CDC: Medicaid Coverage of Postpartum LARCs

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Medicaid Coverage of Postpartum LARCs

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**Medicaid Coverage of Postpartum LARCs: Definitions**

**“Off-label”**
A drug or medical device that has not been approved or cleared by FDA

**“Medically acceptable”**
Supported by certain compendia and authoritative medical literature and/or accepted standards of medical practice

**“Standard of Care”**
The level at which a reasonably prudent professionals with similar training and experience in similar communities will practice under the same or similar circumstances.

The duty owed by a health worker to a patient.
Medicaid Coverage of Postpartum LARCs

Off-label Use

As much as 60% of all prescriptions are off-label


Most prescriptions for children occur off-label

Medicaid Coverage of Postpartum LARCs

The Courts: The Medicaid Act

Where federal statute is silent or ambiguous, courts examine permissible agency construction of the applicable statute.


“The Medicaid Act gives the states substantial discretion to choose proper mix of amount, scope, and duration limitations on coverage, as long as care and services are provided in best interest of recipients.”


“[B]ecause the States are independent sovereigns in our federal system, we have long presumed that Congress does not cavalierly pre-empt state-law causes of action.”

The Courts: Reasonable Standards Requirement

“According to the Medicaid Act, "[a] State plan for medical assistance must... include reasonable standards... for determining eligibility for and the extent of medical assistance under the plan which... are consistent with the objectives of this [Act]."

42 U.S.C. §1396a(a)(17).

Examples:

- Planned Parenthood Arizona, Inc. v. Humble, 753 F.3d 905, 914 (9th Cir.) cert. denied, 135 S. Ct. 870, 190 L. Ed. 2d 702 (2014).
- Weaver v Reagen, 886 F.2d 194 (8th Cir. 1989).
Medicaid Coverage of Postpartum LARCs

Postpartum LARCs

CDC: Implants and copper and levonorgestrel IUDs are safe & highly effective methods of contraception any time postpartum, including after Cesarean Section and postabortion.


ACOG: Implants and IUDs are “safe and effective” any time postpartum, including after Cesarean Section and postabortion.

*American Congress of Obstetrician-Gynecologists, Practice Bulletin (Clinical Management Guidelines for Obstetrician-Gynecologists, Number 121, Jul., 2011)*
Medicaid Coverage of Postpartum LARCs

Guidance for reimbursement of postpartum LARC
Requiring Insurers Cover Off-label Use

E.g. New Hampshire:

“No insurer that issues or renews any individual policy of accident or health insurance providing benefits for medical or hospital expenses and providing coverage for prescription drugs shall:
(a) Exclude coverage for any such drug for a particular indication on the ground that the drug has not been approved by the Food and Drug Administration (FDA) for that indication, if such drug is recognized for treatment of such indication in one of the standard reference compendia or in the medical literature…”

Thank You

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The findings and conclusions of this presentation are those of the author and do not necessarily represent the official position of the Centers for Disease Control and Prevention.
Questions?

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