical and clinical interpretation during all clinic encounters for clients with limited English proficiency or who otherwise need this level of assistance. All persons providing interpretation services must adhere to confidentiality guidelines.
 - (b) The provider must assure the competency of language assistance provided to limited English proficiency clients by interpreters and bilingual staff. Family and friends should not be used to provide interpretation services, unless requested by the client.
 - (c) The provider must make interpretation services available to all clients needing or requesting such assistance at no cost to the client. The provider must notify clients in need of interpretation services of the availability of such services in accordance with the

Civil Rights Act of 1964.

(d) The provider should make easily understandable print materials available to clients and post signage in the languages of groups represented or commonly encountered in the service area.

(e) All print, electronic and audiovisual materials should be appropriate in terms of the client's language and literacy level. A client's need for alternate formats must be accommodated.

(5) Access to Care. Services covered by FPEP must be provided without cost to eligible clients. Clients must be informed of the scope of services available through the program.

(a) Appointments for established clients should be available within a reasonable time period, generally less than two weeks. New clients who cannot be seen within this time period should be referred to other qualified providers in the area.

(b) Contraceptive methods, including emergency contraception, must be available at the clinic site and available to the client at the time of service.

(c) Clinics with the appropriate license from the Oregon Board of Pharmacy may offer established clients the option of receiving their contraceptive methods by mail.

(i) Use of this option is at the discretion of the client; it cannot be offered as the only way in which to receive supplies.

(ii) Contraceptive methods that require a written prescription may only be mailed to established clients who have been using the method(s) for at least three months, with no problems or contraindications.

(iii) Non-prescription methods may be mailed to any established client, irrespective of the client's previous use of the method(s).

(iv) Clients must not incur any cost for the option of receiving contraceptive methods through the mail.

(v) Clinics must package and mail supplies in a manner that ensures the integrity of contraceptive packaging and effectiveness of the method upon delivery.

(ed) Although not covered by FPEP, treatment and supplies for sexually transmitted infections must be available at the site, or by referral.

(ed) Clients in need of additional medical or psychosocial services beyond the scope of the provider organization must be provided with information about available local resources, including domestic violence and substance abuse related services. Clients must also be given a brochure listing locations of free or low-cost primary care services in the area.

(fe) All services must be provided to eligible clients without regard to age, marital status, race, parity, disability, gender identity, or sexual orientation.

(gf) All counseling and referral-to-care options appropriate to a positive or negative pregnancy test result during authorized contraceptive services must be provided in an unbiased manner, allowing the client full freedom of choice between prenatal care, adoption counseling or pregnancy termination services.

(6) Clinical and Preventive Services.

(a) The scope of contraceptive management services offered to women and female-bodied clients at each FPEP site must include:

(A) A comprehensive health history, including health risk behaviors and a complete obstetrical, gynecological, contraceptive, personal and family medical history; and a sexual health history, in conjunction with contraceptive counseling;

(B) An initial physical examination including cervical cancer screening, that follows a

national standard of care. Common sources for national standards of care are the American Cancer Society, the American College of Obstetricians and Gynecologists, and the U.S. Preventive Services Task Force;

(C) Routine laboratory tests related to the decision-making process for contraceptive choices;

(D) Provision of a broad range of FDA-approved contraceptive methods, devices, supplies, and procedures, including emergency contraception;

(E) Follow-up care for maintenance of a client's contraceptive method or for change of method;

(F) Information about providers available for meeting primary care needs and direct referral for needed medical services not covered by FPEP, including management of high-risk conditions and specialty consultation if needed; and

(G) Preventive and control services for communicable diseases, provided within the context of a contraceptive management visit, including:

(i) Testing and diagnosis for sexually transmitted infections (STIs) as indicated; and

(ii) Reporting of STIs, as required, to appropriate public health agencies for contact management, prevention, and control.

(b) The scope of contraceptive management and clinical preventative services offered to men and male-bodied clients must include:

(A) A comprehensive health history, including health risk behaviors and a complete contraceptive, personal and family medical history; and a sexual health history, in conjunction with contraceptive counseling;

(B) An initial physical examination, when indicated, that includes testicular cancer screening that follows a national standard of care. Common sources for national standards of care are the American Cancer Society and the U.S. Preventive Services Task Force;~~when indicated;~~

(C) Provision of contraceptive barrier methods and supplies and of emergency contraception;

(D) Vasectomy or referral for vasectomy;

(E) Information about providers available for meeting primary care needs and direct referral for needed medical services not covered by FPEP, including management of high-risk conditions and specialty consultation if needed; and

(F) Preventive and control services for communicable diseases, provided within the context of a contraceptive management visit, including:

(i) Testing and diagnosis for sexually transmitted infections (STIs) as indicated; and

(ii) Reporting of sexually transmitted infections (STI), as required, to appropriate public health agencies for contact management, prevention, and control.

(c) All services must be documented in the client's medical record.

(7) Education and Counseling Services. The following elements comprise the required education and counseling services that must be provided to all contraceptive management clients:

(a) Initial individual assessment, and re-assessment as needed, of the client's contraceptive management educational needs and knowledge about reproductive health, including:

(A) Counseling and education about a broad range of FDA-approved contraceptive methods, devices, supplies, and procedures, including emergency contraception;

- (B) A description of services and clinic procedures, including the pelvic exam and instructions for breast or testicular self-exam;
- (C) Relevant reproductive anatomy and physiology, method options, and STI and Human Immunodeficiency Virus (HIV) prevention;
- (D) Preventive health care, nutrition, preconception health maintenance, and pregnancy plans;
- (E) Psychosocial issues, such as partner relationship and communication, risk-taking, and decision-making; and
- (F) An explanation of how to locate and access primary care services not covered by FPEP.

(b) Initial and all subsequent education and counseling sessions must be provided in a way that is understandable to the client and conducted in a manner that respects the dignity and privacy of the client and facilitates the client's ability to make informed decisions about reproductive health behaviors and goals, and must include:

- (A) An explanation of the results of the physical examination and the laboratory tests;
- (B) Information on where to obtain 24-hour emergency care services;
- (C) The option of including a client's partner in the education/counseling session, and other services at the client's discretion; and

(D) Effective educational information that takes into account diverse cultural and socioeconomic factors of the client and the psychosocial aspects of reproductive health.

(c) Each client must be provided with adequate information to make an informed choice about contraceptive management methods, including:

(A) A general verbal or written review of all FDA-approved contraceptive methods, including sterilizations and emergency contraception, along with the opportunity for the client to ask questions. Documentation of this method education must be maintained in the client record;

(B) A description of the implications and consequences of sterilization procedures, if provided;

(C) Specific instructions for care, use, and possible danger signs for the selected method. Documentation of method-specific informed consent must be maintained in the client record;

(D) The opportunity for questions concerning procedures or methods; and

(E) Written information about how to obtain services for contraceptive management-related complications or emergencies.

(d) Clinicians and other staff persons providing education and counseling must be knowledgeable about the psychosocial and medical aspects of reproductive health, and trained in client-centered counseling techniques. Staff must make referrals for more intensive counseling as indicated.

(8) Exceptions.

(a) School-based Health Centers are exempt from the requirement to make dispensing contraceptive methods available for on-site dispensing described as required [i.e., on-site] in section (3) and subsection (5)(b) of this rule. Because some school boards prohibit dispensing contraceptives on school grounds, School-based Health Center providers may offer contraceptive methods to clients either on-site or by referral. When offered by referral, providers must have an established referral agreement in place, preferably with another FPEP provider. OFH must be notified of the parties involved in

order to ensure proper billing and audit practices. When the referral provider participates in FPEP, that provider may submit claims directly to FPEP for reimbursement of the dispensed supplies. When referral providers do not participate in FPEP, payment arrangements must be made between the referring and receiving providers. Dispensing by any provider must not result in a charge to the client.

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333-004-0070

Provider Enrollment

- (1) An individual or organization must meet applicable licensing or regulatory requirements set forth by federal and state statutes, regulations, and rules to be enrolled and to bill as a provider. In addition, all providers of services within the state of Oregon must have a valid Oregon business license if such a license is a requirement of the state, federal, county or city government to operate a business or to provide services.
- (2) Signing the medical services agreement constitutes agreement by providers to comply with all applicable rules of OFH and federal and state laws and regulations.
- (3) An individual or organization that is currently subject to sanctions by DHS or the federal government is not eligible for enrollment.
- (4) An FPEP project number and site number will be issued to an individual or clinic upon:
 - (a) Completion of the FPEP provider application and submission of the required documents;
 - (b) The signing of the medical services agreement and related forms by the provider or person authorized by the provider to bind the organization or individual to compliance with these rules;
 - (c) Verification of licensing or certification; and
 - (d) Approval of the application by OFH and DMAP.
- (5) Issuance of a project number and site number establishes enrollment of an individual or organization as a provider for FPEP services.
- (6) If a provider changes address, business affiliation, licensure, ownership, certification, billing agents or Federal Tax Identification Number (TIN), OFH must be notified in writing within 30 days of the change. Failure to notify OFH of a change of Federal Tax Identification Number may result in the imposition of a fine. Changes in business affiliation, ownership, and Federal Tax Identification Number may require the submission of a new application. Payments made to providers who have not furnished such notification may be recovered.
- (7) Providers of services outside the state of Oregon may be enrolled under the following conditions:
 - (a) The provider is appropriately licensed or certified and meets standards established within the provider's state for participation in Medicaid; and
 - (b) The provider lives in a state contiguous to Oregon, and is within 75 miles of the Oregon border.
- (8) Provider termination:
 - (a) The provider may terminate enrollment at any time. The request must be made to the OFH in writing, via certified mail, return receipt requested. The notice shall specify the provider number to be terminated and the effective date of termination. Termination of

the provider enrollment does not terminate any obligations of the provider for dates of services during which the enrollment was in effect.

(b) FPEP provider terminations or suspensions by OFH and subsequent recovery of any payments may be for, but are not limited to the following reasons:

(A) Breaches of the medical services agreement;

(B) Failure to comply with the statutes, regulations and policies of DHS, and federal or state regulations that are applicable to the provider;

(C) Loss of the appropriate licensure or certification; or

(D) Disenrollment from another state's Medicaid program.

(c) FPEP provider enrollment may be terminated by OFH due to inactivity. After 12 months of no claims activity, providers will be contacted by OFH regarding termination of program participation.

(9) The provider is entitled to a contested case hearing to determine whether the provider's project and site number will be revoked.

(10) In the event of bankruptcy proceedings, the provider must immediately notify OFH in writing.

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 409.010