

Title 23. Public Utilities and Regulated Industries
Chapter I. State Insurance Department, Department of Commerce
Subchapter B. Life, Health, and Accident
Part 141. Craniofacial Anomaly Reconstructive Surgery Coverage,
"Wendelyn's Craniofacial Law"

Codification Notes. This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"SECTION 1. AUTHORITY

This Rule is issued pursuant to Ark. Code Ann. § 23-79-1503 which requires the Arkansas Insurance Department ("AID") to issue rules for the implementation and administration of coverage for craniofacial anomaly reconstructive surgery and recommended treatment under Ark. Code Ann. § 23-79-1501 et seq. This Rule is also issued to implement Act 955 of 2021, "An Act to Modify the Law Concerning Craniofacial Coverage and to Establish Wendelyn's Craniofacial Law" (hereafter, Act 955, formerly codified from Act 1226 of 2013 and Act 373 of 2015)."

Subpart 1. Generally

23 CAR § 141-101. Definitions.

For purposes of this part, the following definitions will apply:

- (1) "Acquired craniofacial anomaly" means a craniofacial condition caused or brought on only by trauma or tumor;
- (2) "Craniofacial anomaly" means the abnormal development of the skull and face;
- (3) "Healthcare service" means a healthcare procedure, treatment, or service provided by a medical provider;
- (4) "Medical provider" means a person who performs healthcare services for patients with a craniofacial anomaly;

(5) "Nonurgent healthcare service" means any craniofacial healthcare service that is not urgent;

(6) "Reconstructive surgery" means the use of surgery to alter the form and function of cranial facial tissues due to a congenital or acquired musculoskeletal disorder, including surgery to alter the form and function of the skull and face;

(7) "Surgical team member" means a surgical member of an American Cleft Palate-Craniofacial Association-approved team who specializes in craniofacial anomaly reconstructive surgery or a surgical member of an approved team with requisite and equivalent craniofacial surgical experience in the field of service requested to be reviewed; and

(8) "Urgent healthcare service" means a craniofacial healthcare service for a non-life-threatening condition that, in the opinion of a provider with knowledge of a craniofacial patient's medical condition, requires prompt medical care in order to prevent:

(A) A serious threat to life, limb, or eyesight;

(B) Worsening impairment of a bodily function that threatens the body's ability to regain maximum function;

(C) Worsening dysfunction or damage of any bodily organ or part that threatens the body's ability to recover from the dysfunction or damage; or

(D) Severe pain that cannot be managed without prompt medical care.

Authority. Arkansas Code §§ 23-61-108, 23-79-1503.

23 CAR § 141-102. Coverage requirements for health insurers under this part.

(a) Health insurers shall be subject to all sections of this part.

(b) Pursuant to Arkansas Code § 23-79-1502(b), a health benefit plan shall provide coverage for dental and vision care as approved by an ACPA-approved surgical team member following the requirements of this section.

(c) A health benefit plan shall include coverage for the following:

- (1) On an annual basis, or during the course of a year:
- (A) Sclera contact lenses, including coatings;
 - (B) Office visits;
 - (C) An ocular impression of each eye;
 - (D) Autologous serum eye drops; and
 - (E) Eye weights, either surgically and/or external eye weights in one (1) or both eyes as directed by an eye specialist, as needed; and
- (2)(A) Every two (2) years, two (2) hearing aids and two (2) hearing aid molds for each ear.

(B) As used in this section, "hearing aids" includes behind the ear, in the ear, wearable bone conduction, surgically implanted bone conduction services, and cochlear implants.

(d) A health benefit plan, or any third-party administrator for the plan, shall not require mail order, walk-in clinics, or in-network protocols for compliance with any audiology or other services, as mandated by this part.

(e) Any additional tests or procedures that are medically necessary for a craniofacial patient and any diagnostic service incidental to the provision of these benefits in this section.

(f) For healthcare services to be performed by a nationally approved cleft-craniofacial team, or recommended healthcare services to be performed by a medical provider that is not on a nationally approved cleft-craniofacial team, a request for written authorization or approval shall be reviewed by the administrator (health insurer) of the health benefit plan:

(1) Within two (2) working days from the request by a nationally approved cleft-craniofacial surgical team member, or by a medical provider that is not on a nationally approved cleft-craniofacial team if the request is accompanied by an attestation in the form established by this part that is signed by a surgical team member of an ACPA-approved team, for a nonurgent case; or

(2)(A) Within twenty-four (24) hours from the request by a nationally approved cleft-craniofacial surgical team member, or by a medical provider that is not

on a nationally approved cleft-craniofacial team if the request is accompanied by an attestation in the form established by this part that is signed by a surgical team member of an ACPA-approved team for an urgent case.

(B) The health insurer must be familiar with or willing to become familiar with the particular craniofacial diagnoses in question and recommended procedure prior to making a determination.

(C) The standards in this section shall follow the Prior Authorization Transparency Initiative.

Authority. Arkansas Code §§ 23-61-108, 23-79-1503.

Codification Notes. "ACPA" means American Cleft Palate-Craniofacial Association.

23 CAR § 141-103. Medical provider office requirements for ACPA-approved teams.

(a) For healthcare services that are recommended by a surgical member of a nationally approved cleft-craniofacial team, a request for written authorization shall be submitted to the health benefit plan at least:

(1) Two (2) working days before the proposed service date, by a nationally approved cleft-craniofacial surgical team, for a nonurgent case; or

(2) Twenty-four (24) hours before the proposed service date, by a nationally approved cleft-craniofacial surgical team member, for an urgent case.

(b) Every needed service or recommended procedure shall be authorized by an attestation in the form established by this part that is signed by a surgical team member of an ACPA-approved team, and thereafter be monitored under the coordinated treatment plan until the completion of such services by the nationally approved cleft-craniofacial surgical team member.

(c) The standards in this section shall follow the Prior Authorization Transparency Initiative.

Authority. Arkansas Code §§ 23-61-108, 23-79-1503.

Codification Notes. “ACPA” means American Cleft Palate-Craniofacial Association.

23 CAR § 141-104. Medical provider office requirements for non-ACPA-approved team members.

(a) A medical provider that is not on a nationally approved cleft-craniofacial team shall communicate and respond within two (2) working days from the request to any medical information requests made by the nationally approved cleft-craniofacial surgical team member who made the recommendation described in this part.

(b) For healthcare services that are recommended by a surgical team member of a nationally approved cleft-craniofacial team that are to be performed by a medical provider that is not on a nationally approved cleft-craniofacial team, a request for written authorization or approval shall be submitted to the health benefit plan:

(1) At least two (2) working days before the proposed service date as recommended by a nationally approved cleft-craniofacial surgical team member, for a nonurgent case; or

(2) Within twenty-four (24) hours before the proposed service date as recommended by a nationally approved cleft-craniofacial surgical team member, for an urgent case.

(c) The recommended needed services shall be the subject of an attestation delivered by a surgical team member of an ACPA-approved team to the medical provider and thereafter be monitored under the coordinated treatment plan until the completion of such services by the nationally approved cleft-craniofacial surgical team member.

(d) A medical provider that is not on a nationally approved cleft-craniofacial team shall comply with 23 CAR § 141-106 for referrals for services.

(e) The standards in this section shall follow the Prior Authorization Transparency Initiative.

(f)(1) For claims to be admitted or paid under this section, for purposes of this section, a medical provider that is not on a nationally approved cleft-craniofacial team shall submit to the health benefit plan a signed attestation form (Exhibit A) by a surgical team member of an ACPA-approved team.

(2) The health benefit plan shall have two (2) working days from the submission date to review such claim or claims for nonurgent cases and twenty-four (24) hours for urgent cases.

Authority. Arkansas Code §§ 23-61-108, 23-79-1503.

Codification Notes. "ACPA" means American Cleft Palate-Craniofacial Association.

23 CAR § 141-105. Coding fee for evaluation.

(a) Every health benefit plan covering residents or enrollees in this state shall cover charges for evaluations performed by a nationally approved cleft-craniofacial team in its review of proposed services under 23 CAR § 141-104.

(b) The coding designation number and fee amount for such charges shall be the same for all health benefit plans pursuant to an explanatory bulletin by the Insurance Commissioner, which will be issued annually or as needed.

Authority. Arkansas Code §§ 23-61-108, 23-79-1503.

23 CAR § 141-106. Attestation or authorization form.

For services to be reviewed under 23 CAR § 141-104, the medical provider that is not on a nationally approved cleft-craniofacial team shall use the attestation or authorization form, which shall be designated as Wendelyn's Craniofacial Law Authorization Form as Exhibit A to this part.

Authority. Arkansas Code §§ 23-61-108, 23-79-1503.