AETNA BETTER HEALTH®

**d/b/a Aetna Better Health of Louisiana**

Policy

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| Policy Name: | Abortion Procedures | Page: | 1 of 8 |
| Department: | Medical Management | Policy Number: | |
| Subsection: | | Effective Date: | 01/01/2023 |
| Applies to: | ■ Medicaid Health Plans | | |

***PURPOSE:***

**The purpose of this policy is to describe the health plan's process for prior authorization decision making and reimbursement for abortion procedures.**

***STATEMENT OF OBJECTIVE:***

**The objectives of the policy are to assure appropriate authorization of abortion procedures are made in accordance with La. R.S. 40.1061.6 and Public Law 113-76, Division H, Title V, §506 and §507:**

- **UM decisions on abortion must be prior approved before the service is rendered to ensure compliance with federal and state regulations**
- **UM approval decisions on abortion are made only if the requirements of the Hyde Amendment are met[1]**
- **UM approval decisions are documented in the appropriate business application system and in such a way that the documentation supports the decision and explains the decision reasoning**
- **Practitioner reviewers are utilizing the current documentation form and capturing all required data elements**
- **Practitioner reviewers are readily available and respond in a timely manner for UM case consultation (peer-to-peer)**
- **Must meet requirements of the new 2020 Legislative bills for Abortion reflecting the overturn of Roe vs Wade Abortion legislation**

***DEFINITIONS:***

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| **Aetna Medicaid Medical Management (Aetna Medicaid MM)** | **Provides oversight, support and resources to the health plan. MM teams assist health plans. MM teams assist health plans with problem-solving, development of solutions, best practice dissemination and development of key systems, policies and processes.** |

[1] La. R.S. 40.1061.6 and the Consolidated Appropriations Act, 2014, Public Law 113-76, Division H, Title V, §506 and §507).

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| **Aetna Medicaid Medical Management (MM) Chief Medical Officer** | **A full-time physician who is board certified with an active unencumbered license and who serves as the lead for the health plan's MM unit.** |
| **Hyde Amendment** | **A federal amendment that prohibits abortion coverage for people enrolled in Medicaid.** |
| **Medically Necessary/Medical Necessity** | **This term refers to services or supplies for diagnosing, evaluating, treating or preventing an injury, illness, condition or disease, based on evidence-based clinical standards of care. Medically necessary services are accepted health care services and supplies provided by health care entities, appropriate to evaluation and treatment of a disease, condition, illness or injury and consistent with the applicable standard of care. Determination of medical necessity is based on specific criteria.**<br>**Note: This definition is based on the Centers for Medicare & Medicaid Services (CMS) and American College of Medical Quality (ACMQ) definitions.** |
| **National Committee for Quality Assurance (NCQA)** | **A not-for-profit organization that performs quality-oriented accreditation reviews on health maintenance organizations and similar types of managed care plans.** |
| **Peer-to-peer consultation** | **A discussion between a requesting practitioner and a medical director/physician reviewer concerning a denial of coverage based on medical necessity. The discussion may occur before or after the medical necessity decision. A peer-to-peer review is optional and is not part of or a prerequisite for an appeal.** |
| **Practitioner Reviewer** | **A physician or dentist who conducts utilization review on behalf of the health plan. The reviewer can be either employed by the health plan or contracted by the health plan to perform utilization review. This does not include individuals who are employed or contracted by entities to which a health plan has delegated utilization management decision-making.** |

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***LEGAL/CONTRACT REFERENCE:***

- **2020 Louisiana Medicaid Managed Care Organization Statement of Work, Section 6.17**
- **2022 Louisiana Medicaid Managed Care Organization Manual, Part 4: Services**
- **Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2014, Public Law 113-76, Division H, Title V, §506 and §507**
- **Louisiana Legislature La. R.S. 40.1061.6 and the Consolidated Appropriations Act, 2014, Public Law 113-76, Division H, Title V, §506 and §507).**
- **Louisiana State Legislature Chapter 5: Health provisions: Abortion Section 1061 Human Life Protection Act (https://legis.la.gov/legis/Law.aspx?d=97020)**
- **2022 Louisiana Act 545 Application of Abortion statutes (https://ldh.la.gov/assets/hss/LegActs/2022/SB-342-Act-545_Application-of-Abortion-statutes.pdf)**
- **2022 Louisiana Bill SB342 Regular Session (https://gov.louisiana.gov/assets/docs/2022session/CortezLtr20220618SigningStatementSB342.pdf)**
- **Louisiana Medicaid Provider Manual, covered Services Chapter 5; Section 5.1**

***RESOURCES***

- **AMA 7000.17 Utilization Management Roles and Responsibilities CORPORATE POLICY**
- **AMA 7200.05 Concurrent Review /Observation Care CORPORATE POLICY**
- **AMA 7100.05 Prior Authorization CORPORATE POLICY**
- **A-LA 7100.05 Prior Authorization Amendment**
- **Ama 7200.34 Decision Making Criteria Notification CORPORATE POLICY**

***FOCUS/DISPOSITION:***

**The health plan confirms decisions associated with the utilization review of abortions are compliant with federal and state regulations.**

***Responsibilities***

**The chief medical officer (CMO) is responsible for directly overseeing the prior authorization of abortions. The health plan develops and maintains policies and procedures relative to abortions and will confirm the decision making of abortions are compliant with federal and state regulations, including the Hyde Amendment limitations. The health plan will triage incoming standard and expedited requests for services based upon the need for urgency due to the member's health condition.**

***Medical Director Reviewer Responsibilities***

**Authorization requests that do not meet federal and state regulations for abortions will be presented to the medical director for review. The medical director will make a medical necessity decision using clinical judgment to approve or deny the request while maintaining compliance with federal and state regulations.**

***Criteria for Abortions[2]***

**Abortions must be prior approved before the service is rendered to guarantee compliance with federal and state regulations.**

**The use of public funds to provide induced abortion services must meet applicable state and federal laws, including the requirements of the Hyde Amendment (currently found in La. R.S. 40.1061.6 and the Consolidated Appropriations Act, 2014, Public Law 113-76, Division H, Title V, §506 and §507).**

**Elective abortions are not covered, and abortion services can only be performed by a licensed physician[3].**

**ABHLA will provide for abortions in accordance with 42 CFR Part 441, Subpart E, and the requirements of the Hyde Amendment (currently found in the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2014, Public Law 113-76, Division H, Title V, §506 and §507) and only if:**

[2]2020 Louisiana Medicaid Managed Care Organization Statement of Work, Section 6.17
[3]Louisiana Department of Health Act 411 Women's Right to Know; Act 545

- **A woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself that would, as certified by a physician place the woman in danger of death unless an abortion is performed; or**
- **The pregnancy is the result of an act of rape or incest.**

**For abortion services performed because of a physical disorder, a physician must certify in their handwriting, that on the basis of their professional judgment, the life of the pregnant woman would be endangered if the fetus were carried to term. The provider will:**

- **Attach the certification statement to the claim form that will be retained by ABHLA. The certification statement will contain the name and address of the patient. The diagnosis or medical condition which makes the pregnancy life endangering will be specified on the claim.**

**For abortion services performed as the result of an act of rape or incest the following requirements will be met:**

- **The member will report the act of rape or incest to a law enforcement official unless the treating physician certifies in writing that in the physician's professional opinion, the victim was too physically or psychologically incapacitated to report the rape or incest;**
- **The report of the act of rape or incest to law enforcement official or the treating physician's statement that the victim was too physically or psychologically incapacitated to report the rape or incest will be submitted to ABHLA along with the treating physician's claim for reimbursement for performing an abortion;**
- **The member will certify that the pregnancy is the result of rape or incest, and this certification will be witnessed by the treating physician; and**
- **The Certification of Informed Consent--Abortion, which may be obtained from the Louisiana Office of Public Health via the request form or by calling (504) 568-5330, will be witnessed by the treating physician. Providers will attach a copy of the Certification of Informed Consent--Abortion form to their claim form.**
- **All claim forms and attachments will be retained by ABHLA. Aetna will forward a copy of the claim and its accompanying documentation to LDH.**

**No other abortions, regardless of funding, can be provided as a benefit under this Contract. Aetna Better Health of Louisiana will not make payment for any core benefit or service under the Contract to a network or non-network provider if any abortion performed hereunder violates federal regulations (Hyde Amendment).**

***Claims[3]***

- **Hard-copy claims are required for review.**

- **All claim forms and attachments will be retained by ABHLA. ABHLA will forward a copy of the claim and its accompanying documentation to LDH.**
- **All associated providers requesting reimbursement must attach a copy of the "Office of Public Health Certification of Informed Consent-Abortion" form to their claim form.**
- **A physician certification statement must be attached to a claim form, confirming the condition related to the procedure and will be retained by the health plan. The certification statement will contain the name and address of the patient. The diagnosis or medical condition which makes the pregnancy life endangering will be specified on the claim.**

**As a condition of reimbursement, claims for treatments related to a threatened, incomplete, or missed abortion must include the member history and complete documentation of treatment. Supportive documentation that will substantiate reimbursement may include one or more of the following, but is not limited to:**

- **Sonogram report showing no fetal heart tones;**
- **History indicating passage of fetus at home, en route, or in the emergency room;**
- **Pathology report showing degenerating products of conception; or**
- **Pelvic exam report describing stage of cervical dilation.**

***OPERATING PROTOCOL:***

***Systems***

- **All authorization requests are documented in the business application system prior authorization module**

***Measurement***

- **Percent compliance for individual practitioner reviewers and overall health plan for each of the following indicators:**
  - **Use of appropriate medical necessity criteria**
  - **Timely decisions**
  - **Appropriate documentation**
  - **Practitioner reviewers' responsiveness**

- **Appropriate and consistent application of the medical necessity criteria**

***Reporting***

- **Summary reports are submitted to:**
  - **Aetna Medicaid MM CMO**
  - **Aetna Medicaid senior medical director of Utilization Management**
  - **Aetna Medicaid director of Utilization Management**
  - **Aetna Medicaid Utilization Management Steering Committee**
  - **Aetna NMQM director**

***INTER-/INTRA-DEPENDENCIES:***

***Internal***

- **Aetna Medicaid MM chief medical officer**
- **Aetna Medicaid senior director of Utilization Management**
- **Aetna Medicaid director of Utilization Management**
- **Aetna Better Health chief medical officer**
- **Internal and external practitioner reviewers**
- **Medical directors**

***External***

- **Louisiana Department of Health**
- **Members**
- **Practitioners and providers**

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Aetna Better Health

Richard C. Born
Chief Executive Officer

Madelyn M. Meyn, MD
Chief Medical Officer

| Review/Revision History | |
|---|---|
| 11/2022 | Added contract language |