

A one-page overview of Medicaid, EPSDT and BHRS in Pennsylvania and elsewhere

In Pennsylvania, the Health Department regulates Managed Care under Act 68. Managed Care Organizations have the responsibility to determine what is "medically necessary" in Pennsylvania based on the **state's** definition of "medically necessary" treatment. The Medicaid Act gives authority to each state to define what is "medically necessary" in their state for children enrolled in Medicaid who receive Early and Periodic Screening, Diagnosis and Treatment (EPSDT) services. According to federal Medicaid regulations, the definition of "medically necessary" treatment must be extremely broad, since the purpose of EPSDT services as defined in the Medicaid Act is to *reduce, alleviate or prevent the worsening* of disabling conditions in children. EPSDT exists in all 50 states. Each state has implemented its own version, but all versions, including their definition of "medically necessary" treatment must be approved by the federal Medicaid authorities and *comply* with Federal EPSDT requirements in order for states to receive Medicaid funds.

Behavioral Health Rehabilitation Services (BHRS, sometimes mistakenly called "wraparound" services in Pennsylvania) are part of EPSDT. Pennsylvania's definition of what is "medically necessary" for Medicaid enrolled children receiving BHRS has been complimented by federal Medicaid authorities for its thorough implementation of the treatment and prevention coverage required of EPSDT services by the Medicaid Act. There is no question that one standard must be used to determine if a prescribed BHRS treatment funded by Medicaid is "medically necessary" -- the one created by the State Medicaid Authority and approved by the federal Medicaid authority -- the Centers for Medicare and Medicaid Services (CMS). In Pennsylvania, that definition says that a treatment **is** medically necessary if it alleviates a condition or prevents the worsening of a condition discovered during an EPSDT evaluation -- or **may** do so.

The State Medicaid Authority in Pennsylvania, the Department of Public Welfare (DPW), is responsible for overseeing the implementation of the Medicaid Act in Pennsylvania, and strives to correct errors and misunderstandings about what is, and what is not, permissible under Medicaid in Pennsylvania. If Pennsylvania citizens raise complaints or grievances related to Medicaid benefits like BHRS, a process in which DPW retains final state-level authority to render decisions about them has been created. That process allows Managed Care Organizations to make their initial determinations as to whether or not a BHRS prescription is "medically necessary," and these decisions are *supposed* to be based on the definition of "medically necessary" treatment published in PA Medical Assistance Bulletin number 1101-07-03. Specific procedures have been created by DPW for Pennsylvania citizens to pursue complaints, grievances and appeals regarding the decisions about BHRS made at each level of authority below DPW.

Since Medicaid is a joint federal-state program, citizens can also raise complaints in federal court and appeal directly to federal authorities to resolve them, and this can result in federal court orders that DPW must change its policy or procedures. This happened in the "*Lawrence K.*" case that brought BHRS to Pennsylvania in the early 1990s and in the "*Kirk T.*" case that increased the minimum standards for staff training and supervision in the first years of the 21st century. Numerous Federal court decisions since the 1970s and 42 CFR 438.210 **explicitly** place the authority for making the determination as to whether a given treatment is "medically necessary" on the *prescribing practitioner* rather than any "panel of experts" or other reviewing body, including reviewers employed by managed care organizations. In Pennsylvania, DPW created complaint, grievance and appeal processes that must be followed carefully in order to preserve rights and continue the child's access to BHRS treatment funding while the issues remain unresolved.

If a State Medicaid Authority finds that an improper decision regarding a BHRS prescription has been made, it can overturn that decision. In the pursuit of any challenges to determinations of the medical necessity of BHRS, there is no substitute for the collection of treatment outcome data, especially from BHRS **recipients** or their parents or caretakers. The Institute for Behavior Change is dedicated to enhancing the quality of EPSDT-BHRS delivery in Pennsylvania and elsewhere, and welcomes discussion about these issues to enhance understanding and collaboration.

Sincerely,

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