

CERTIFICATE


STATE OF WISCONSIN)
) SS
DEPARTMENT OF HEALTH AND FAMILY SERVICES)

I, Joseph Leean, Secretary of the Department of Health and Family Services and custodian of the official records of the Department, do hereby certify that the annexed rules relating to Medical Assistance program reimbursement for provision of school-based health care services were duly approved and adopted by this Department on December 5, 1996.

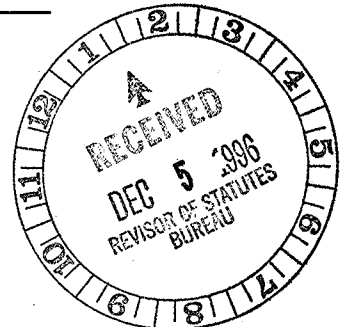
I further certify that this copy has been compared by me with the original on file in the Department and that this copy is a true copy of the original, and of the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the State Office Building, 1 W. Wilson Street, in the city of Madison, this 5th day of December, 1996.

SEAL:



Joseph Leean, Secretary
Department of Health and Family Services



ORDER OF THE
DEPARTMENT OF HEALTH AND FAMILY SERVICES
CREATING RULES

To create HSS 101.03(24m), (78m) and (78r), 105.53 and 107.36, relating to provision of school-based health care services reimbursed by the Medical Assistance program.

Analysis Prepared by the Department of Health and Family Services

The 1995-97 Budget Act, 1995 Wisconsin Act 27, created s.49.45 (39), Stats., which requires the Department of Health and Family Services to reimburse school districts and Cooperative Educational Service Agencies (CESAs) for Medical Assistance school-based services. This rulemaking order describes the covered services. These are speech, language, audiology and hearing services; occupational therapy; physical therapy; nursing services; psychological services, counseling and social work; developmental testing and assessments; transportation; and certain durable medical equipment. The rules require school-based service providers to exchange information and otherwise coordinate service provision with other health care providers serving the recipient. Any requirement that is inconsistent with federal education mandates may be waived.

The Department's authority to create these rules is found in s. 49.45(10), Stats., and s. 49.45(39)(b) and (c), Stats., as created by 1995 Wisconsin Act 27. The rules interpret s. 49.45(39), Stats., as created by 1995 Wisconsin Act 27.

SECTION 1. HSS 101.03(24m), (78m) and (78r) are created to read:

HSS 101.03(24m) "CESA" means a cooperative educational service agency under ch. 116, Stats.

(78m) "IEP" means an individualized education program developed under s. 115.80(4), Stats.

(78r) "IFSP" means an individualized family service plan developed under s. 51.44, Stats.

SECTION 2. HSS 105.53 is created to read:

HSS 105.53 SCHOOL-BASED SERVICE PROVIDERS. (1) ELIGIBLE PROVIDERS.

For MA certification, a school-based service provider shall be either a school district under ch. 120, Stats., or a cooperative educational service agency (CESA) under ch. 116, Stats.

(2) SEPARATE CERTIFICATION PROHIBITED. No school district or CESA may be separately certified as a provider of nursing services under ss. HSS 105.19 and 105.20, physical therapy services under s. HSS 105.27, occupational therapy services under s. HSS 105.28, speech and language pathology services under ss. HSS 105.29 and 105.30, audiology services under s. HSS 105.31 or transportation services under s. HSS 105.39.

(3) RECORD-KEEPING REQUIREMENTS. 1. For each recipient of school-based services, the provider shall keep a record containing, at a minimum, all of the following:

- a. The recipient's first and last name and date of birth;
- b. The prescription or, if referred, the referral for the service;
- c. Documentation used to develop the recipient's IEP or IFSP and to annually revise the IEP or IFSP; and
- d. Annual documentation of the individual's progress toward treatment goals identified in the IEP or IFSP, changes in the individual's physical or mental status and changes in the treatment plan identified in the IEP or IFSP.

2. For each date of service, the provider shall keep a service record within the recipient's record containing all of the following:

- a. The date of service;
- b. The general type of service provided;
- c. A brief description of the specific service provided;
- d. The unit of service delivered as defined through handbooks distributed by the department under s. HSS 108.02(4);
- e. A description and the cost of each durable medical equipment item with sufficient detail to allow the MA program to determine the reimbursement rate, when appropriate; and

f. Documentation of whether the procedure was provided in a group or individual setting, when appropriate.

3. Periodically, at least monthly, the provider shall include in the service record under subd. 2. the following:

a. For each service provided, a brief description of the recipient's response to the service and progress toward the treatment goals identified in the IEP or IFSP; and

b. The service provider's signature.

4. The provider shall include in the records other information identified by the Department in publications in accordance with s. HSS 108.02(4).

(4) REPORTING REQUIREMENTS. The required annual audit of school district accounts under s. 120.14, Stats., and the audit of CESA receipts and expenditures under s. 115.28(3m), Stats., shall include evidence, in accordance with instructions distributed by the department under s. HSS 108.02(4), that requirements for billing and for paying expenses under s. 49.45(39)(b), Stats., are being met. Sections of those annual audits shall be made available to the department upon request.

(5) REIMBURSEMENT. (a) School-based services shall be reimbursed when the services are provided by certified providers or their contractors to recipients eligible for school-based services.

(b) Payment, based on the cost to provide the service, shall be made to certified providers of school-based services according to terms of reimbursement established by the department and stated in the medicaid state plan under 42 CFR 430.10.

(c) Services provided between July 1, 1995 and June 30, 1996 may be billed through June 30, 1997, to the extent allowed by federal law, notwithstanding s. HSS 106.03(3)(b)1.

(6) COORDINATION WITH OTHER MA-CERTIFIED PROVIDERS. (a) Memorandum of understanding with HMO. School-based services providers shall have on file a signed copy of a memorandum of understanding with each HMO participating in the medical assistance HMO program when the geographic service area of the HMO coincides with part or all of the geographic service area of the school-based services provider.

(b) Coordination with fee-for-service providers. When a recipient receives similar services from both an MA fee-for-service provider and a school-based service provider, the school-based service provider shall document, at least annually, regular contacts with the MA fee-for-service provider, and provide the MA fee-for-service provider with copies of the recipient's IEP or IFSP and relevant components of the multidisciplinary team evaluation under s. 115.80(3) and (5), Stats., upon request.

SECTION 3. HSS 107.36 is created to read:

HSS 107.36 SCHOOL-BASED SERVICES. (1) COVERED SERVICES. (a) General.

1. School-based services covered by the MA program are services described in this section that are provided by a school district or CESA.

2. The school district or CESA shall ensure that individuals who deliver the services, whether employed directly by or under contract with the school district or CESA, are licensed under ch. PI 3, ch. 441, Stats., or Trans 301.

3. Notwithstanding s. HSS 106.13 (intro.) and (1)(c), requirements under chs. HSS 101 to 108 as they relate to school-based services, to the extent consistent with 42 CFR ch. IV, may be waived if they are inconsistent with other federal education mandates.

4. Consultation, case monitoring and coordination related to developmental testing under the individuals with disabilities education act, 20 USC 1400 to 1485, are included in

the MA-covered services described in this subsection when an IEP or IFSP results from the testing. Consultation, case monitoring and coordination for IEP or IFSP services are also included in the covered services described in this subsection.

(b) Speech, language, hearing and audiological services. Speech, language, hearing and audiological services for a recipient with a speech, language or hearing disorder that adversely affects the individual's functioning are covered school-based services. These services include evaluation and testing to determine the individual's need for the service, recommendations for a course of treatment and treatment. The services may be delivered to an individual or to a group of 2 to 7 individuals. The services shall be performed by or under the direction of a speech and language pathologist licensed by the department of public instruction under s. PI 3.35 or by an audiologist licensed by the department of public instruction under s. PI 3.355, and shall have a physician referral and be identified in the recipient's IEP or IFSP.

(c) Occupational therapy services. Occupational therapy services which identify, treat, or compensate for medical problems that interfere with age-appropriate functional performance are covered school-based services. These services include evaluation to determine the individual's need for occupational therapy, recommendations for a course of treatment, and rehabilitative, active or restorative treatment services. The services may be delivered to an individual or to a group of 2 to 7 individuals. The services shall be performed by or under the direction of an occupational therapist licensed by the department of public instruction under s. PI 3.36 and shall be prescribed by a physician and identified in the recipient's IEP or IFSP.

(d) Physical therapy services. Physical therapy services which identify, treat, or compensate for medical problems are covered school-based services. These services

include evaluation to determine the individual's need for physical therapy, recommendations for a course of treatment, and therapeutic exercises and rehabilitative procedures. The services may be delivered to an individual or to a group of 2 to 7 individuals. The services shall be performed by or under the direction of a physical therapist licensed by the department of public instruction under s. PI 3.37 and shall be prescribed by a physician and identified in the recipient's IEP or IFSP.

(e) Nursing services. Professional nursing services relevant to the recipient's medical needs are covered school-based services. These services include evaluation and management services, including screens and referrals for treatment of health needs; treatment; medication management; and explanations given of treatments, therapies and physical or mental conditions to family members or school district or CESA staff. The services shall be performed by a registered nurse licensed under s. 441.06, Stats., or a licensed practical nurse licensed under s. 441.10, Stats., or be delegated under nursing protocols pursuant to ch. N 6. The services shall be prescribed or referred by a physician or an advanced practice nurse as defined under s. N 8.02(1) with prescribing authority granted under s. 441.16(2), Stats., and shall be identified in the recipient's IEP or IFSP.

(f) Psychological counseling and social work services. Psychological counseling and social work services relevant to the recipient's mental health needs with the intent to reasonably improve the recipient's functioning are covered school-based services. These services include testing, assessment and evaluation that appraise cognitive, emotional and social functioning and self-concept; therapy or treatment that plans, manages and provides a program of psychological counseling or social work services to individuals with psychological or behavioral problems; and crisis intervention. The services may be delivered to an individual or to a group of 2 to 10 individuals. The services shall be

performed by a school psychologist, school counselor or school social worker licensed by the department of public instruction under ch. PI 3. The services shall be prescribed or referred by a physician or a psychologist licensed under s. 455.04(1), Stats., and shall be identified in the individual's IEP or IFSP.

(g) Developmental testing and assessments under IDEA. Developmental testing and assessments under the individuals with disabilities education act (IDEA), 20 USC 1400 to 1485, are covered school-based services when an IEP or IFSP results. These services include evaluations, tests and related activities that are performed to determine if motor, speech, language or psychological problems exist, or to detect developmental lags for the determination of eligibility under IDEA. The services shall be performed by a special education teacher, diagnostic teacher or other school district staff licensed by the department of public instruction under ch. PI 3. The services are also covered when performed by a therapist, psychologist, social worker, counselor or nurse licensed by the department of public instruction under ch. PI 3, as part of their respective duties.

(h) Transportation. Transportation services provided to individuals who require special transportation accommodations in vehicles equipped with a ramp or lift are covered school-based services if the recipient receives a school-based service on the day transportation is provided. These services include transportation from the recipient's home to and from school on the same day if the school-based service is provided in the school, and transportation from school to a service site and back to school or home if the school-based service is provided at a non-school location, such as at a hospital. Transportation shall be performed by a school district, CESA or contracted provider using vehicles equipped with a ramp or lift. A prescription from a physician or advanced practice nurse, as defined under s. N 8.02(1), with prescribing authority granted under s. 441.16(2), Stats., is required to

demonstrate the recipient's need for special transportation. The service shall be included in the IEP or IFSP. The covered service that the recipient is transported to and from shall meet MA requirements for that service under ch. HSS 105 and this chapter.

(i) Durable medical equipment. Durable medical equipment except equipment covered in s. HSS 107.24 is a covered service if the need for the equipment is identified in the recipient's IEP or IFSP, the equipment is recipient-specific, the equipment is not duplicative of equipment the recipient currently owns and the equipment is for the recipient's use at school and home. The recipient, not the school district or the CESA, shall own the equipment.

(2) LIMITATIONS. (a) Age limit. School-based services may only be provided to MA-eligible recipients under 21 years of age, or for the school term during which an MA-eligible recipient becomes 21 years of age.

(b) Medically necessary. School-based services shall be medically necessary. In this paragraph "medically necessary" has the meaning prescribed in s. HSS 101.03 (96m) and in addition means services that:

1. Identify, treat, manage or address a medical problem or a mental, emotional or physical disability;
2. Are identified in an IEP or an IFSP;
3. Are necessary for a recipient to benefit from special education, as defined in s. PI 11.02(48); and
4. Are referred or prescribed by a physician or advanced practice nurse, as defined under s. N 8.02(1), with prescribing authority granted under s. 441.16(2), Stats., where appropriate, or a psychologist, where appropriate.


(3) **NON-COVERED SERVICES.** Services not covered as school-based services are the following:

- (a) Art, music and recreational therapies;
- (b) Services that are strictly educational, vocational or pre-vocational in nature, or that are otherwise without a defined medical component;
- (c) Services that are not in the recipient's IEP or IFSP;
- (d) Services performed by a provider not specifically certified under s. HSS 105.53;
- (e) General classroom instruction and programming;
- (f) Staff development;
- (g) In-school services to school staff and parents;
- (h) General research and evaluation of the effectiveness of school programs;
- (i) Administration or coordination of gifted and talented programs or student assistance programs;
- (j) Kindergarten or other routine screening provided free of charge unless resulting in an IEP or IFSP referral;
- (k) Diapering;
- (l) Durable medical equipment covered under s. HSS 107.24; and
- (m) Non-medical feeding.

The rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2), Stats.

Wisconsin Department of Health and Family Services

Dated: December 5, 1996

By: 
Joe Lekan
Secretary

SEAL:

