



## The Right to Medically Necessary Treatment for Florida's Children

**Background:** Under the federal Medicaid Act, children enrolled in Medicaid are entitled to Early and Periodic Screening, Diagnosis and Treatment Services (also referred to as EPSDT.) In addition to specifying a comprehensive set of benefits, like periodic screenings and vision, dental and hearing services, the federal law also establishes a standard of “medical necessity” that applies in determining whether a prescribed Medicaid service for an individual child must be covered.

This fact sheet compares the federal standard of medical necessity for children with Florida's standard; cites state court decisions finding that Florida's standard for medical necessity is overly restrictive for children; and provides contact information for parents and providers if a child/patient has been denied coverage of a service that the pediatrician believes is medically necessary.

**Federal standard of medical necessity for children:** For child Medicaid enrollees, states must cover “necessary health care, diagnostic services, treatment and other measures...*to correct or ameliorate* defects and physical and mental illnesses and conditions...”. 42 U.S.C. §1396d(r)(5). There are only a few, narrow limitations to the EPSDT coverage mandate:

- The benefit or service must fall within Medicaid's scope: EPSDT requires the state to cover all mandatory and optional services that the state can cover under Medicaid, whether or not such services are covered for adults. *See* 42 U.S.C. 1396d(a)(listing the scope of benefits).
- The requested benefit or service cannot be experimental or investigational.
- Less costly benefits or services can be covered but must be equally effective.

For example, if a child needs an hour of physical therapy (a service that falls within Medicaid's optional coverage scope) twice a week for 6 months to correct or ameliorate a health problem, then EPSDT requires the Medicaid agency (or Medicaid managed care plan) to cover the service.

**Florida's standard of medical necessity for children:** In determining medical necessity, Florida applies the standard set forth in the state's definition of medical necessity under Rule 59G-1.010, F.A.C. Among other things, the Florida standard for determining medical necessity requires that the prescribed service be: “necessary to protect life, to prevent significant illness or significant disability, or to alleviate severe pain.” Florida applies the same standard to both children and adults.

**Florida’s standard of medical necessity for children is overly restrictive:** Florida state courts have repeatedly found that Florida’s definition of medical necessity for children is overly restrictive and, as a result, ordered that the child’s requested benefit or service be covered by Florida’s Medicaid program. *See, C.F. v. Department of Children and Families*, 934 So. 2d 1, 7 (Fla.3d DCA 2005)(in evaluating whether a state agency correctly analyzed a child’s need for Medicaid services under Fla. Admin. Code R. 59G-1.010, the court held that the agency “incorrectly used more restrictive definitions of medical necessity’ ...than federal law requires.”); *see also, Q.H. v. Sunshine State Health Plan*, 307 So.3d 1, 12 (Fla. 4th DCA 2020)(finding that “under the EPSDT, the state’s assessment of medical need for a child’s treatment ‘cannot be limited to a predefined list of criteria.’ “)(citations omitted) ; *I.B. v. AHCA*, 87 So.3d 6 (Fla. 3d DCA 2012);*E.B. v. AHCA*, 94 So.3d 708 (Fla.4th DCA 2012).

**What should happen if a child's healthcare provider has a different opinion about medical necessity than the Medicaid managed care plan or Agency?** While both the Agency or managed care plan and the prescribing physician have a role to play in determining medical necessity, if the service (including the prescribed *amount* of the service, e.g. twice a week for 6 months) falls within Medicaid’s scope of benefits, then the federal “correct or ameliorate” standard must apply.

**If a child/patient has been denied coverage of a service the pediatrician believes is medically necessary, please contact Florida Health Justice Project through our website at:** <https://www.floridahealthstories.org/contact>. Please also feel free to contact Miriam Harmatz or Katy DeBriere directly, [harmatz@floridahealthjustice.org](mailto:harmatz@floridahealthjustice.org), [debriere@floridahealthjustice.org](mailto:debriere@floridahealthjustice.org).