

Federal regulations giving Medicaid-eligible children enforceable rights to obtain EPSDT services

42 USC § 1396A - STATE PLANS FOR MEDICAL ASSISTANCE

(a) Contents

A State plan for medical assistance must—

(4) provide

(B) for the training and effective use of paid subprofessional staff, with particular emphasis on the full-time or part-time employment of recipients and other persons of low income, as community service aides, in the administration of the plan and for the use of nonpaid or partially paid volunteers in a social service volunteer program in providing services to applicants and recipients and in assisting any advisory committees established by the State agency,

(10) provide—

(A) for making medical assistance available, [including at least the care and services listed in paragraphs \(1\) through \(5\), \(17\), \(21\), and \(28\) of section 1396d\(a\) of this title,](#)

42 USC § 1396D - DEFINITIONS

(a) Medical assistance

The term “medical assistance” means payment of part or all of the cost of the following care and services or the care and services themselves, or both (if provided in or after the third month before the month in which the recipient makes application for assistance or, in the case of medicare cost-sharing with respect to a qualified medicare beneficiary described in subsection (p)(1) of this section, if provided after the month in which the individual becomes such a beneficiary) for individuals, and, with respect to physicians’ or dentists’ services, at the option of the State, to individuals (other than individuals with respect to whom there is being paid, or who are eligible, or would be eligible if they were not in a medical institution, to have paid with respect to them a State supplementary payment and are eligible for medical assistance equal in amount, duration, and scope to the medical assistance made available to individuals described in [section 1396a\(a\)\(10\)\(A\)](#) of this title) not receiving aid or assistance under any plan of the State approved under subchapter I, X, XIV, or XVI of this chapter, or part A of subchapter IV of this chapter, and with respect to whom supplemental security income benefits are not being paid under subchapter XVI of this chapter who are

(i) under the age of 21, or, at the option of the State, under the age of 20, 19, or 18 as the State may choose,

but whose income and resources are insufficient to meet all of such cost—

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42 USC § 1396A(a)(10)(A) continues...

to—

(i) all individuals—

(III) who are qualified pregnant women or children as defined in section [1396d\(n\)](#) of this title,

42 USC § 1396D - DEFINITIONS

(n) "Qualified pregnant woman or child" defined

The term "qualified pregnant woman or child" means—

(2) a child who has not attained the age of 19, who was born after September 30, 1983 (or such earlier date as the State may designate), and who meets the income and resources requirements of the State plan under part A of subchapter IV of this chapter.

Here is paragraph 4 of "section 1396d(a) of this title," referenced above in blue:

(4)

(B) early and periodic screening, diagnostic, and treatment services (as defined in subsection (r) of this section) for individuals who are eligible under the plan and are under the age of 21;

42 USC § 1396D - DEFINITIONS

(r) Early and periodic screening, diagnostic, and treatment services

The term "early and periodic screening, diagnostic, and treatment services" means the following items and services:

(5) Such other necessary health care, diagnostic services, treatment, and other measures described in subsection (a) of this section to correct or ameliorate defects and physical and mental illnesses and conditions discovered by the screening services, whether or not such services are covered under the State plan.

Nothing in this subchapter shall be construed as limiting providers of early and periodic screening, diagnostic, and treatment services to providers who are qualified to provide all of the items and services described in the previous sentence or as preventing a provider that is qualified under the plan to furnish one or more (but not all) of such items or services from being qualified to provide such items and services as part of early and periodic screening, diagnostic, and treatment services.

Conclusion: Medicaid-eligible children -- at least all of those under the age of 19 -- have enforceable rights to obtain EPSDT services, *including mental health treatment.*