

Medical Services Under IDEA

The Medicaid program can pay for certain medically necessary services which are specified in Medicaid law when provided to individuals eligible under the state plan for medical assistance. The Individuals with Disabilities Education Act (IDEA), formerly called the Education of the Handicapped Act, authorized Federal funding to states for two programs that impact Medicaid payment for services provided in schools. Section 411(k)(13) of the Medicare Catastrophic Coverage Act of 1988 (P.L. 100-360) amended section 1903(c) of the Act to permit Medicaid payment for medical services provided to children under IDEA through a **child's Individualized Education Plan (IEP) or Individualized Family Service Plan (IFSP)**. This amendment was enacted to ensure that Medicaid would cover the health-related services under IDEA.

In summary, HCFA policy is that health-related services included in a child's IEP or IFSP can be covered under Medicaid if all relevant statutory and regulatory requirements are met. A state may cover services often included in an IEP or IFSP as long as: 1) the services are medically necessary and coverable under a Medicaid coverage category (speech therapy, physical therapy, etc.), 2) all other Federal and state regulations are followed, including those for provider qualifications, comparability of services and the amount, duration and scope provisions; and 3) the services are included in the state's plan or available under EPSDT.

Exceptions to Medicaid as the Payer of Last Resort

There are exceptions to the provisions of Medicaid as the payer of last resort which allow Medicaid to be the primary payer to another Federal or Federally funded program for services covered under Medicaid when specifically required by Federal law, and only after other liable third party payments have been established.

One such exception is Title V as mentioned earlier in the discussion of free care.

******In addition, section 1903(c) of the Act permits an exception to the TPL requirements in that, for Medicaid-covered services listed on a Medicaid eligible child's IEP/IFSP, Medicaid will pay primary to IDEA. This means that Medicaid will pay prior to DOE for Medicaid-covered services listed in a child's IEP/IFSP.**

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The Social Security Act Section 1905(a).

Section 1903(c) of the Act requires Medicaid to be primary to the U.S. Department of Education for payment of the health-related services provided under IDEA.

The IDEA authorizes federal funding to states for medical services provided to children through a child's Individualized Education Program (IEP), including children that are covered under Medicaid. In 1988, section 1903(c) of the Act was amended to permit Medicaid payment for medical services provided to Medicaid eligible children under IDEA and included in the child's IEP.

Medicaid covers services included in an IEP under the following conditions:

- The services are medically necessary and included in a Medicaid covered category (speech therapy, physical therapy, etc.);
- All other federal and state Medicaid regulations are followed, including those for provider qualifications, comparability of services and the amount, duration and scope provisions;
- The services are included in the state's plan or available under EPSDT; and
- The medical service must be provided to a Medicaid eligible student.

Here is a list of everything that is covered by EPSDT, copied from a 2004 brochure printed by CMS called "EPSDT - Supporting Children with Disabilities

Hospital Services

- Ambulance to and from hospital/emergency room
- Inpatient hospital care
- Outpatient hospital care (day visits)
- Emergency room visits

Physical Health Care

- Physician/nurse practitioner services: routine check-ups, illness-related visits
- Dental visits: routine check-ups/cleanings (including accommodations

for children with special needs), fillings, preventive care

- Vision care: eye exams, glasses, eye drops, scratch-proof lenses
- Hearing care: hearing tests, hearing aides, cochlear implants
- Immunizations: according to established schedule
- Lab tests/x-ray services: including blood lead tests
- Podiatry care: including orthotic inserts

Mental health

- Psychiatrist visits
- Mental health therapy/counseling
- Substance abuse treatment
- Inpatient psychiatric hospitalization

Medications and Pharmacy Supplies

- Prescription drugs
- Diapers
- Special foods: diet supplements, thickeners, other foods found in a store's pharmacy section

Home/Community Services and Therapies

- Private duty nurses: nursing care in the home or community for children who require medical attention/services

- **Personal care/personal assistant services:** assistance with nonmedical services in the home, community or school, including feeding, bathing/personal hygiene, transferring, following behavior plan
- **Physical therapy**
- **Occupational therapy**
- **Speech, hearing, and language therapy (includes audiology services)**
- **Chiropractic services**
- **Nutritional services/counseling**
- **Some behavioral therapy:** behavioral therapies for children with autism are generally covered by EPSDT, although there is some controversy about this

Supplies/Equipment

- **Durable medical equipment:** wheelchairs, ankle/foot/leg braces, monitors, catheters, oxygen equipment, nebulizers
- **Augmentative communication devices:** communication aides, optical headpointers, headsets
- **Diabetic supplies:** insulin pumps, glucometers, syringes
- **Prostheses**

Other services

- **Transportation:** to and from doctors' appointments, therapy visits
- **Case management**

How Medicaid and EPSDT Promote Healthy Child Development Among Children with Special Health Care Needs:

Children with Special Health Care Needs:

Like all children, those in Medicaid range from healthy children with modest needs to children with serious conditions and greater health needs in early childhood. Children with special health care needs have, or are at increased risk for, chronic physical, developmental, behavioral, or emotional conditions and require services beyond those required by children generally.

Medicaid's Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) program offer the nation's most comprehensive coverage for children with special needs. Many enrollees have low income; qualify through Medicaid's special "spend down" program for medically needy persons; or qualify through the home and community care waiver program, which states use for children of any income level who have serious disabilities.

The program's comprehensive benefits include all services recognized as part of Medicaid's medical assistance definition, including rehabilitative services, extended inpatient care, physical and speech therapy, eyeglasses, hearing aids and other durable medical equipment, private duty nursing, medically necessary prescription drugs, and targeted case management.

EPSDT covers treatments needed to ameliorate a condition that would affect a child's growth and development—a coverage standard far broader than those observed by commercial insurers.

Medicaid and Child Development Programs

Medicaid plays a key supporting role in child health and development programs. Medicaid covers a broad range of services and, unlike commercial insurance, will pay for care in settings that are not traditionally "medical." For example, Medicaid will pay for covered benefits when delivered in schools or early childhood development centers. Through EPSDT, Medicaid finances the health care component of programs that furnish educational and supportive services for children with special developmental needs.

Two key examples of child development programs supported in part by Medicaid are the Individuals with Disabilities Education Act (IDEA) and the Title V Maternal and Child Health Services Block Grant (Title V). IDEA requires states to ensure a free, appropriate public education to children with disabilities.⁶ It also supports early intervention programs for infants and toddlers at risk for disability and delay. Under IDEA, schools must: 1) develop an individualized education plan that identifies the educational and supportive services a child needs; 2) provide related services that help the child benefit from education, including developmental support services, transportation, and necessary medical care; and 3) in the case of pre-school children receiving early intervention services, provide for the development of an individualized family service plan. In 2001, approximately 6.7 million children received IDEA services. **IDEA does not provide states with funding for medical and health care needs. For this reason, federal law provides for payment under Medicaid for the health care services that**

may be identified in a Medicaid-enrolled child's education plan or family service plan.⁸ Similarly, IDEA requires that educational and early intervention programs coordinate with Medicaid.

1 Federal Register, vol. 70, no. 33, Feb. 18, 2005, pp. 8373–75.

2 S. Rosenbaum, A. Markus, and C. Sonosky, "Public Health Insurance Design for Children: The Evolution from Medicaid to SCHIP," *Journal of Health and Biomedical Law* 2004 1(1):1–47.

3 B. Brown, M. Weitzman et al., *Early Childhood Development in a Social Context: A Chartbook* (New York: The Commonwealth Fund, Sept. 2004).

4 Maternal and Child Health Bureau, Health Resource and Services Administration, U. S. Department of Health and Human Services, <http://mchb.hrsa.gov>.

5 Data Resource Center for Child and Adolescent Health, <http://cshcndata.org> (accessed July 10, 2005).

6 The text of IDEA can be found at: 20 U.S.C. §1400 et seq.

7 OSERS's Annual Report to Congress, 2003, at <http://www.ed.gov/about/reports/annual/osep/2003/25th-vol-1-sec-1.pdf>.

8 20 U.S.C. § 1412(12)(a), § 1440; 42 U.S.C. § 396b(c).