

STERILIZATION AND HYSTERECTOMY

This policy covers elective and non-elective Sterilizations.

ELECTIVE STERILIZATIONS

Elective sterilization means any medical procedure, treatment, or operation for the purpose of making an individual permanently incapable of reproducing including tubal ligation, removal, occlusion, or vasectomy.

Providers that perform elective sterilization procedures for the primary purpose of permanent birth control must obtain consent prior to the procedure being performed.

ND Medicaid will cover sterilization procedures performed for the purpose of permanent birth control if the member provides voluntary informed consent, is at least twenty-one years of age at the time consent is obtained, is mentally competent, and is not institutionalized. The person obtaining the consent must give the member:

- An opportunity to ask questions about the sterilization procedure;
- A copy of the consent form; and
- A thorough oral explanation about the procedure and any discomforts, procedural risks, and possible anesthetic effects. The oral explanation shall include:
 - Advice that the member may withdraw or withhold consent without affecting their right to future care or benefits;
 - A description of the available alternative family planning and birth control methods;
 - Advice that the sterilization procedure is considered irreversible;
 - A full description of the benefits or advantages that may be expected as a result of the sterilization; and
 - Advice that the sterilization will not be performed for at least 30 days, except in the case of premature delivery or emergency abdominal surgery.

A member may **not** consent to sterilization when:

- In labor or childbirth;
- Seeking to obtain or obtaining an abortion;
- Under the influence of alcohol or other substances that affect the member's state of awareness.

WRITTEN CONSENT FORM

For consent initiated on or after July 1, 2019, ND Medicaid will only accept

the Federal HHS Consent for Sterilization form:

www.hhs.gov/opa/sites/default/files/consent-for-sterilization-english-updated_remediated.pdf. No other forms will be accepted.

Shortly before the sterilization, the physician who will perform the procedure must explain the requirements for informed consent that are listed on the consent form.

An interpreter or other arrangements must be provided to ensure that information regarding the sterilization is communicated effectively to a member with a disability who needs other means of communication or to a non-English speaking member.

The consent form must be signed and dated by all the following or ND Medicaid will deny claims submitted:

- The individual to be sterilized. An informed consent is valid only if at least 30 days have passed, but not more than 180 days have passed from the date of signature, except in cases of premature delivery or emergency abdominal surgery. If a member is sterilized at the time of a premature delivery or emergency abdominal surgery, payment will be made if at least 72 hours have passed since the patient gave informed consent for the sterilization. In the case of premature delivery, the informed consent must have been signed at least 30 days before the expected delivery date. A caesarean section can be considered premature delivery but is not emergency abdominal surgery.
- The interpreter, if one was provided. The interpreter must sign and date the form after the member signs it but before the day of the surgery.
- The person who obtained the consent. The person obtaining consent also must sign and date the form after the member signs it but before the day of surgery.
- The physician who performed the sterilization procedure. The physician must sign the form the day of surgery, or after the surgery.

The member may not be billed if the provider fails to follow the informed consent process or accurately complete the consent form.

STANDARDS FOR RETROACTIVE ELIGIBILITY

Sterilization consent form requirements cannot be met retroactively. Providers may want to complete a consent form and allow for the 30-day waiting period when individuals without financial resources or health care coverage request sterilization and indicate that they are considering application or have applied for ND Medicaid. An alternative approach would be to inform the individual, preferably in writing, that retroactive eligibility does not apply to sterilization procedures unless a consent form is signed and the 30-day waiting period is followed.

BILLING GUIDELINES

The consent form must be received within 30 days, or the claim will be denied. Charges related to a sterilization procedure during an inpatient hospitalization must be entered in the Notes/Remarks section on the Web Portal or billing notes section for EDI transactions.

NONELECTIVE STERILIZATION

ND Medicaid covers medically necessary sterilization by hysterectomy unless it is performed for the primary purpose of rendering the individual permanently incapable of reproducing. The member and their representative, if applicable, must sign an acknowledgment of receipt of both oral and written information that the hysterectomy surgical procedure would make the member permanently incapable of reproducing children. The Physician Certification for Medically Necessary Hysterectomy and Member Acknowledgement of Sterility (SFN 614) and instructions for completing are available at www.nd.gov/eforms.

Do not use the Physician Certification for Medically Necessary Hysterectomy and Member Acknowledgement of Sterility (SFN 614) for elective sterilization procedures.

The Physician Certification for Medically Necessary Hysterectomy and Member Acknowledgement of Sterility (SFN 614), when signed by the member or their representative indicates that the provider informed the member (and their guardian if applicable), that the procedure would cause sterility.

The member or member's representative may sign the Physician Certification for Medically Necessary Hysterectomy and Member Acknowledgement of Sterility (SFN 614) before or after the hysterectomy. A representative/guardian must sign the form for a member who is not mentally competent. A member residing in an institution may sign the acknowledgment for themselves unless they have been found incompetent by a court.

Oophorectomy and orchiectomy are medically necessary and are not performed for the purpose of sterilization; therefore these procedures do not fall under Medicaid written consent/sterilization requirements. Practitioners and facilities must follow their standard consent and documentation practices which are subject to audit and review if procedures are billed to ND Medicaid for an eligible member.

BILLING GUIDELINES

The Physician Certification for Medically Necessary Hysterectomy and Member Acknowledgement of Sterility (SFN 614) must be received within 30 days, or the claim will be denied.