

Expanding and Improving Access to Family Planning Services Under Medicaid

The Need for Action

Medicaid — a joint federal and state program that provides health care services for low-income Americans — is a critical health care program for many women. Federal law requires that all state Medicaid programs cover family planning services and supplies.⁵⁷ Yet, many states do not cover the full range of those services, nor do they provide coverage for as many women as possible.⁵⁸ Moreover, many women on Medicaid, especially women in Medicaid managed care plans, receive incomplete or incorrect information about family planning coverage.⁵⁹ All of these factors greatly limit low-income women's access to basic reproductive health care.

The proactive policy options in this section focus on ways to expand and improve access to family planning under Medicaid. The primary goals of these policies are:

- (1) to cover more services;
- (2) to cover more women; and
- (3) to ensure that women who are covered know that they are covered and have access to providers.



MEDICAID FAMILY PLANNING IN BRIEF

- Medicaid plays a vital role in providing family planning; in fact, Medicaid is the largest source of family planning and pays for half of all publicly funded family planning.⁶⁰
- Overall, publicly funded family planning prevents 1.3 million unintended pregnancies annually.⁶¹
- Publicly funded family planning services are a particularly important source of affordable health care for women of color, who are disproportionately poor and less likely than white women to have health insurance.⁶²
- Inadequate health care results in negative health outcomes. The unintended pregnancy rate for women of color is significantly higher than for white women. For example, the rate of unintended pregnancy for African American women is almost three times the rate for white women.⁶³
- Full access to Medicaid promotes healthier women and children. A study found that women who used publicly funded family planning services during the two years before a pregnancy were more likely to initiate early prenatal care and to receive adequate care throughout the pregnancy.⁶⁴
- By helping women plan and space their pregnancies, publicly funded contraceptive services help prevent low birth weight, infant mortality and neonatal deaths.⁶⁵



Developing Your Plan of Action

Before choosing a policy vehicle to expand and improve access to family planning for Medicaid-eligible women in your state, you should gather information on the Medicaid family planning program in your state. Questions to ask include:

- What is covered under “family planning” by your state Medicaid plan? Are all Food and Drug Administration (FDA)-approved contraceptives covered, including emergency contraception? Does the plan cover testing and treatment for STDs?

*If not, or if the coverage is not comprehensive, consider **Option 1**.*

- Is your state providing Medicaid coverage for as many women as possible? Has it obtained a waiver to expand eligibility for family planning services under Medicaid?

*If not, consider **Option 2**.*

- Do all women on Medicaid in your state, especially those in Medicaid managed care plans, know how to access family planning services?

*If not, consider **Option 3**.*

Proactive Policy Options

OPTION 1

EXPAND THE SCOPE OF FAMILY PLANNING SERVICES PROVIDED UNDER MEDICAID

BACKGROUND

The first, and perhaps least difficult, step to improving low-income women's access to family planning is to expand the definition of family planning in your state Medicaid program. Women's family planning needs vary widely, and no single option works for every woman. To more effectively protect women's reproductive health, Medicaid should cover the broadest range of family planning services available. If your state definition of family planning is limited, consider expanding it to be more inclusive. Typically, this can be accomplished without legislation.

- The Centers for Medicare & Medicaid Services (CMS) (formerly the Health Care Financing Administration) does not define "family planning," but its guidelines permit a wide range of services to fall into this category, from counseling to physical exams to provision of contraceptive methods.⁶⁶ Since states are allowed to determine their own definition of family planning within CMS' broad guidelines, state Medicaid coverage varies significantly across these service categories.⁶⁷ This discrepancy provides an opportunity for proactive advocacy in many states with narrow family planning definitions.
- Expanding family planning services through Medicaid is a cost-effective way for states to decrease unintended pregnancies. Under the federal funds matching program, only

10 cents of every dollar spent on Medicaid funding for family planning is paid by the state. The federal government provides the remaining 90 percent.⁶⁸

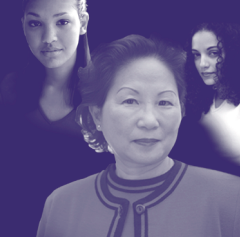
- A 2002 study shows a correlation between increased access to family planning services and a decrease in unintended pregnancies and abortion.⁶⁹ Between 1994 and 2000, overall abortion rates decreased by 11 percent. However, abortion rates for low-income women increased during the same time period — coinciding with added restrictions on contraceptive access.⁷⁰
- Further, increased access to family planning will decrease long-term funds spent on unintended pregnancies. For each public dollar spent on contraceptive services, an average of \$3.00 is saved in Medicaid costs for pregnancy-related health care and newborn medical care.⁷¹

MODEL DEFINITION OF STATE FAMILY PLANNING SERVICE

"Family planning" is defined to include: health education and counseling, ob/gyn exams, laboratory services, STD diagnosis and treatment, HIV screening and referral, all FDA-approved contraceptive pills, devices and supplies, tubal ligation, vasectomy, pregnancy testing and counseling and follow up to contraceptive-related complications.⁷²

ACTION

Require the state to expand its definition of family planning to cover the broadest range of services and supplies under Medicaid.



GATHERING FACTS

The following organizations and resources can assist you in gathering information on Medicaid family planning in your state:

The **Alan Guttmacher Institute's** report, MEDICAID SUPPORT FOR FAMILY PLANNING IN THE MANAGED CARE ERA, which includes policy recommendations, is at <http://www.guttmacher.org/pubs/medicaid.pdf>. For current information about Medicaid family planning expansion waivers, go to http://www.guttmacher.org/pubs/spib_MFPW.pdf (updated monthly);

Catholics for a Free Choice (CFFC) monitors the effect of the Catholic health care system on the availability of reproductive health services. CFFC's 2000 report, CATHOLIC HMOS AND REPRODUCTIVE HEALTH CARE, can be found at <http://www.catholicsforchoice.org/pubs/hmoexecutivesummary.pdf>;

The **Kaiser Family Foundation's State Health Facts Online** contains the latest state-level data on health coverage, access to services and health policy. The data is broken down by race, age, gender, income level and citizenship status, <http://www.statehealthfacts.kff.org>;

The **Kaiser Commission on Medicaid and the Uninsured** analyzes health care coverage and access for low-income populations and assesses options for reform, <http://www.kff.org/sections.cgi?section=kcmu>. The Kaiser Foundation's comprehensive study, MEDICAID COVERAGE OF FAMILY PLANNING SERVICES: RESULTS OF A NATIONAL SURVEY, can be found at <http://www.kff.org/content/2001/2216/2216.pdf>;

NARAL/NY Institute for Reproductive Health Access website contains detailed information about how individual states organize and deliver family planning services under managed care programs, links to state Medicaid programs, factsheets and a downloadable copy of RESHAPING REPRODUCTIVE HEALTH: A STATE-BY-STATE EXAMINATION OF FAMILY PLANNING UNDER MEDICAID MANAGED CARE, <http://medicaid.managedcare.naralny.org>; and

The **National Health Law Program (NHeLP)** assists community-based organizations develop creative solutions to providing health care for those without the means to provide for themselves. NHeLP's website, www.healthlaw.org, contains extensive information on Medicaid, including MAKING SENSE OF MANAGED CARE, <http://www.healthlaw.org/pubs/FS/factsheet1.html>.

STRATEGY GUIDE

- **FIRST**, determine what your state Medicaid program currently covers under family planning.
 - > Refer to the **Gathering Facts** box in this section for more information.
- **NEXT**, based on this information, determine what should be included in an expanded definition of family planning services.
 - > An example of a comprehensive state family planning definition is included in a box in this section.
- **THIRD**, determine:
 - (a) which state official(s) are empowered to change the definition; and
 - (b) whether a legislative campaign is necessary.
 - > To identify the state official responsible for the Medicaid program, contact your state Department of Health and state Medicaid agency.
- **FINALLY**, develop an effective policy campaign to:
 - (a) officially request a change in your state's definition of family planning; or
 - (b) enact legislation to expand the family planning definition.
 - > Refer to **Section 1** of this kit to identify key elements of a proactive policy campaign.



In the short-term, providing more family planning services will require additional state funds. However, any budget concerns related to this policy option can and should be countered by pointing out:

- The long-term cost-effectiveness of expanding family planning; and
- The fact that the state contribution will actually be limited to 10 percent of the total cost, with the federal government providing a 90 percent match.⁷³



OPTION 2

INCREASE THE NUMBER OF WOMEN ELIGIBLE FOR MEDICAID

BACKGROUND

Medicaid eligibility is generally limited to single women who have a child or are pregnant and who meet other stringent income requirements.⁷⁴ However, because the federal government only sets broad guidelines, medicaid eligibility varies from state to state.⁷⁵ As a result, many low-income women fall through the cracks because they do not qualify for Medicaid, yet they do not have private insurance.⁷⁶ This situation presents an opportunity for proactive advocacy to ensure the maximum number of women possible receive coverage.

To expand the number of women eligible for family planning services, states can seek a federal waiver — known as a Section 1115 waiver — from the U.S. Department of Health and Human Services, Centers for Medicare & Medicaid Services to:⁷⁷

- Extend the length of postpartum eligibility for family planning from 60 days to one to five years;
- Expand eligibility for family planning to women whose Medicaid eligibility has lapsed for any reason; or
- Expand eligibility to women based solely on financial need instead of previous Medicaid status (i.e., all women below 200 percent of the federal poverty level (FPL) v. pregnant women below 135 percent of the FPL).

ACTION

Request the governor, director of health or state Medicaid director to seek a federal Section 1115 waiver to expand eligibility for family planning under Medicaid.

STATE OF THE STATES

As of November 2002, **sixteen** states have extended eligibility for family planning services (AL, AZ, AR, CA, DE, FL, MD, MO, NM, NY, OR, RI, SC, VA, WA, WI). Waiver applications in **six** additional states are pending approval from the Bush Administration (CO, IL, MN, MS, NC, OK).⁷⁸

For more information, refer to The Alan Guttmacher Institute, *STATE POLICIES IN BRIEF, MEDICAID FAMILY PLANNING WAIVERS* (updated monthly), http://www.guttmacher.org/pubs/spib_MFPW.pdf.

STRATEGY GUIDE

This option has varying degrees of difficulty depending on what steps are necessary to obtain a waiver.

- **FIRST**, determine whether your state has a federal Section 1115 waiver.

> Refer to the **State of the States** box in this section for more information.

- **SECOND**, determine:

(a) which state official(s) are empowered to seek a Section 1115 waiver; and

(b) whether a legislative campaign is necessary.

> Contact your state Medicaid agency to find out which state official can request a waiver (for example, Medicaid director, director of health or governor). Refer to the **Appendix** to obtain contact

information for the National Association of State Medicaid Directors.

- **FINALLY**, develop an effective policy campaign to:

(a) persuade the appropriate state official to expand eligibility; or

(b) enact legislation to enable the official to request a Section 1115 waiver.

> Refer to **Section 1** of this kit to identify key elements of a proactive policy campaign.

> The legislative language used to request a waiver is very state-specific. For examples of how different states have drafted such legislation, refer to NARAL Pro-Choice America's State Legislative Tracker, <http://mail.prochoiceamerica.org/longdoc.nsf> (click on "Current reports" and then "Expanding public funds for family planning") (updated regularly).



EXPANDING MEDICAID ELIGIBILITY PROMOTES WOMEN'S HEALTH AND SAVES MONEY

Expanding the eligibility for family planning services under Medicaid will help women better space their pregnancies, will promote women's health and the health of their children, will help reduce unintended pregnancies and the need for abortion and is cost effective. In Rhode Island, for example:

- The percentage of women who became pregnant within nine months of a previous birth decreased by almost half after the state implemented an expanded family planning program.⁷⁹ This is especially important since studies show that infants conceived less than 18 months following a previous live birth were associated with higher risks of adverse perinatal outcomes.⁸⁰
- Moreover, Rhode Island's program was cost-effective: expanding family planning services helped prevent 1443 deliveries to Medicaid-eligible women and saved the state over 2.5 times its original investment.⁸¹



OPTION 3

PROTECT WOMEN'S RIGHT TO KNOW ABOUT FAMILY PLANNING SERVICES COVERED BY MEDICAID

BACKGROUND

A core principle of the pro-choice movement is that women have the right to complete information about their reproductive health options. Without full information, women cannot make informed, responsible decisions. Unfortunately, many women on Medicaid, particularly those in Medicaid managed care plans, lack knowledge of available family planning services.⁸²

THE RISE OF MEDICAID MANAGED CARE

Medicaid managed care plans have proliferated in recent years as states seek to control public health care costs by centralizing health services.⁸³ Under federal law, states are allowed to mandate enrollment in managed care plans that generally limit Medicaid beneficiaries to providers within a plan's network.⁸⁴ Currently, 35 states and the District of Columbia require Medicaid recipients to enroll in managed care plans.⁸⁵ Overall, 17.8 million Medicaid beneficiaries are enrolled in managed care plans⁸⁶—and three out of four Medicaid enrollees are women.⁸⁷

- One study found that only one-third of Medicaid managed care plans routinely provided information to enrollees on the specific methods of contraception covered.⁸⁸
- Additionally, only four percent of Medicaid managed care plans notified women that some participating providers may not provide or refer for all covered services because of religious or personal reasons.⁸⁹
- A 2001 report on Fidelis, a large Catholic-run managed care plan in New York state, which included interviews with 32 past and present Fidelis beneficiaries, concluded that the vast majority of beneficiaries were unaware of Fidelis' policy of excluding coverage for birth control and abortion, as well as their options for obtaining such services.⁹⁰

Under federal regulations issued in 2002, Medicaid managed care plans are required to provide notice to prospective beneficiaries regarding where and how to obtain services excluded under the plan contract.⁹¹ However, this notice requirement is insufficient because:

- It does not apply to plans that exclude certain services for moral or religious reasons;⁹² and
- Following enrollment, beneficiaries are entitled only to annual notice of their right to request information about their coverage.⁹³

RELIGIOUS REFUSALS: DANGEROUS FOR WOMEN'S HEALTH

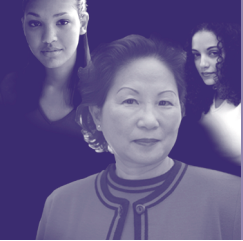
Under federal law, Medicaid managed care plans may refuse to provide, reimburse for or provide coverage of a counseling or referral service if the organization objects to the provision of such service on moral or religious grounds.⁹⁴ Often called "refusal clauses," such provisions can prevent women from receiving medically necessary information, referrals or services. Although carefully crafted refusal clauses may be appropriate in some circumstances to protect the autonomy of individual medical providers, broad refusal clauses can prevent women from obtaining medically necessary information, referrals or services. There are several excellent resources to help you determine the existence and scope of refusal clauses in your state:

- ACLU's report, RELIGIOUS REFUSALS & REPRODUCTIVE RIGHTS, <http://www.aclu.org/Files/OpenFile.cfm?id=10945>;
- AGI's STATE POLICIES IN BRIEF, http://www.guttmacher.org/pubs/spib_EPHS.pdf; and
- NARAL Pro-Choice America's policy brief on refusal clauses, <http://www.prochoiceamerica.org/mediareources/fact/pdfs/clauses.pdf>, and state-by-state information on refusal clauses pertaining to abortion, <http://www.prochoiceamerica.org/mediareources/publications/2003/whod.html>.

While states are required to allow women to go to any Medicaid-certified family planning provider,⁹⁵ they also have no specific duty to provide beneficiaries with information on how and where to access family planning services after the enrollment period⁹⁶ — leaving many women without the information needed to ensure access to vital health care services.⁹⁷

ACTION

Require the state to provide women in Medicaid managed care plans with accurate, comprehensive and accessible information on obtaining family planning services.



STRATEGY GUIDE

- **FIRST**, determine whether your state requires enrollment in Medicaid managed care plans. If so, do any of those plans refuse to provide counseling or referrals with respect to family planning?

> For assistance in gathering this information, refer to the **Gathering Facts** and **Religious Refusal** boxes in this section.

- **IF SO**, find out how your state is informing women about access to family planning services under Medicaid. Determine what, if anything, the state can do to provide better, more complete information.

> Contact your state Medicaid director and Medicaid advocacy organizations, including those listed in the **Gathering Facts** box in this section, for assistance in obtaining this information.

> One option, depending on your state budget, may be to require the state to provide a toll-free hotline for women to call and obtain coverage information. In addition, consider requiring Medicaid managed care plans that refuse services on moral or religious grounds to provide enrollees with hotline information.

- **FINALLY**, create an effective policy campaign to ensure that women in your state know how to access family planning services under Medicaid managed care plans.

> Refer to **Section 1** of this kit to identify key elements of a proactive policy campaign.

> Use the **Model Legislation** in this section as a guide for your policy campaign.

> Depending on the politics of your state, this policy option may be accomplished non-legislatively by lobbying the appropriate decision-maker.



This policy option will require additional state funds and, therefore, should be evaluated with budget implications in mind. Remember, however, that states are responsible for providing Medicaid managed care enrollees with information on how to obtain covered services.

MODEL LEGISLATION

PROTECT WOMEN'S RIGHT TO KNOW ABOUT MEDICAID FAMILY PLANNING SERVICES

- A. The [Medicaid director/Department of Health/state] must provide accurate, comprehensive and accessible information to all women of childbearing age in Medicaid managed care plans regarding family planning services covered by Medicaid and methods for accessing such services.
- B. The information provided to enrollees must include all of the following:
1. a description of available services;
 2. an explanation that some family planning services may be refused due to religious or moral objection;
 3. an explanation that women are guaranteed the right to access family planning services from the provider of their choice, whether inside or outside the plan's network;
 4. detailed instructions for accessing services;
 5. an explanation of the right to disenroll from a managed care plan with cause; and
 6. instructions on the process for disenrollment with cause.
- C. The information provided to enrollees must be disseminated in a timely manner to coincide with:
1. beneficiaries' choice of plan;
 2. beneficiaries' enrollment in a plan; and
 3. annually thereafter.
- D. The information must be provided in the threshold languages of enrollees in the state.
- E. **Threshold Languages:** For the purposes of this Act, threshold languages are primary languages spoken by limited English proficient (LEP) individuals meeting a numeric threshold of: 3000 eligible LEP beneficiaries residing in a county; 1000 eligible LEP beneficiaries residing in a single Zip Code; or 1500 LEP beneficiaries residing in two contiguous Zip Codes.



