CHAPTER 135.

DEMONSTRATION WAIVER SERVICES.

PART I.

FAMILY PLANNING WAIVER.

12 VAC 30-135-10. Definitions.

The following words and terms when used in this part shall have the following meanings unless the context clearly indicates otherwise:

"Eligible family planning waiver recipient" means a woman of child-bearing years (9 to 57 years of age) who received a Virginia Medicaid reimbursed pregnancy-related service on or after October 1, 2002, who is less than 24 months postpartum, who has income less than or equal to 133% of the federal poverty level, and who [~~is~~ has not ~~been~~] otherwise [been determined] eligible for Virginia Medicaid [~~covereage~~ coverage] ~~.~~

"FDA" means the Food and Drug Administration.

"Family planning" means those services necessary to prevent or delay a pregnancy. It shall not include services to promote pregnancy such as infertility treatments. Family planning does not include counseling about, recommendations for or performance of abortions, or hysterectomies or procedures performed for medical reasons such as removal of intrauterine devices due to infections.

"Pregnancy-related service" means medical services rendered to monitor, manage, and treat issues related to pregnancy, labor, and delivery during the women’s gestation.

"Third party" means any individual entity or program that is or may be liable to pay all or part of the expenditures for medical assistance furnished under the State Plan for Medical Assistance.

"Over-the-counter" means drugs and contraceptives that are available for purchase without requiring a physician's prescription.

12 VAC 30-135-20. Administration and eligibility determination.

A. The Department of Medical Assistance Services shall administer the family planning demonstration waiver services program under the authority of § 1115(a) of the Social Security Act and 42 USC § 1315.

B. Local departments of social services shall be responsible for determining eligibility of and for enrolling eligible women in the family planning waiver. Local departments of social services shall conduct periodic reviews and redeterminations of eligibility at least every 12 months while recipients are enrolled in the family planning waiver.

~~[C. A recipient's enrollment in the family planning waiver shall be terminated if a reported change or annual redetermination results in the woman's categorical eligibility for Virginia Medicaid or ineligibility for the family planning waiver. A 10-day advance notice must be provided prior to cancellation of coverage under the family planning waiver.]~~

[~~D.~~C.] [~~Women~~ Effective October 1, 2003, women] enrolled in [the] Virginia Medicaid [program under the medically indigent] as a pregnant woman [covered group and who receive a Medicaid reimbursed pregnancy related service on or after October 1, 2003] will be notified during their 60-day postpartum period that [~~their~~ the] Medicaid benefits [they received during their pregnancy] will be terminated effective the end of the month in which their 60-day postpartum period expires [and, at which time they will be automatically eligible for enrollment in the family planning waiver]. The cancellation notice will

[~~include information about possible eligibility for extended coverage for the family planning waiver for 22 months following the end of their 60-day postpartum period. The notice will provide information about how to apply for services~~ instruct women who believe they qualify for a Medicaid covered group that does not limit benefits to complete a Medicaid application and to contact their Medicaid eligibility worker at the local department of social services if they do not desire enrollment in the family planning waiver].

[D. Women enrolled in the Virginia Medicaid Program under the medically needy pregnant woman covered group will not be automatically eligible for the family planning waiver. These women will be notified during their 60 day postpartum period that their Medicaid eligibility will end at the end of their 60 day postpartum period and if they wish to be evaluated for further coverage under Medicaid they should contact their Medicaid eligibility worker at the local department of social services.]

[E. Women enrolled in the Virginia Medicaid program under the medically indigent pregnant woman covered group and received a Medicaid reimbursed pregnancy related service between October 1, 2002 to September 30, 2003, will not be eligible for automatic enrollment in the family planning waiver. These women will be notified during their 60 day postpartum period that their Medicaid benefits will be terminated effective the end of the month in which their 60-day postpartum period expires. The cancellation notice will include information about possible eligibility for extended family planning coverage under the family planning waiver and instruct women how to apply for the waiver and other Medicaid covered groups.]

12VAC30-135-30. Eligibility.

[**A.** To be eligible under the family planning waiver a woman must have experienced a Medicaid funded pregnancy related service on or after October 1, 2002, be between the ages of 9-57 and less than 24 months postpartum, have income less than or equal to 133% of the federal poverty level, and not enrolled in another Medicaid covered group.]

[B. ~~A.~~] Women enrolled in the waiver, but who subsequently fail to meet the requirements of an eligible family planning waiver recipient (for example, reach the age of 58), will no longer be eligible for the family planning waiver.

[C. ~~B].~~ Women who do not meet the alien eligibility requirements for full Virginia Medicaid coverage and whose labor and delivery is paid as an emergency medical service under Medicaid shall not be eligible to participate in the family planning waiver.

[D. A recipient's enrollment in the family planning waiver shall be terminated if a reported change or annual redetermination results in the woman's categorical eligibility for Virginia Medicaid or ineligibility for the family planning waiver. A 10-day advance notice must be provided prior to cancellation of coverage under the family planning waiver.]

12 VAC 30-135-40. Covered services.

A. Services provided under the family planning waiver are limited to:

1. Family planning office visits including annual gynecological exams (one per 12 months), sexually transmitted diseases (STD) testing (limited to the initial family planning encounter), Pap tests (limited to one every six months);

2. Laboratory services for family planning and STD testing;

3. Family planning education and counseling;

4. FDA approved contraceptives, including diaphragms, contraceptive injectables, and contraceptive implants;

5. Over-the-counter contraceptives; and

6. Sterilizations, not to include hysterectomies. A completed sterilization consent form, in accordance with the requirements of 42 CFR Part 441, Subpart F, must be submitted with all claims for payment for this service.

B. Services not covered under the family planning waiver include, but are not limited to:

1. Performance of, counseling for, or recommendations of abortions;

2. Infertility treatments;

3. Procedures performed for medical reasons;

4. Performance of a hysterectomy; and

5. Transportation to a family planning service.

12 VAC 30-135-50. Provider qualifications.

Services provided under this waiver must be ordered or prescribed and directed or performed within the scope of the licensed practitioner. Any appropriately licensed Medicaid enrolled physician, nurse practitioner, or medical clinic may provide services under this waiver.

12 VAC 30-135-60. Quality assurance.

The Department of Medical Assistance Services shall provide for continuing review and evaluation of the care and services paid by Medicaid under this waiver. To ensure a thorough review, trained professionals shall review cases either through desk audit or through on-site reviews of medical records. Providers shall be required to refund payments made by Medicaid if they are found to have billed Medicaid for services

not covered under this waiver, if records or documentation supporting claims are not maintained, or if bills are submitted for medically unnecessary services.

12 VAC 30-135-70. Reimbursement.

Providers will be reimbursed on a fee-for-service basis.

All reasonable measures including those measures specified under 42 USC § 1396 (a) (25) will be taken to ascertain the legal liability of third parties to pay for authorized care and services provided to eligible recipients.

12 VAC 30-135-80. Recipients' rights and right to appeal.

Women found eligible for and enrolled in the family planning waiver shall have freedom of choice of providers. Women will be free from coercion or mental pressure and shall be free to choose their preferred methods of family planning. The client appeals process at 12 VAC 30-110 shall be applicable to applicants for and recipients of family planning services under this waiver.

[12 VAC 30-135-99. Sunset provision. Consistent with federal requirements applicable to this § 1115 demonstration waiver, these regulations shall expire effective with the termination of the federally approved waiver.]

CERTIFIED: I hereby certify that these regulations are full, true, and correctly dated.

6/26/2003
Date

/s/ P. W. Finnerty
Patrick W. Finnerty, Director
Dept. of Medical Assistance Services