

Early and Periodic Screening, Diagnosis, and Treatment (EPSDT)

Rachel Holtzman

January 23, 2025

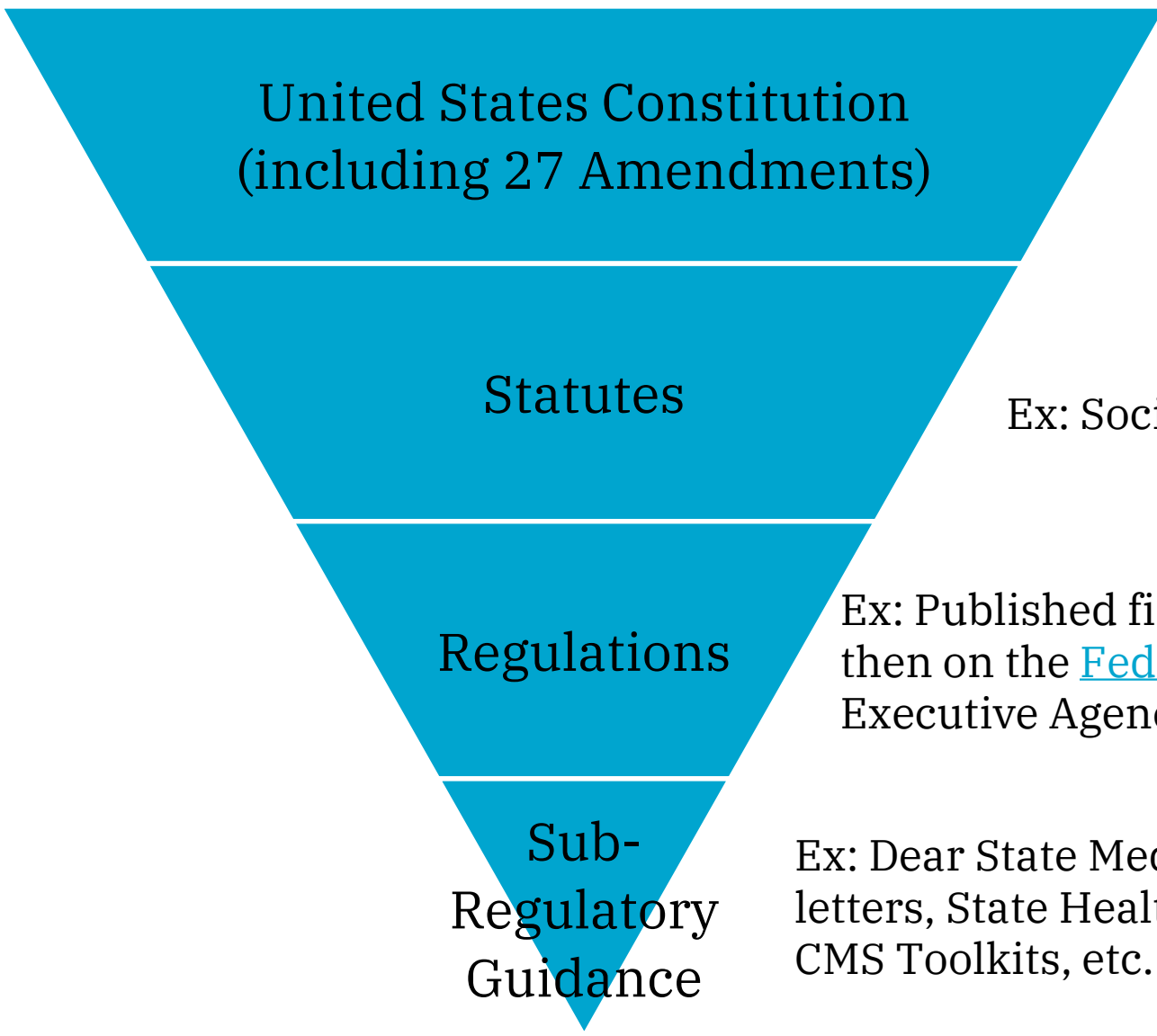
NYLAG

New York Legal Assistance Group



REVIEW: WHAT IS THE HIERARCHY OF LAWS?

FYI: What's the hierarchy of federal law?



United States Constitution
(including 27 Amendments)

Statutes

Ex: Social Security Act

Regulations

Ex: Published first on [Public Inspection](#)
then on the [Federal Register](#) by the
Executive Agencies

Sub-
Regulatory
Guidance

Ex: Dear State Medicaid Director (DSMD)
letters, State Health Official (SHO) letters,
CMS Toolkits, etc.

WHAT IS EPSDT?

What is Early and Periodic Screening, Diagnostic and Treatment (EPSDT)?



“The goal of EPSDT is to assure that individual children get the health care they need when they need it –

the **right care** to the **right child** at the **right time** in the **right setting.**”

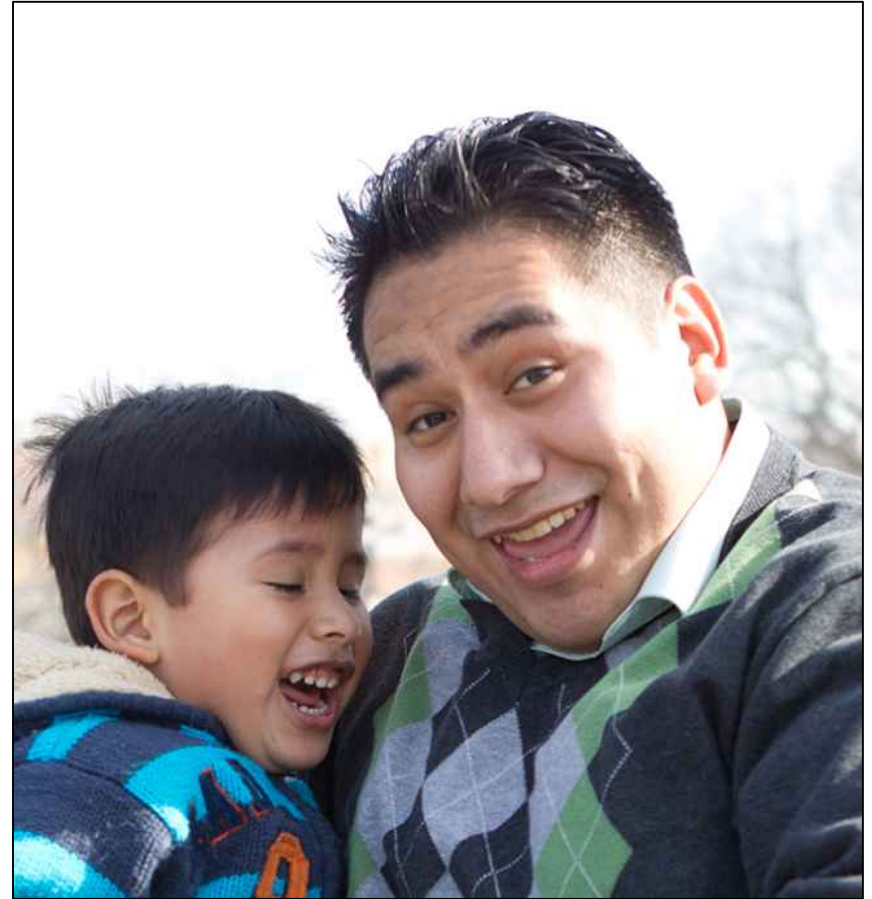
WHAT DOES EPSDT REQUIRE?

What does EPSDT require?

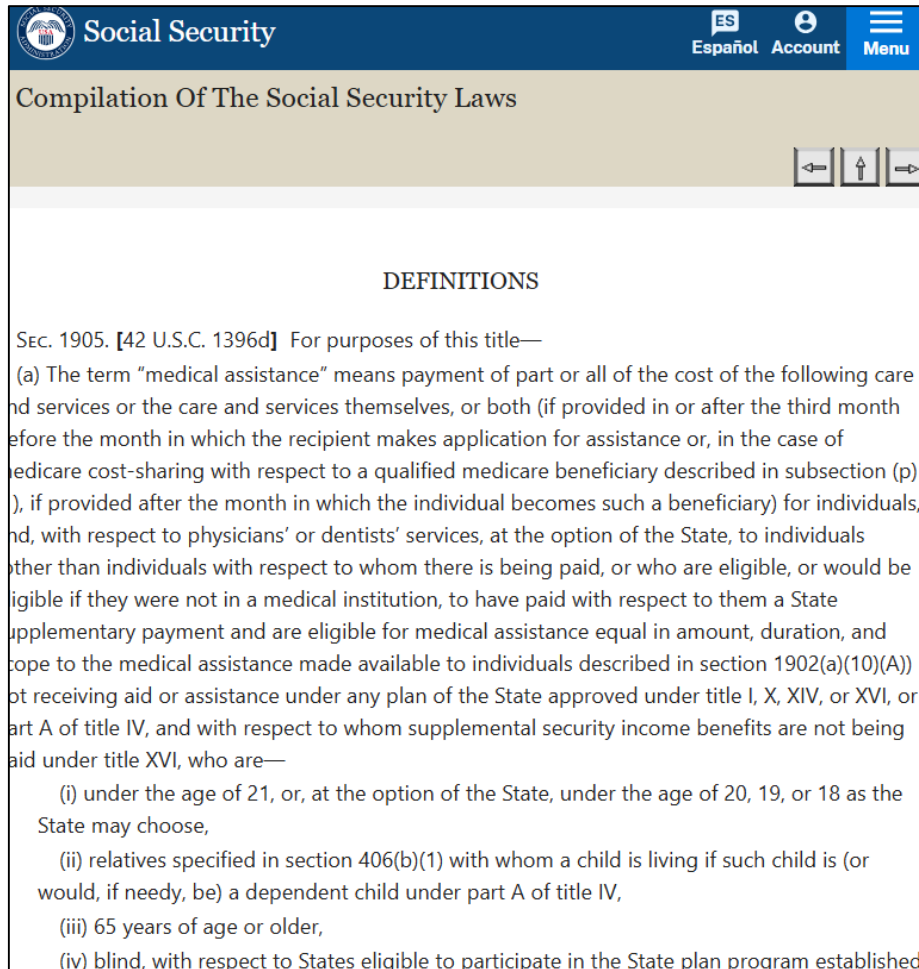
“The Act provides for
**coverage of all
medically necessary
services**

that are included within
the categories of
**mandatory and
optional services** listed
in section 1905(a),

regardless of whether
such services are covered
under the State Plan.”



What is section 1905(a)?



Social Security ES Español Account Menu

Compilation Of The Social Security Laws

DEFINITIONS

SEC. 1905. [42 U.S.C. 1396d] For purposes of this title—

(a) The term “medical assistance” means payment of part or all of the cost of the following care and services or the care and services themselves, or both (if provided in or after the third month before the month in which the recipient makes application for assistance or, in the case of Medicare cost-sharing with respect to a qualified Medicare beneficiary described in subsection (p)), if provided after the month in which the individual becomes such a beneficiary) for individuals, and, with respect to physicians’ or dentists’ services, at the option of the State, to individuals other than individuals with respect to whom there is being paid, or who are eligible, or would be eligible if they were not in a medical institution, to have paid with respect to them a State supplementary payment and are eligible for medical assistance equal in amount, duration, and scope to the medical assistance made available to individuals described in section 1902(a)(10)(A)) not receiving aid or assistance under any plan of the State approved under title I, X, XIV, or XVI, or part A of title IV, and with respect to whom supplemental security income benefits are not being paid under title XVI, who are—

- (i) under the age of 21, or, at the option of the State, under the age of 20, 19, or 18 as the State may choose,
- (ii) relatives specified in section 406(b)(1) with whom a child is living if such child is (or would, if needy, be) a dependent child under part A of title IV,
- (iii) 65 years of age or older,
- (iv) blind, with respect to States eligible to participate in the State plan program established

It is part of the Social Security Act, which is where the Medicaid program lives!

You can read Section 1905(a) of the Social Security Act here:

https://www.ssa.gov/OP_Home/ssact/title19/1905.htm

All 1905(a) Medicaid Benefits Required under EPSDT

Mandatory Benefits	Optional Benefits
<ul style="list-style-type: none"> • Inpatient hospital services • Outpatient hospital services • EPSDT: Early and Periodic Screening, Diagnostic, and Treatment Services • Nursing Facility Services • Home health services • Physician services • Rural health clinic services • Federally qualified health center services • Laboratory and X-ray services • Family planning services • Nurse Midwife services • Certified Pediatric and Family Nurse Practitioner services • Freestanding Birth Center services (when licensed or otherwise recognized by the state) • Transportation to medical care • Tobacco cessation counseling for pregnant women • Medication Assisted Treatment (MAT) • Routine patient costs of items and services for beneficiaries enrolled in Qualifying Clinical Trials 	<ul style="list-style-type: none"> • Prescription Drugs • Clinic services • Physical therapy • Occupational therapy • Speech, hearing and language disorder services • Respiratory care services • Other diagnostic, screening, preventive and rehabilitative services • Podiatry services • Optometry services • Dental Services • Dentures • Prosthetics • Eyeglasses • Chiropractic services • Other practitioner services • Private duty nursing services • Personal Care • Hospice • Case management • TB-related Services • Primary and secondary medical strategies, treatment and services for individuals with Sickle Cell Disease • Primary Care Case Management • Services in an intermediate care facility for Individuals with Intellectual Disability • Inpatient psychiatric services for individuals under age 21

<https://www.medicaid.gov/resources-for-states/downloads/covid19allstatecall10172023.pdf>

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But for kids, every state MUST cover all of these, including the “mandatory benefits” and the “optional benefits.”

<ul style="list-style-type: none">• Tobacco cessation counseling for pregnant women• Medication Assisted Treatment (MAT)• Routine patient costs of items and services for beneficiaries enrolled in Qualifying Clinical Trials	<ul style="list-style-type: none">• Personal Care• Hospice• Case management• TB-related Services• Primary and secondary medical strategies, treatment and services for individuals with Sickle Cell Disease• Primary Care Case Management• Services in an intermediate care facility for Individuals with Intellectual Disability• Inpatient psychiatric services for individuals under age 21
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So what else does EPSDT say states must do?

- **EDUCATE FAMILIES!** Inform and educate families about EPSDT (the benefits of preventive care, which services are available under EPSDT and how to get them and that they are free, that transportation and scheduling assistance is available)
- **ENSURE PERIODICITY!** Ensure kids receive regular exams for physical and mental health, growth, development, and nutrition status based upon the state's periodicity schedule
- **ENSURE TIMELINESS!** Ensure timely initiation of treatment in accordance with reasonable standards (generally within 6 months of request)
- **COVER SERVICES TO MAINTAIN/IMPROVE!** Services that maintain or improve a health condition (including: preventing regression) must be covered if medically necessary for the child, even if those services won't cure the condition). Examples include ST/PT/OT and DME.
- **NOT IMPOSE HARD LIMITS!** No hard limits or caps on services are allowed. Prior auth processes are allowed, can consider cost effectiveness, and may cover a less-expensive equally effective consider ... but these processes must consider the child's quality of life as well as the requirement to cover services in the most integrated setting appropriate.

How does EPSDT relate to HCBS waiver services?

“Home and community based services (HCBS) waiver programs ... provide for coverage of services that are not otherwise available through the Medicaid program (including EPSDT) because they do not fit into one of the categories listed in section 1905(a). This includes habilitative services, respite services, or other services approved by CMS that can help prevent institutionalization.

. . . Children under age 21 who are enrolled in an HCBS waiver program are also entitled to all EPSDT screening, diagnostic, and treatment services. Because HCBS waivers can provide services not otherwise covered under Medicaid, waivers and EPSDT can be used together to provide a comprehensive benefit for children with disabilities who would otherwise need the level of care provided in an institutional setting.

. . . The HCBS waiver services essentially “wrap-around” the EPSDT benefit.”

<https://www.medicaid.gov/medicaid/benefits/downloads/epsdt-coverage-guide.pdf>

WHERE CAN YOU FIND EPSDT IN THE LAW?

Where can you find EPSDT in federal statute?

In the Social Security Act!

- Section 1902(a)(10)(A) – EPSDT required as part of Medicaid benefit package
- Language following section 1902(a)(10)(G) – comparability exception for EPSDT
- Section 1902(a)(43) – administrative requirements
- Section 1905(a)(4)(B) – EPSDT benefit inclusion in 1905(a) service menu
- Section 1905(a) – list of services included in EPSDT
- Section 1905(r) – definition of EPSDT services

Where can you find EPSDT in NY state law?

In 18 NYCRR Part 508!

- 508.1(a): Child/Teen Health Plan (C/THP) ... means a program ... assisting [persons under 21 years of age who are in receipt of Medicaid] to receive ongoing primary and preventive health care in order to discover any physical and mental problems **and to provide treatment to correct or ameliorate such problems or chronic conditions ...**

<https://www.law.cornell.edu/regulations/new-york/18-NYCRR-508.1>

Where else can you find EPSDT in NY state law?

In the Managed Care Model Contract, in section 10.4 about the Child Teen Health Program/Adolescent Preventive Services. (“The Contractor” means the Medicaid Plan!)

- a) ... The Contractor and its Participating Providers **are required to** provide C/THP services to Enrollees under twenty-one (21) years of age when:
 - i) **The care or services are essential to prevent, diagnose, prevent the worsening of, alleviate or ameliorate the effects of an illness, injury, disability, disorder or condition.**
 - ii) The care or services are essential to the overall physical, cognitive and mental growth and developmental needs of the Enrollee.
 - iii) The care or service will assist the Enrollee to achieve or maintain maximum functional capacity in performing daily activities, **taking into account both the functional capacity of the Enrollee and those functional capacities that are appropriate for individuals of the same age as the Enrollee.**

Where else can you find EPSDT in NY state law?

In the Managed Care Model Contract, in section 10.4 about the Child Teen Health Program/Adolescent Preventive Services.

b) The Contractor shall base its determination on medical and other relevant information provided by the Enrollee's PCP, other health care providers, school, local social services, and/or local public health officials that have evaluated the Enrollee.

i) The Contractor will ensure C/THP care and services are provided in sufficient amount, duration and scope to reasonably be expected to produce the intended results and to have the expected benefits that outweigh the potential harmful effects.

**WHERE CAN YOU LEARN
MORE?**

Where can you learn more about EPSDT?

EPSDT - A Guide for States: Coverage in the Medicaid Benefit for Children and Adolescents



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DEPARTMENT OF HEALTH & HUMAN SERVICES

Centers for Medicare & Medicaid
Services 7500 Security Boulevard, Mail
Stop S2-26-12
Baltimore, Maryland 21244-1850



SHO # 24-005

**RE: Best Practices for Adhering to Early
and Periodic Screening, Diagnostic, and
Treatment (EPSDT) Requirements**

September 26, 2024

Dear State Health Official:

The Centers for Medicare & Medicaid Services (CMS) is committed to improving health outcomes for children and youth enrolled in Medicaid and the Children's Health Insurance Program (CHIP) by working with states as they comply with the Early and Periodic Screening, Diagnostic and Treatment (EPSDT) requirements.¹ This letter, along with regular technical assistance webinars and planned future guidance for states, is intended to provide states with the information they need to meet EPSDT requirements.² CMS will be working with all states to ensure adherence to these requirements.

<https://www.medicaid.gov/medicaid/benefits/downloads/epsdt-coverage-guide.pdf>

<https://www.medicaid.gov/federal-policy-guidance/downloads/sho24005.pdf>

Where can you learn more about EPSDT?

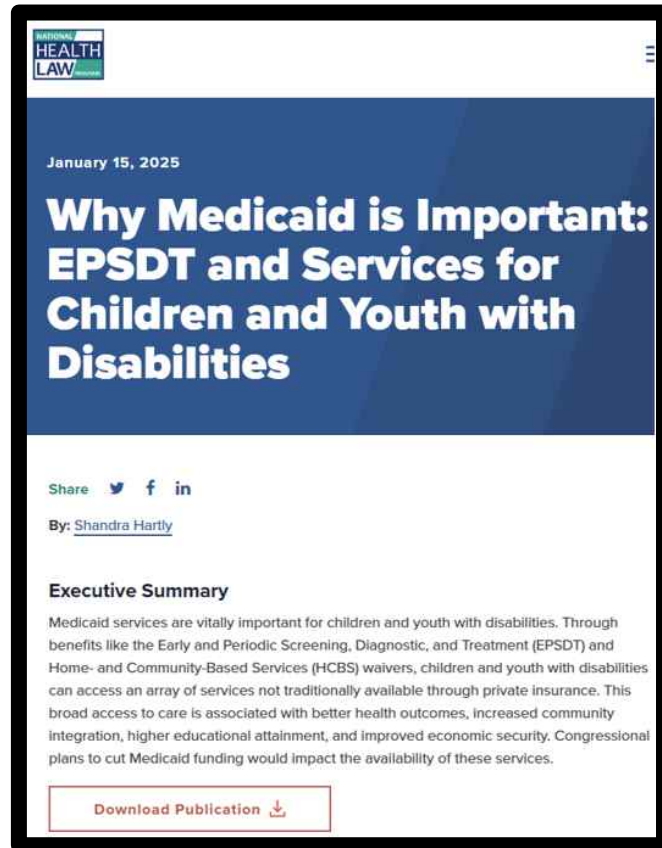


<https://www.macpac.gov/subtopic/epsdt-in-medicaid/>

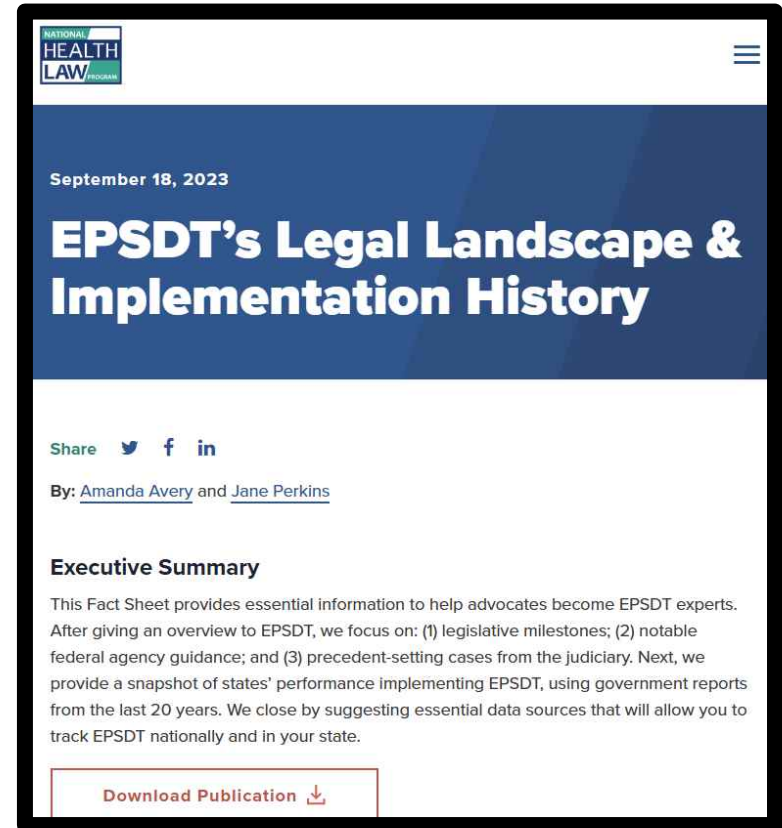


<https://ccf.georgetown.edu/2024/10/22/cms-epsdt-guidance-blog-series/>

Where can you learn more about EPSDT?



<https://healthlaw.org/resource/why-medicaid-is-important-epsdt-and-services-for-children-and-youth-with-disabilities/>



<https://healthlaw.org/resource/epsdts-legal-landscape-implementation-history/>