Frequently Asked Questions and Answers
Regarding the "Medicaid to Schools" Program

The following questions and answers have been prepared by MSB™. This summary is the result of recent audit findings, analysis of existing regulations, and direct conversations with personnel at the Division of Developmental Services in an effort to clarify allowable reimbursable costs.

While MSB™ believes the following information to be accurate, **official interpretation for policy regarding the "Medicaid to Schools" Program should come from the Division of Developmental Services.**

1. ***How do I find out which children in my district are Medicaid eligible?***

   MSB™ will perform eligibility checks on behalf of your district.

2. ***Can we bill Medicaid for Section 504 children under the "Medicaid to Schools" Program?***

   No. The "Medicaid to Schools" Program is restricted to children identified under the IDEA with Individualized Education Programs.

3. ***Are nursing services billable under the "Medicaid to Schools" Program?***

   Yes. As with any of the covered services, you must make sure that the services are ordered in the IEP, delivered by a qualified practitioner, and directly related to a child's disability. LNAs and CNAs are not considered qualified practitioners under the "Medicaid to Schools" rules for purposes of billing nursing.

4. ***Are consents necessary in order to bill Medicaid?***

   Yes. Based on the IDEA 2004 regulations that went into effect on October 13, 2006, it is the position of the US Department of Education that obtaining parental consent prior to billing Medicaid is mandatory (34 C.F.R. §300.154(d)).

   As of May 15, 2014, school districts need to obtain consent from parents only once in compliance with 34 CFR 300.154, Ed 1120.04 and Ed 1120.08. As you are likely already aware, the New Hampshire Department of Education issued Memo #34 on May 28, 2014. This memo provided notice of amendments to the New Hampshire Rules for the Education of Children with Disabilities, effective May 15, 2014. Among the amendments were changes to the regulations that govern parental consent in regards to billing Medicaid. We are very pleased that these amendments bring the New Hampshire regulations in line with the federal regulations regarding parental consent. Districts will continue to be required to send out annual notification pursuant to 34 CFR 300.154(d)(2)(v).

   Additionally, the New Hampshire Department of Education issued Memo #2 on July 30, 2014 and Memo #6 on October 22, 2014. Memo #2 provided guidance for written notification of parental rights regarding use of public benefits or insurance as well as providing a model form for districts to consider. Memo #6 provided notice to districts of updates to the New Hampshire Special Education Procedural Safeguards Handbook, which included the model form introduced in Memo #2.
   When school districts cannot produce documentation of parental consent in a Medicaid audit, significant paybacks will occur.

5. ***What constitutes a "group" for billing purposes?***

   A group is defined in policy as the number of students receiving covered services simultaneously, regardless of the student's Medicaid eligibility. *For example*, when a Speech therapist is delivering therapy to four students at the same time, but only one of them is Medicaid eligible, the group size is four, not one. MSB™ suggests that you

do NOT include as part of the group size the students that are included in the group for "modeling" or to enhance the group dynamic, but are not receiving services due to an education plan (i.e. IEP, 504, RTI). However, MSB™ suggests that you DO include as part of the group size the students that are part of the group and are receiving services due to an education plan (i.e. IEP, 504 or RTI).

6. ***What kind of documentation is required in the regulations for Specialized Transportation?***

- Trip logs (MSB™ has developed a set of trip logs which can be used by both districts and transportation vendors, and are available on our website)
- Cost data per trip
- Trip mileage
- Indication of one way or round trip
- Date of service
- Driver's printed name & signature
- Names of all students on the vehicle
- Number of students on the vehicle
- A Medicaid coverable service is delivered on the day the student was transported*

It is necessary that a district put the bus company that is providing the Specialized Transportation on notice via contractual language or by some other means that the above elements, including trip logs, need to be maintained and sent to the district on a regular basis, ideally when the invoice is generated. Additionally, the district should make sure that bus drivers who are employed internally are also filling out trip logs.

*It is also important to remember that due to regulatory changes to the program as of February 2013, school districts must also document that an additional Medicaid coverable service was delivered and properly documented on the date on which Specialized Transportation is delivered and subsequently billed to Medicaid. Whether an additional coverable Medicaid service is delivered to a child on a particular day is a matter for the IEP team to determine as appropriate under the principles of the IDEA.

7. ***Can invoices from contracted practitioners and Out of District facilities be used as transaction logs?***

Yes, as long as the invoices have all proper documentation including:

- Child's full name
- Type of service provided
- Dates of service
- Length of service (units/duration)
- Names and **original signatures** of appropriate and qualified practitioners who actually delivered a coverable service
- Group size or one on one treatment
- For Rehabilitative Assistance, the LPHA certification statement and handwritten signature of the LPHA
- For Speech, OT and PT delivered by assistants, the original signature of the qualified LPHA providing direction to the licensed assistant.

8. ***What is a billing unit?***

A billing unit is defined as 30 minutes in some instances and as 15 minutes in other instances. Therefore if a practitioner works 6.5 hours per day providing IEP health related services, the total number of units that potentially could be billed is 13 units per day when the unit is defined as a 30 minute unit, and 26 units per day when a unit is defined as a 15 minute unit, reduced by time out for lunch, breaks, etc.

9. ***Is report writing billable time?***

Yes, report-writing time is billable as "evaluation" when the direct service that is related to the evaluation is ordered in the IEP. If direct services are not ordered, but evaluations are expected, the IEP should prescribe the type of evaluation being performed in order to be billable to Medicaid.

10. ***How often do we need to get orders/recommendations/referrals for Speech, PT, OT, Vision and Rehabilitative Assistance?***

As a best practice, obtain proper referrals every time a new IEP is authored/renewed and signed by the IEP team and parents/guardians. Make sure that the orders/recommendations/ referrals are appropriately signed and dated prior to the commencement of service delivery.

11. ***Are IEP meetings billable?***

Yes, IEP meetings are billable as "consultation," but only when a student has been identified as needing health-related services in the original IEP, there are subsequent IEP meetings, and the regulatory definition of "consultation" is met (the rendering, by a licensed practitioner of the healing arts, of an expert opinion regarding the diagnosis or treatment of a specific child pursuant to He-M 1301.04 [He-M 1301.02 (d]). Subsequent IEP meetings are billable by licensed practitioners of the healing arts whose services (direct service or evaluations) are prescribed in the IEP.

12. ***Do IDEA grants impact Medicaid billing?***

Yes. The district(s) should utilize funding from both federal grants and Medicaid by ensuring that practitioners delivering Medicaid-covered services are not 100% funded out of IDEA or other federal grants. MSB™ recommends 50% or less funding from federal grants for any given person, thus allowing legitimate maximization from both funding sources. In the rate setting calculation, the percentage of federal funding must be deducted from the amount billed to Medicaid.

13. ***If a Rehabilitative Assistant does not have the necessary certification from DOE, do we need to seek a waiver in order to bill for that aide under Rehabilitative Assistance?***

No, you do not need to seek waivers. You must, however, have proof of equivalency in regards to the Department of Education certification requirements on file at your district.

14. ***If a school district is audited by the NH Department of Health and Human Services, and recoupments or paybacks result, how is that handled?***

Historically, the district has not had to "cut a check" to the Department of Health and Human Services. What has happened, rather, is that a recoupment notice is sent to the state's fiscal agent, and then as future billing is submitted by the school district, future payments are not made to the district until the recoupments are "worked off." Additionally, because MSB™ is paid on a contingency fee basis, we receive no payment for our services until the recoupment amount is "paid off," except in limited circumstances as listed in our contract with your district. Thus both MSB™ and the school district have a large incentive to make sure that all billing that is submitted is appropriate under program rules to avoid negative financial consequences. This incentive overlays a more fundamental policy that only appropriate claims should be submitted in accordance with the rules because doing so is simply the right thing to do.

15. **What is the difference between what a Speech Pathologist and a Speech Specialist (DOE Certified) are qualified to do under the Medicaid to Schools Program?**

A Licensed Speech Pathologist can refer (ORRF) a student for speech/language services; a Speech Specialist cannot. A Licensed Speech Pathologist, Speech/Language Assistant and a Speech Specialist can deliver Speech/Language services, but Speech/Language services delivered by either a Licensed Speech/Language

Assistant or a DOE Certified Speech Specialist must be provided under the direction of a qualified Speech Pathologist. The qualified Speech Pathologist must also sign the service delivery log in addition to the providing speech/language assistant/specialist.

16. Must the qualified licensed therapist sign off on the transaction logs of the SLA, COTA, or PTA under his/her direction?

Yes. This is a new requirement pursuant to rule revisions that were finalized in the summer of 2016.

17. Can COTAs, SLAs and PTAs sign off on Rehabilitative Assistants' logs?

The Department of Health and Human Services has indicated that the answer is "Yes," as long as the license or certification is from a medical board. We have concerns, however, that having a COTA, SLA or PTA sign off on a Rehabilitative Assistant log could raise licensing issues under the OT, PT and Speech Practice Acts. As a result, we would encourage you to have properly licensed OTs, SLPs and PTs sign off on Rehabilitative Assistant logs.

18. Can Guidance Counselors sign off on Rehabilitative Assistants' logs?

Guidance counselors who have completed a state board of education approved program in guidance counseling at the graduate level, or, who have acquired comparable skills, competencies and knowledge (as defined in alternative 3) and who have received their DOE certification under either track, are considered persons who may provide mental health services in accordance with the Medicaid to Schools Program. Hence, they are considered "licensed practitioners of the healing arts," and are permitted to cosign on the rehabilitative assistance transaction logs.

19. Who is qualified to recommend vision services?

A licensed optometrist, ophthalmologist, or other practitioner of the healing arts within the scope of practice under state law.

20. Does a Medicaid covered service have to appear in the related services grid of the child's IEP?

While it is likely that most covered services appear in the related services grid, the regulations simply require that the covered services be ordered in the child's IEP. Ultimately the service must be included in the IEP, but the required location of the service is not designated in the regulation. It is also important that a strong rationale be provided in the IEP as to why a child needs a covered service in relationship to the manifestations of the child's disability.

21. How should specialized transportation be ordered in the child's IEP?

Specialized transportation is the physical adaptation of a vehicle to meet the needs of the disabled child. The IEP should explain the adaptation and create a connection between the adaptation and the needs of the child because of the disability.

The above questions and answers are the result of analysis of the last published regulations (2016) and memos of clarification and interpretation from the Department of Developmental Services. MSB™ has catalogued those memos and is happy to reproduce for you any of the pertinent communications as resource documents.