



Advocates for Ohio's Future

Healthchek: Ohio Medicaid's EPSDT Webinar



January 16, 2020



Presenting

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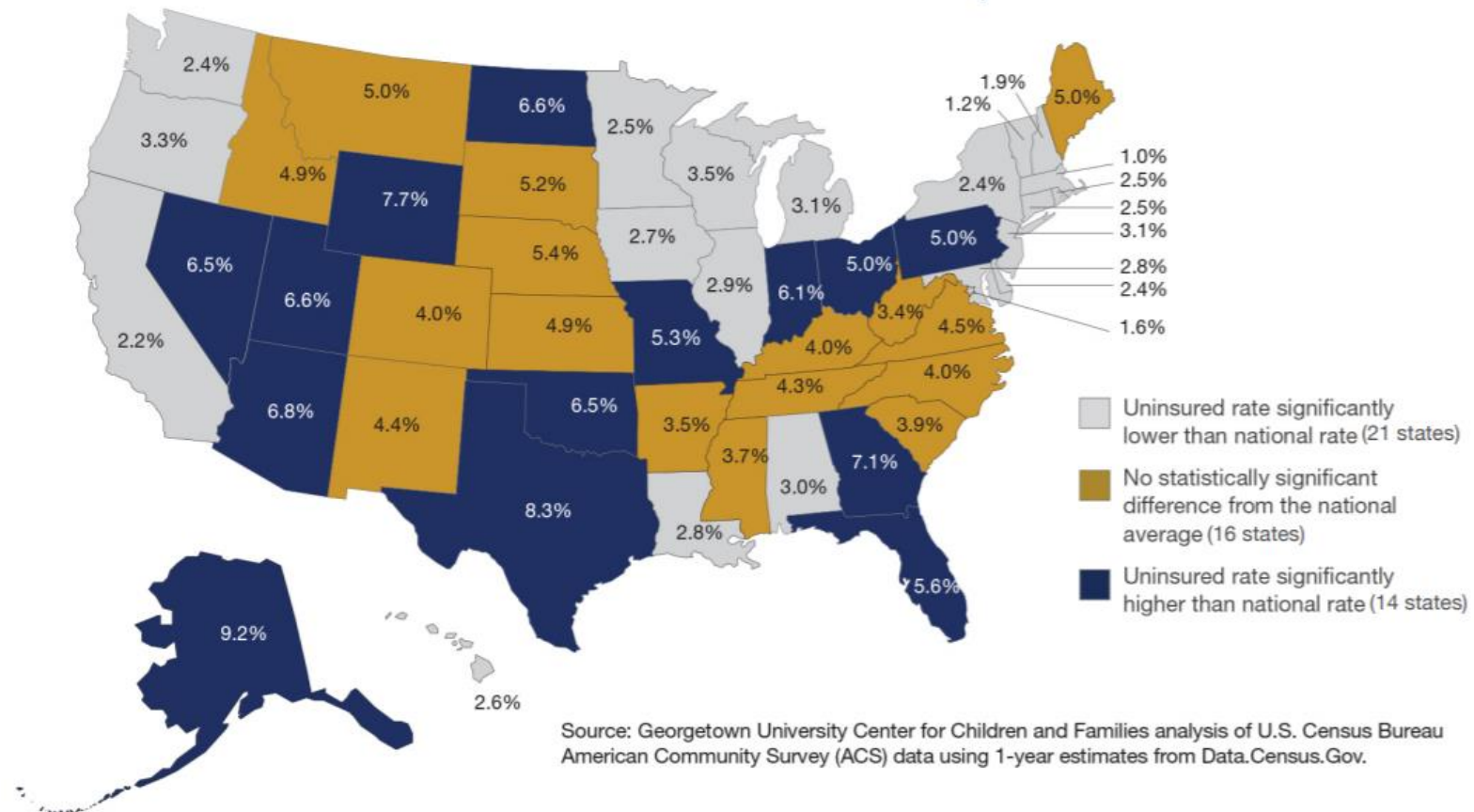




Nation's Youngest Children Lose Health Coverage at Alarming Rate

Georgetown University Center for Children and Families

Figure 5. 14 States Had Significantly Higher Rates of Uninsured Children Under 6 than the National Rate, 2018



Source: Georgetown University Center for Children and Families analysis of U.S. Census Bureau American Community Survey (ACS) data using 1-year estimates from Data.Census.Gov.

What is Ohio's EPSDT Program?

Kristin Hildebrant
Senior Attorney



**Disability
Rights** OHIO

We have the
legal right of way.

EPSDT



- Early and Periodic Screening, Diagnostic and Treatment.
- Federal Medicaid Program applicable to children up to age 21.
- Designed to find and treat health problems early so that children have better outcomes.
- Kids get more (and there is no separate or different eligibility process)

Screening



- Screening services "to detect physical and mental conditions must be covered at established, periodic intervals (periodic screens) and whenever a problem is suspected (inter-periodic screens).
- AAP Bright Futures establishes periodicity of screening (recommendations for preventive pediatric healthcare).

Screening



- Screening includes a comprehensive health and developmental history, an unclothed physical exam, appropriate immunizations, laboratory tests, and health education.

Vision Services



- At a minimum, diagnosis and treatment for defects in vision, including eyeglasses.
- Vision services must be provided according to a distinct periodicity schedule developed by the state and at other intervals as medically necessary.

Hearing Services

- At a minimum, hearing services include diagnosis and treatment for defects in hearing, including hearing aids.

Dental Services



- At a minimum, dental services include relief of pain and infections, restoration of teeth, and maintenance of dental health.
- Dental services may not be limited to emergency services.
- Each state is required to develop a dental periodicity schedule in consultation with recognized dental organizations involved in child health.

Diagnosis



- When a screening indicates the need for further evaluation of an child's health, diagnostic services must be provided.
- Necessary referrals should be made without delay and there should be follow-up to ensure the child receives a complete diagnostic evaluation.

Treatment



- The treatment component of EPSDT is broadly defined.
- Federal law states that treatment must include any "necessary health care, diagnostic services, treatment, and other measures" that fall within the federal definition of medical assistance (as described in Section 1905(a) of the Social Security Act that are needed to "correct or ameliorate defects and physical and mental illnesses and conditions discovered by the screening services."

Treatment



- States are required to provide any additional health care services that are coverable under the Federal Medicaid program and found to be medically necessary to treat, correct or reduce illnesses and conditions discovered regardless of whether the service is covered in a state's Medicaid plan.

State obligations



- Inform all Medicaid-eligible individuals under age 21 that EPSDT services are available and of the need for age-appropriate immunizations;
- Provide or arrange for the provision of screening services for all children;
- Arrange (directly or through referral) for corrective treatment as determined by child health screenings; and
- Report EPSDT performance information annually via Form CMS-416.

Required Reporting



- Number of children provided child health screening services,
- Number of children referred for corrective treatment,
- Number of children receiving dental services,
- State's results in attaining goals set under section 1905(r) of the Social Security Act.

Healthchek: Ohio's EPSDT program



- Ohio's EPSDT program is called Healthchek.
- If a child is Medicaid eligible and can't access a specific service or more of a service through state plan services or a waiver, the child can access the service through Healthchek (if the service is medically necessary).

Healthchek: Ohio's EPSDT program



- State limits on amount, duration and scope of service do not apply to children if more is medically necessary.

Healthchek: Ohio's EPSDT program



- Healthchek is a mandatory set of services and benefits for all individuals under age 21 who are enrolled in Medicaid.
- Think of it as the child health coverage package of Medicaid.
- OAC Chapter 5160-1-14

Healthchek: Ohio's EPSDT program



- The standard of medical necessity is expanded for children under EPSDT.
- treatment must include any "necessary health care, diagnostic services, treatment, and other measures" that fall within the federal definition of medical assistance (as described in Section 1905(a) of the Social Security Act that are needed to "correct or ameliorate defects and physical and mental illnesses and conditions discovered by the screening services." 42 U.S.C. 1396d(r)(5).

Healthchek: Ohio's EPSDT program



- Ohio's definition of medical necessity includes a separate standard for children.
- Medical necessity...is defined as procedures, items, or services that prevent, diagnose, evaluate, correct, ameliorate, or treat an adverse health condition such as an illness, injury, disease or its symptoms, emotional or behavioral dysfunction, intellectual deficit, cognitive impairment, or developmental disability.
- OAC 5160-1-01

Healthchek: Ohio's EPSDT program



- The purpose of EPSDT is to prevent the onset or worsening of disability and illness and children.
- The standard of coverage is necessarily broad to ensure a sufficient level of coverage to not merely treat an already-existing illness or injury but also, to prevent the development or worsening of conditions, illnesses, and disabilities.

Ohio EPSDT Lawsuit



- Filed October 2005. Case name changed several times. *G.D. v. Riley*
- Partial settlement of informing claims in January 2011.
- Remaining issue: Whether Ohio's definition of medical necessity conflicts with requirements of federal EPSDT law and results in the denial of medically necessary services to children.
- Summary judgment resulted in case dismissal on other grounds.
- Medical necessity definition was subsequently changed through advocacy with Department of Medicaid.

Ohio EPSDT Lawsuit



- ***G.D. v. Jones-Kelly***, No. 2:05-CV-980 (S.D. Ohio Oct. 22, 2007) (finding EPSDT provision, (a)(43), **privately enforceable** under § 1983), *same case*, 2007 WL 2206559 (S.D. Ohio July 30, 2007) (finding neither Medicaid Act nor HIPAA precluded disclosure of information and granting plaintiffs' motion to compel **discovery** in case alleging failure of state to provide for EPSDT).

Ohio ABA Lawsuit



- *Parents' League for Effective Autism Servs. v. Jones-Kelley*, No. 08-3931, 2009 WL 2251310 (6th Cir. July 29, 2009)
- Court did not abuse its discretion when preliminarily enjoining the implementation of two state administrative rules restricting EPSDT coverage of **rehabilitative services**), *aff'g*, 565 F. Supp. 2d 905 (S.D. Ohio 2008) (granting preliminary injunction enjoining implementation of two state administrative rules and finding that plaintiffs have a strong likelihood of success in proving that the EPSDT laws require the coverage of **Applied Behavioral Analysis (ABA)** as a rehabilitative service; "plaintiffs would suffer irreparable injury ... because they would experience severe regression in their symptoms" and the injunction would not harm Ohio because "complying with federal Medicaid law is not a harm"), *same case*, No. 2:08-cv-421, 2008 WL 2796744 (S.D. Ohio July 17, 2008) (denying defendant's motion to stay), *same case*, 565 F.Supp.2d 895 (S.D. Ohio 2008) (holding that parents and families of autistic children have a **private right of action** to EPSDT provisions through § 1983).

National litigation



- There are numerous cases throughout the country regarding EPSDT
- Common themes include:
 - Accessing community or evidence-based services (like ABA)
 - What Medicaid is (payor v. provider)
 - Focus on treatment component
 - Private right of action (this is the primary recent trend)

National Litigation



- For more information on litigation across the country, see:
- <https://healthlaw.org/resource/update-on-epsdt-litigation-trends/>
- <https://healthlaw.org/resource/fact-sheet-on-medicaid-epsdt-litigation/>



SEOLS
Southeastern Ohio Legal Services



LASCA
The Legal Aid Society of Columbus

EPSDT: Barriers and Issues Facing Consumers

Kate McGarvey
Executive Director
Ohio State Legal Services Association

Lack of Information

- Lack of knowledge by consumers regarding the EPSDT benefit;
 - Don't know to raise it with provider or on appeal.
- Lack of knowledge by providers regarding the EPSDT benefit;
- Lack of understanding by Managed Care Plans;
- Misconception that EPSDT in Ohio as “Healthchek” is only for screening services.

Specific Services at Issue

- Residential Services for Children
 - If Medicaid eligible and medically necessary, children should be provided with residential services without the requirement of custody relinquishment even though it's not in Ohio's current Medicaid State Plan.
- Home Care Services for Children
 - If Medicaid eligible and medically necessary, children should be provided with home care service including nursing regardless of whether they are covered by an existing waiver.

Specific Services at Issue

- Durable Medical Equipment
 - Even if the durable medical equipment isn't provided to adults, if it's medically necessary for the Medicaid eligible child, it should be provided (modified car seats, wheelchairs more frequently than would otherwise be permitted, etc).
- Dental Services
 - Orthodontics when medically necessary should be covered for children but often are not.

Specific Services at Issue

- Medical Treatments
 - Some specific medical treatments should be covered if it's medically necessary even if it wouldn't be covered for adults.

A Provider Perspective: Challenges and Recommendations



Teresa Lampl, CEO

EPSDT Provider Perspective - Challenges

- HealthCheck is largely viewed as preventative, well-child care program rather than a rich EPSDT benefit.
- Lack of information about EPSDT and a defined process for accessing services under this benefit.
- Limited routine reimbursement for screening and assessment
 - Medical office based – not community based.
 - Behavioral health screening treated as a singular issue rather than multiple conditions (e.g. depression, anxiety, ADHD, alcohol use, autism, etc).
 - Benefit limits on repeated screenings
- Limited providers of some services – dental, home health, interpreters
 - Overall healthcare workforce shortages impact nursing, psychiatry, mental health, addiction services and pediatric specialties generally.

EPSDT: Provider Perspective - Challenges

- Medicaid managed care prior authorization practices create disincentives to seek services outside the usual menu of care.
- Denial and appeals process are administratively burdensome, costly, complex, and time consuming – and are often unsuccessful.
- Parent and family engagement in appeals and denials creates sense of hopelessness and fatigue.
- Delays in accessing care often necessitates an increase level of care – starts the process over.
- Individually negotiated reimbursement for “non-standard” services rarely cover cost of service delivery and staffing.

EPSDT Provider Perspective – Service Specific

- **Behavioral Health Residential Treatment**

- Ohio Medicaid reimbursement limited to treatment services. Doesn't cover additional staffing or room and board.

- **Home-based Services**

- Limited provider capacity or opportunity for 24-hour supervision and care, nursing, and/or support services.

- **Family Counseling and Support**

- Evidence-based family and caregiver support services, such as respite, coaching, and peer support are largely unavailable.

Medicaid Managed Care Re-Procurement

- In 2020 the Department of Medicaid will be entering into new contracts with the Managed Care Organizations that administer the Medicaid program for most recipients.
- The Department began soliciting feedback from stakeholders in Fall 2019.
- Approximate Timeline:
 - Request for information from consumers and advocates (Fall 2019 - Now)
 - Request for Information from Providers (Spring 2020)
 - Contract bidding process (Summer/Fall 2020)
 - Implementation (Winter 2020 and beyond)

Feedback and recommendations can be submitted online at:
[Medicaid.Ohio.Gov](https://www.Medicaid.Ohio.Gov)

EPSDT Recommendations for Re-Procurement:

- EPSDT Training and Education
 - Parents, providers, and managed care should be provided with easy to understand training materials, including web-based content, on the EPSDT benefit equal to the training requirements for HealthCheck.
- EPSDT Family Navigator or Ombudsman
 - Ohio Medicaid should consider establishing a single point of contact within the Department to support families in navigating the EPSDT benefit that must be prominently displayed and shared with every parent of a child under age 21 annually by managed care.
- Specialized and Expedited EPSDT Authorization Process
 - Require Medicaid managed care plans to have a fast-track process with highly trained staff to review service requests under EPSDT. Decisions and appeals completed in 48 hours.
 - Make it easier for families to understand how to request prior authorization under EPSDT.
- Accountability and Transparency
 - Clear reporting requirements and posting of reports publicly.
- Rule Clarification
 - To ensure that EPSDT is clearly listed as an exception to the standard rules for when services are provided in each of those sections.



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