



## PRISONER

## OPERATIONS

## 9.5 Health Care For Pregnant Prisoners

- A. **Proponent:** Office of the Director/Deputy Director, as supported by the Prisoner Operations Division (POD), Office of Medical Operations (OMO) 202-307-9680.
- B. **Purpose:** To establish written policies and procedures for the provision of health care services to prisoners in the custody of the United States Marshals Service (USMS).
- C. **Authority:** The Director's authority to direct and supervise all activities of the USMS is set forth in 28 USC 561(g) and 28 CFR 0.111. Authority to manage standards for prisoner health care is provided by 18 USC 4006, 4013, and 4086.
- D. **Policy:** All female USMS prisoners will receive medically necessary reproductive health care while in USMS custody. This policy refers to health care services and products which are to be charged to the USMS, and/or which require the prisoner to make visits anywhere outside of the detention facility to which she is confined. Services and products provided to USMS prisoners within correctional facilities at no cost to the USMS are not prohibited by this policy. Refer to USMS Prisoner Health Care Standards, Publication No. 100 for additional guidance.
- E. **Procedures:**
1. **Pregnancy Services**
    - a. **Covered Services for Pregnant Prisoners:** The following pregnancy services are authorized for payment by the USMS:
      - 1) Tests to confirm pregnancy diagnosis (blood or urine).
      - 2) Prenatal vitamin supplements.
      - 3) Prenatal examinations according to standards of care defined by the American College of Obstetricians and Gynecologists (ACOG).
        - a) Once a pre-authorization for routine care is approved, it will cover all subsequent routine visits associated with that pregnancy. Districts should note this on the initial approval. Districts may still request notification of pre-natal visits from the detention facility in order to track outpatient visits for billing and security purposes.
        - b) Requests for medical care during the prenatal period that are not classified as routine prenatal care should be sent to Office of Interagency Medical Services (OIMS) for review. Some examples of non-routine prenatal care are as follows: testing, additional ultrasounds and stress tests.
      - 4) Hospitalization for labor and delivery followed by a maximum of 48 hours hospitalization after vaginal delivery and 72 hours after delivery by cesarean section. Requests for extension of hospitalizations must be pre-authorized by OIMS.
      - 5) An initial sonogram, to determine fetal age and/or size, when ordered by the health care provider.

- b. Non-covered Services for Pregnant Prisoners:** Absent a court order or pre-authorization from OIMS, the following pregnancy services are not authorized for payment by the USMS:
- 1) Amniocentesis, unless ordered in writing by the attending physician because of clinical findings indicating possible complications.
  - 2) Subsequent sonograms unless ordered in writing by a physician because of clinical findings indicating possible complications.
  - 3) Home uterine monitoring devices, unless ordered in writing by a physician because of clinical findings indicating possible documented complications.
  - 4) All infant medical care after delivery, including the first newborn exam and routine screening.
  - 5) Voluntary surgical sterilization, even when performed at the time of delivery.
  - 6) The USMS may contest court pregnancy services particularly in cases where the services do not appear to be in compliance with USMS Prisoner Health Care Standards. Districts are encouraged to call OIMS to consult with medical staff concerning court ordered pregnancy services.

**2. Prisoner Pregnancy and Child Care**

**a. United States Marshal (USM) Responsibilities**

- 1) Once a pregnancy has been determined (or upon arrest of individuals known to be pregnant) the USM must immediately inform the prisoner and/or her attorney that the prisoner is responsible for making all arrangements for the infant's care. These arrangements (to include child placement and financial responsibility for all associated medical care costs after delivery) must be documented in writing well before the expected time of delivery.
- 2) The USM will also notify the OIMS so that it may provide the district with additional technical assistance.
- 3) As soon as the USM is aware of the pregnancy of a USMS prisoner, he or she will consult with the defense attorney, the United States Attorney, and the court to review the potential for the prisoner's release on bond or personal recognizance. The court may also consider home confinement and electronic monitoring by Pretrial Services as an alternative to USMS detention.
- 4) If the prisoner will not be released prior to delivery, the USM must ensure that the prisoner is placed under the care of an obstetrician as soon as possible for appropriate prenatal care.
- 5) At the same time, the USM will inform the prisoner that she must immediately make formal arrangements for the placement of the child prior to delivery. The prisoner will be advised to contact her defense attorney to assist in determining, as soon as possible, who (i.e., relatives or community social service agencies) will have responsibility for the care, custody and costs associated with the child immediately after birth.
- 6) The USM will provide the following information to both the attending physician(s) as well as the hospital, in written form, well in advance of admission to the hospital for delivery:
  - a) Sample Letter (Pregnancy) to Medical Provider, and
  - b) Sample Letter (Pregnancy) to Hospital.

**b. Prisoner's Responsibility**

- 1) Child placement and care is the responsibility of the prisoner. Under no circumstances may the newborn child be returned to the detention facility with the prisoner, except in accordance with the detention facility's visiting policy, if any. The USM may assist the prisoner, as appropriate, in contacting the prisoner's family or community social service agency to assist the prisoner in determining the placement of the child.
- 2) It is the responsibility of the prisoner to notify the court, the USM, the hospital and the attending physician, in writing, of her placement decision as well as the financial responsibility arrangements she has made for her child's care.
  - a) Child Financial Responsibility Notification (English): The purpose of this form is to specify financial responsibility for any children born to a female prisoner while in USMS custody. The USMS is not financially responsible for the care of such dependants, and it is the responsibility of the prisoner, working with her defense attorney, to make appropriate financial arrangements prior to delivery. This financial responsibility form is to be completed by the individual or entity that will assume responsibility for the child or children immediately after delivery. The USM will provide a copy of this completed form to all attending physicians as well as to the hospital where the prisoner will be admitted for maternity care and delivery.
  - b) Child Financial Responsibility Notification (Spanish)

3. **Prisoner Abortions:** The prisoner is solely responsible for determining whether to have an abortion or to bear the child. Whenever a request for an abortion is made, the USM must immediately notify OIMS.
  - a. **Federally Funded:** If the prisoner elects to have an abortion, the USM may expend federal funds for the abortion procedure only in the following circumstances:
    - 1) **Endangerment of Life:** When a physician states in writing that the life of the mother would be endangered if the fetus were carried to term, the USM must be provided with written medical evidence from the attending physician that the mother's life would be so endangered. This information must be coordinated in advance with OIMS to ensure that appropriate medical criteria have been met.
    - 2) **Rape:** If the prisoner claims that the pregnancy is the result of rape, the USM will coordinate with the court, the United States Attorney and the defense attorney to obtain and verify a written statement from the prisoner detailing the circumstances of her claim.

If either of these two circumstances are confirmed by a medical provider and the prisoner chooses to have an abortion, she will be directed to work with her defense attorney and sign a written statement to document her decision. After the abortion request has been processed and approved by OIMS and the Office of General Counsel, then the USM will make the necessary secure arrangements for the prisoner to have an abortion at an appropriate facility at government expense.
  - b. **Not Federally Funded:** A USMS prisoner may elect to have an abortion consistent with state law. As federal funds cannot be used to pay for an elective abortion, the prisoner must pay for it herself or through the assistance of community facilities:
    - 1) If the prisoner elects to have an abortion, she will sign a written statement acknowledging that she assumes total responsibility for the decision to have an elective abortion, including a statement that she will assume all financial responsibility for the abortion. This statement will be provided to the USMS, OIMS and the medical provider prior to scheduling the abortion and all financial arrangements must be finalized by the prisoner through her defense attorney before the USM makes any transportation arrangements.
    - 2) The prisoner will work directly with her attorney to petition the court for bail reduction, personal recognizance, temporary release from custody, and/or transfer to third-party

custody, to facilitate the abortion procedure.

- 3) In the event that these alternatives are not feasible and the prisoner must remain in custody, USMS funds may only be used for secure escort and reasonable transportation charges to an appropriate facility for performance of the abortion.
- 4) It is the responsibility of the prisoner and her attorney to identify community sources of assistance for elective abortions. The USM is not to assist in identifying sources of such assistance. However, when an appropriate facility has been identified and all financial arrangements finalized by the prisoner, the final arrangements (time and date of the procedure) will be strictly controlled by the USM, in order to maintain prisoner security.

### F. Definitions:

1. **Amniocentesis:** Fetal diagnostic procedure involving the surgical trans-abdominal perforation of the uterus to obtain amniotic fluid for testing.
2. **Preauthorization:** Authorization before a particular medical treatment or service is provided. In the case of the USMS, preauthorization applies to USMS prisoner medical care that is provided outside of the detention facility or institution and for which the USMS is financially responsible.
3. **Prenatal Care:** Medical care provided to a woman during pregnancy, including routine health screenings (weight, blood pressure, pulse, temperature) prenatal vitamin supplements, and nutritional counseling.

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Minor change: changed term from visits to care, section E.1.3.a. per OPSP approval from POD 2/24/2010. Archived Policy: <archive/S-5PregPrisoners 22410.htm>