

## When Plans Opt Out: Family Planning Access In Medicaid Managed Care

*New York State is taking a variety of steps to ensure that Medicaid recipients have access to family planning services if the managed care plan in which they are enrolled declines for religious reasons to provide them. Its efforts illustrate the enormity of the challenge, with implications for other states facing similar situations.*

By Patricia Donovan

With the proliferation of managed care in recent years, it has become apparent that there is an inherent tension between managed care and access to family planning services when people needing these services are enrolled in health care plans in which individual doctors—and sometimes even the plan itself—refuse on moral or religious grounds to provide them. This tension is particularly stark when the managed care enrollees are Medicaid recipients, who by law are entitled to family planning. The conflict between enrollees' entitlement and individual and institutional conscience is currently in the spotlight in New York, where the state is seeking to ensure access to family planning services for Medicaid recipients enrolled in a Catholic managed care plan that will not provide or directly refer for these services.

### Background

Traditionally, Medicaid recipients have been able to go to the health care provider of their choice for all covered services, including family planning. Beginning in the late 1970s, however, state Medicaid programs began to experiment with managed care as a way to reduce costs and improve service delivery. By the mid-1980s, Congress allowed states in some circumstances to waive recipients' "freedom of choice" and lock them into managed care plans, which by definition limit members to a prescribed network of providers. As if in anticipation of the problems to come, however, Congress prohibited states (in most but not all so-called waiver programs) from abrogating recipients' freedom of choice where family planning is concerned.

New York is one of 16 states that have adopted statewide mandatory Medicaid managed care programs. Over the next few years, New York expects to enroll some 2.1 mil-

lion Medicaid recipients in managed care plans. (Even before enrollment under the statewide program began in October 1997, some beneficiaries had been required to enroll in managed care plans through county-level programs or had joined them voluntarily.) While not technically required to do so, New York—like most states requiring Medicaid recipients to join managed care plans—retains freedom of choice for family planning (see box, page 9).

One of the major challenges facing New York is to make the freedom to obtain family planning from the provider of their choice a reality for all Medicaid beneficiaries, including those who enroll in Fidelis Care, a Catholic-sponsored plan that serves Medicaid recipients exclusively. Fidelis, which began operation in 1993, currently has about 60,000 members; its membership is expected to increase significantly as Medicaid managed care spreads throughout the state. Following a strict interpretation of the Church's *Ethical and Religious Directives for Catholic Health Care Services*, Fidelis refuses to provide or make direct referrals to other providers for contraceptive services or sterilization, which is considered to be family planning under the Medicaid program. (Nor will Fidelis cover or refer for abortion, to which recipients are entitled under state law.)

### State Efforts to Ensure Access

Since enactment of its Medicaid Managed Care Act of 1996, New York has taken steps to ensure that Medicaid recipients generally, and Fidelis enrollees in particular, understand their rights and know how to obtain family planning services. In February 1997, the Department of Health issued a policy statement on access to family planning in Medicaid managed care that requires plans to "assure individuals of childbearing age (including minors who can be considered to be sexually active) access to the full range of family planning and reproductive health services from any qualified provider." The statement, which was sent to all managed care organizations, family planning providers and local social services and health commissioners, directs plans to inform Medicaid recipients of this policy—known in New York as the "free access" policy—at the time of enrollment, to explain it prominently in their member handbooks and to furnish members with a list of local providers both within and outside the network.

Subsequent state guidelines require Fidelis to inform members and prospective enrollees that family planning services are available from any provider who accepts Medicaid; that no referral is required to obtain these services; and that there will be no cost to the member for doing so. This information must be included in the plan's marketing materials and member handbook and provided orally at the time of enrollment.

In addition, Fidelis is required to give all new members, before they are locked into the plan, a letter from the health department explaining how to obtain family planning services along with a list compiled by the department of approved providers in the area. If a member or prospective enrollee requests information about family planning, the plan's member services department must explain the free access policy, mail the health department's letter and list to the caller within 48 hours and provide a hotline number that can provide further information.

There is nothing in the guidelines, however, that requires Fidelis doctors to answer patients' inquiries personally; it appears that they may simply refer patients to the plan's member services department for information about the free access policy. At the same time, Fidelis must inform all primary care physicians, obstetricians and gynecologists in the Fidelis network that while the plan does not cover family planning, they may provide these services and bill the state if they participate in the Medicaid program.

### Warning Signs

Studies consistently have shown that managed care enrollees generally know little about their plan's coverage, and communication about covered services is likely to be especially problematic when the plan, as a matter of principle, disapproves of certain services. How effective New York's directives will be in ensuring that Fidelis enrollees are fully informed about the plan's restrictions and understand how to obtain family planning remains to be seen. Early indications are not particularly encouraging, however.

In 1995, Shirley Gordon, director of FAIR: Health Care Reform, a project of the Center for Reproductive Law and Policy, conducted a series of focus groups with Medicaid managed care enrollees throughout the state. She concluded that "confusion and misinformation about the free access policy appear to be the rule rather than the exception."

Gordon also noted that most Fidelis participants, enrolled in the plan as part of a mandatory Medicaid managed care demonstration project in Brooklyn, reported that they had not known when they joined that Fidelis did not provide contraception and other reproductive health services and that they had never seen the member handbook. In a new round of focus groups with Fidelis members in Brooklyn earlier this year, most enrollees again reported that they had not been told that the plan did not cover family planning or that these services were available through Medicaid.

Meanwhile, a survey of Fidelis doctors in Nassau County on Long Island in fall 1997 by the local Planned

STATEWIDE MANDATORY MEDICAID MANAGED CARE PROGRAMS*	
STATES RETAINING FREEDOM OF CHOICE FOR FAMILY PLANNING	STATES NOT EXTENDING FREEDOM OF CHOICE FOR FAMILY PLANNING
DELAWARE FLORIDA ILLINOIS MARYLAND MASSACHUSETTS MINNESOTA NEW YORK OHIO OKLAHOMA OREGON VERMONT	ARIZONA HAWAII KENTUCKY† RHODE ISLAND TENNESSEE
<i>*Does not include statewide programs that have not been implemented nor those approved only for specific services or population groups. †While enrollees may not obtain family planning services from providers not affiliated with their managed care plans, HCFA requires plans to contract with all Title X providers in their service area.</i>	

Parenthood affiliate found that while almost all of the doctors knew that Fidelis did not cover family planning, they either were unaware that members could go out of network to obtain these services with their Medicaid card or did not know how to assist a patient to find a provider.

Confusion about the free access policy is not limited to Fidelis, or to its members and providers. In a 1996 phone survey of New York City's Medicaid managed care plans, Planned Parenthood of New York City found that the plans' member services departments gave callers incorrect information nearly half the time. Callers were frequently told that family planning services were available only from the member's network doctor or that a referral was needed to go outside the plan.

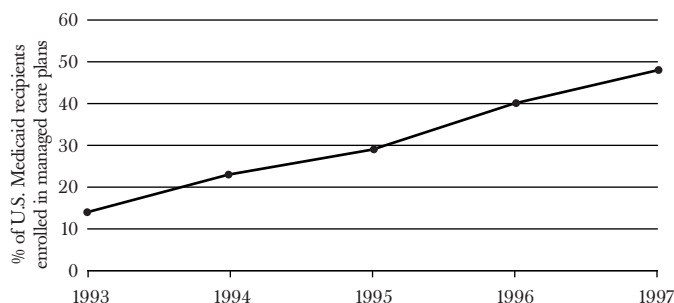
### Enrollment in New York City

Whatever difficulties have been encountered thus far are likely to intensify when the state begins enrollment of some 1.4 million recipients in New York City later this year. The sheer volume of people to be enrolled, combined with the way in which recipients will be informed of their options and select a plan, may contribute to misinformation among Medicaid beneficiaries.

In most areas of the state, the local social services department is responsible for education and enrollment activities. Often recipients are notified by mail of the impending change to managed care and then meet with the department staff, in group sessions or individually, to discuss their options and choose a plan. In New York City, there will be no organized face-to-face meetings.

## MANAGED CARE GROWTH

*The proportion of U.S. Medicaid recipients enrolled in managed care plans has increased dramatically in the last few years*



Source: Health Care Financing Administration

Instead, the city has hired an enrollment broker, who will be responsible for mailing enrollment packets and processing enrollments. The broker will make enrollment counselors available to answer recipients' questions, but the general expectation is that most recipients will learn about managed care and the more than 20 plans available to choose from, and then select a plan, largely, if not entirely, on the basis of written materials.

"There are a lot of limitations to print communications," notes Chris Mulnar, director of the Community Service Society's Medicaid Managed Care Education Project, which trains community volunteers throughout the city to educate Medicaid recipients about managed care, including the free access policy. "The Medicaid population has, on average, a sixth-grade reading comprehension."

One likely consequence of heavy reliance on written materials is that many recipients will not realize that they must select a plan within 60 days of receiving the enrollment packet; those who miss the deadline will be assigned to a plan. Such auto-assignment takes on special significance in New York City because under the state's 1996 Medicaid Managed Care Act, the first 25% of Medicaid recipients who do not select a plan must be assigned to one such as Fidelis that has traditionally served the Medicaid population. The remaining 75% will be allocated equally among all participating plans. "This was a progressive move to try to level the inequality of resources between plans that are somewhat more community based and large for-profit plans," observes Alice Berger, director of health care planning and research at Planned Parenthood of New York City. "However, Fidelis adds a whole other dynamic."

### Getting the Message Out

In recent months, state health officials have moved to address the widespread confusion over the free access policy. "We are undertaking a number of activities to

make sure the message gets out," reports Ellen Anderson, director of the state's Office of Managed Care.

Among other things, Anderson's agency has contracted with Planned Parenthood of New York City to develop brochures and other materials for managed care enrollees, family planning providers and plans' member services personnel that explain what free access means. The core message of these materials, says Berger, who heads up the project for Planned Parenthood, will be that regardless of the plan they are in, members have the right to obtain family planning services without a referral or any out-of-pocket expense by going to any provider who accepts Medicaid. The materials will be used throughout the state.

In addition, Planned Parenthood is working with the Office of Managed Care to develop a media campaign about free access. "There was a collective recognition that a lot more needed to be done...than just issuing memoranda from the [health] commissioner to plan CEOs and some providers," Berger explains. "There needed to be something more visible and much more community based."

The Office of Managed Care has also contracted with Planned Parenthood affiliates in three other regions of the state to educate local family planning providers about the free access policy, so they in turn can explain it to their Medicaid clients. Similar training is planned for local social services personnel.

Beside these education and outreach activities, the state is monitoring Fidelis's member services lines and materials to ensure that the plan is following the state's disclosure guidelines. The state will also use its Medicaid computer system to determine whether Fidelis members are accessing family planning services outside the plan.

### Will It Be Enough?

Whether the state's efforts will be sufficient to overcome the potential barrier to family planning services presented by Fidelis's refusal to provide or directly refer for these services remains to be seen. Many family planning supporters remain skeptical.

"If a woman goes to Fidelis and says, 'I want birth control,' the plan doctor can say 'we don't do that,'" notes JoAnn Smith, executive director of Family Planning Advocates of New York State. "Only if a woman asks for further help is the plan obligated to give her—or mail her within 48 hours—a list of providers prepared not by Fidelis but by the health department....That's real sloppy health care. We have allowed some institutional needs to dominate public health," Smith contends.

Family planning providers are particularly concerned about the impact of Fidelis's policy on teenagers, and fear

that if teens are not able to obtain family planning during a visit to a plan doctor, adolescent pregnancies and sexually transmitted infections may increase. “We know from our own experience that when you [refer] teenagers to another place, few follow through,” reports Karen Pearl, president of Planned Parenthood of Nassau County. “The time to serve them is when they first come in the door.”

In addition, many teenagers whose families enroll in Fidelis (all family members must join the same plan) may not know that the plan does not cover birth control or that they can go to any Medicaid provider for family planning services, because all managed care–related mailings, including those from Fidelis, are sent to the head of household.

### Conclusion

While the spotlight is now on New York, the rapid growth in Medicaid managed care nationwide (see graph) means that many other states will be faced with resolving the tension between Medicaid recipients’ legal entitlement to family planning services and managed care plans’ conscientious objection to providing this care. One option, of course, would be for states to exclude managed care plans that refuse to provide family planning services from participation in Medicaid managed care programs. Alternatively, states could require such plans to find ways—such as contracting with outside agencies—to provide these services to their members, or at least require such plans to offer direct referrals to family planning providers. In addition, states could prohibit auto-assignment to plans that refuse to

provide or arrange for family planning. (The New York City Council is currently considering such a measure.)

The New York experience makes clear that freedom of choice, while perhaps not a perfect solution, is essentially the only option available for Medicaid recipients who are enrolled in plans that do not cover family planning. Thus, it is critically important for states to vigorously enforce Medicaid recipients’ freedom of choice, and to closely monitor managed care plans to ensure that enrollees do, in fact, have access to these services.

In that light, while New York has demonstrated a willingness to try to meet its legal obligation to make family planning services available to all Medicaid managed care enrollees, pressure from Family Planning Advocates of New York State, Planned Parenthood affiliates and other reproductive rights groups has undoubtedly been a key factor in getting the state to focus on the issue. Clearly, advocacy groups have a crucial role to play in ensuring that states take the steps necessary to enable all Medicaid recipients, regardless of the managed care plan they join, to exercise their right to obtain family planning services from the provider of their choice. ⊕

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