

DEPARTMENT OF COMMUNITY HEALTH

MEDICAL SERVICES ADMINISTRATION

STERILIZATION AND HYSTERECTOMY CONSENT PROCEDURES

(By authority conferred on the department of social services by sections 6, 10, and 14 of Act No. 280 of the Public Acts of 1939, as amended, and section 453 of Act No. 380 of the Public Acts of 1965, as amended, being SS400.6, 400.10, 400.14, and 16.553 of the Michigan Compiled Laws)

R 400.7701 Definitions.

Rule 1. As used in these rules:

(a) "Acknowledgement of receipt of hysterectomy information form" means the form approved by the department for use in the medical assistance program to obtain the recipient's acknowledgement that she has received the required hysterectomy information.

(b) "Claim" means any written request for reimbursement for a service, a supply, or an item of equipment rendered to a recipient.

(c) "Department" means the department of social services.

(d) "General assistance medical program" means the department's program to provide for medical assistance established by section 55 of Act No. 280 of the Public Acts of 1939, as amended, being S400.55 of the Michigan Compiled Laws.

(e) "Hysterectomy" means a medical procedure or operation for the purpose of removing the uterus.

(f) "Medical assistance program" means the department's program to provide for medical assistance established by section 105 of Act No. 280 of the Public Acts of 1939, as amended, being S400.105 of the Michigan Compiled Laws, and title 19 of the federal social security act, 42 U.S.C. S1396 et seq.

(g) "Provider" means an individual, firm, corporation, association, agency, institution, or other legal entity which has been approved to provide medical assistance to a recipient pursuant to the medical assistance program or the general assistance medical program.

(h) "Recipient" means an individual eligible to receive medical assistance through the department.

(i) "Sterilization" means any medical procedure, treatment, or operation that is performed for the purpose of rendering an individual permanently incapable of reproducing.

(j) "Sterilization consent form" means the form approved and required by the United States department of health and human services and used by the department in the medical assistance program and the general assistance medical program to obtain the recipient's informed consent to sterilization.

History: 1980 AACCS.

R 400.7702 Recipients excluded from sterilization.

Rule 2. A provider shall not be reimbursed for a sterilization procedure that is performed on a recipient in any of the following situations:

(a) Where the recipient has been declared mentally incompetent by a federal, state, or local court.

(b) Where the recipient is institutionalized in a corrective, penal, mental, or rehabilitative facility.

(c) Where the recipient is under 21 years old.

History: 1980 AACCS.

R 400.7703 Informed consent to sterilization.

Rule 3. (1) A provider shall obtain an informed consent to the sterilization procedure from the recipient and shall complete a sterilization consent form.

(2) The sterilization consent form shall be signed by the recipient to be sterilized, the person who obtained the recipient's consent, and the interpreter, if appropriate, not less than 30, nor more than 180, days before the sterilization procedure, except if a premature delivery or emergency abdominal surgery becomes necessary

during the required minimum 30-day waiting period before the sterilization procedure. In a case of premature delivery, the recipient shall sign the sterilization consent form not less than 72 hours before the sterilization procedure and not less than 30 days before the expected delivery date. In a case of emergency abdominal surgery, the recipient shall sign the sterilization consent form not less than 72 hours before the sterilization procedure.

(3) At the time that the recipient signs the sterilization consent form, the recipient shall not be less than 21 years old and shall not be in labor, seeking to obtain or obtaining an abortion, or under the influence of alcohol or other substance that affects the recipient's state of awareness.

(4) The provider who obtains the recipient's consent shall comply with all of the following:

(a) Permit the recipient to have a witness of his or her own choice present.

(b) Give the recipient a copy of the sterilization consent form.

(c) Advise the recipient that the sterilization will not be performed in less than 30 days, except as set forth in subrule (2) of this rule.

(d) Offer to answer any questions the recipient may have concerning sterilization.

(e) Advise the recipient that he or she is free to withhold or withdraw consent to the sterilization at any time before the sterilization without affecting the right to future care or treatment and without the loss or withdrawal of any federal or state program benefits to which the recipient might be otherwise entitled.

(f) Describe to the recipient available alternative methods of family planning and birth control.

(g) Advise the recipient that the sterilization procedure is considered to be irreversible.

(h) Give a thorough explanation of the specific sterilization procedure to be performed.

(i) Give a full description of the discomforts and risks that may accompany or follow the performing of the procedure, including an explanation of the type and possible effects of any anesthetic to be used.

(j) Give a full description of the benefits or advantages that may be expected as a result of the sterilization.

(5) If the recipient is deaf, blind, or otherwise handicapped, suitable arrangements shall be made by the provider who obtains the recipient's consent to ensure that the information required by these rules is effectively communicated to the recipient before the recipient signs the sterilization consent form.

(6) If the recipient does not understand the language used on the sterilization consent form or the language used by the person who obtains the recipient's consent, the provider shall ensure that an interpreter is provided before the recipient signs the sterilization consent form.

(7) In addition to the requirements of subrule (4) of this rule and shortly before the sterilization procedure, the provider who performs the sterilization shall explain orally to the recipient the requirements for informed consent set forth in subdivisions (d) to (j) of subrule (4) of this rule.

(8) The provider who performs the sterilization shall sign the sterilization consent form after the sterilization procedure. This signature shall constitute certification that the requirements set forth in these rules have been met.

History: 1980 AACCS.

#### R 400.7704 Hysterectomy requirements.

Rule 4. (1) A provider shall not perform a hysterectomy on a recipient solely for family planning purposes.

(2) A provider shall not perform a hysterectomy on a recipient for family planning purposes if the medical indications present do not, by themselves, mandate a hysterectomy.

(3) The provider who performs the hysterectomy shall sign the acknowledgement of receipt of hysterectomy information form, thereby certifying compliance with this rule.

(4) A provider shall obtain the recipient's or the recipient's representative's signature on the acknowledgement or receipt of hysterectomy information form.

(5) The recipient shall be informed in writing, by means of the acknowledgement of receipt of hysterectomy information form, and orally, by the provider, that a hysterectomy will render her permanently incapable of reproducing.

History: 1980 AACCS.

#### R 400.7705 Billing requirements.

Rule 5. (1) The provider who performs the sterilization or hysterectomy procedure shall include any charge for compliance with these rules in the total charge for the sterilization or hysterectomy.

(2) Each provider, that is, the surgeon, anesthesiologist, or hospital, shall obtain a copy of the fully completed sterilization consent form from the provider who obtained the consent and shall submit it with any claim related to the sterilization procedure.

(3) Each provider, that is, the surgeon, anesthesiologist, or hospital, shall obtain a copy of the fully completed acknowledgement of receipt of hysterectomy information form from the provider who obtained the consent and shall submit it with any claim related to the hysterectomy procedure.

History: 1980 AACCS.

R 400.7706 Compliance.

Rule 6. A provider who fails to submit a claim pursuant to the provisions of these rules shall forfeit the provider's right to payment and shall not seek reimbursement from the recipient.

History: 1980 AACCS.