Department of Education Responses to November 9, 2017 Request To Governor LePage and Commissioner Hasson

November 16, 2017

1. Clarification of cost driver categories for special education programs and services:

- Clarify occupational categories as authorized by Maine Department of Education's (DOE) Chapter 101 Rules (Maine Unified Special Education Regulation ["MUSER"] Birth to Age Twenty), including special education directors, teachers, education technicians (Ed. Techs. 1, 2 & 3), occupational therapists, physical therapists, speech therapists, etc.

  Response: See Attachment 1(a) for list of occupational categories. See Attachment 1(b) for a description of Early Intervention Services taken from Chapter Rule 101r (Maine Unified Special Education Regulation ["MUSER"] Birth to Age Twenty).

  Attachment 1(c) is Appendix A, page 34 of the Report from MEPRI – Analysis of the Essential Programs and Services Special Education Cost Component which shows the growth in special education expenditures by program from 2010 to 2015.

- Do school districts cooperate and establish regional special education programs; and can school districts regionally collaborate to collectively share occupational therapists, physical therapists, speech therapists, etc.?

  Response: Many districts provide services on a contract basis however, a number of regional approaches have been developed. Attachment 1(d) is provided to indicate where those regions are located. The recent adoption of School Management and Leadership Centers in the First Regular Session of the 128th Legislature, 20-A, Section 3801 et seq. envisions that these centers would be used for just such a purpose.

- How many groups of school districts provide services by contracts; can they develop a team of specialists to serve within the contract; and is it possible to review financial data to see if these regional collaborations result in cost effectiveness?

  Response: The Department has no data to produce, however we are aware that many school districts provide these services on a contract basis. The Department is also aware that districts who do not currently participate in a regional initiative are exploring a regional approach to providing special education services through School Management and Leadership Centers created in the First Regular Session of the 128th Legislature, 20-A, Section 3801 et seq.

- Would there be regional cost adjustments for special education faculty, staff and students in high poverty school districts?

  Response: The Department would request that the Task Force clarify this question. However, we would take this opportunity to advise the Task Force that in the adoption of the budget in LD 390, the following changes were made to the special education funding statutes: the special education weight in the EPS Special Allocation was increased from 1.3 to 1.5; the Minimum Special Education Adjustment was increased from 33 % to 40%; increased allocations for out-of-district public placements; and decreased the local share for high cost public school placements or public regional special education programs; and a Special Education Budgetary Hardship Fund was created.

2. Relationship of State Plans with Federal Centers for Medicaid Services (CMS):

- What are the current state laws and rules enacted following the April 30, 2012 report from the Maine DOE and the Maine Department of Health and Human Services (HHS) report to the Maine Legislature in response to LD 1003, "Resolve, To Assist Maine Schools To Obtain Federal Funds for Medically Necessary Services"?

  Response: Attached please find a copy of the report generated in response to LD 1003, "Resolve, To Assist Maine Schools To Obtain Federal Funds for Medically Necessary Services"? Attachment 2(a). A search by the Legislative Law Library finds no legislation was generated in the 126th as a result of this report. However, a bill sponsored by Rep. Paul Stearns, LD 582 in the 127th Legislature, was enacted and required that the position for a State education Medicaid officer be created and funded to act as a liaison between the State and SAUs to "alleviate the challenges in navigating the complexity of MaineCare billing and improve communication." Attached you will find the 2017 MaineCare in Education billing guide for MaineCare School-Based Services created by the person in that position. Attachment 2(b).

  Attachment 2(c) - Quarterly MaineCare billing form. Currently, 104 school administrative units out of 260 units bill for MaineCare services. The attachment reflects quarterly billing. The Department can provide a list of school administrative districts who do bill in electronic format upon request because it is a large file.

- Is it possible for Maine DOE and Maine HHS spokespersons to present briefings and discuss the authority to package together expenses with Maine Care (Medicaid) funds to provide medically necessary services for public school students?

  Response: DHHS/MaineCare would need to respond to this inquiry.

3. Child Development Services (CDS) and early intervention:

- What will be the financial impact for the state and the local school districts' special education costs should the Maine DOE proposals to shift the CDS and early intervention programs be implemented?

  Response: This information is not available at this time; however, the department would advise that as we contemplate the measures required to meet an increasing need for the provisions of services to children with disabilities ages 3 to 5, there will be a need for additional funding.

4. Federal and State Maintenance of Effort (MOE) finance data:

- Request the Maine DOE to explain federal and state MOE laws and regulations; and report data on the submission of MOE financing to Maine school districts;

- Given the recent shift in the federal MOE regulations, does the MOE favor more wealthy communities in Maine school districts?

  Response: Information on both items was provided in the DOE presentation at the initial Task Force meeting. See: DOE Presentation to the Task Force on for Special Education Cost Drivers and Innovative Approaches to Services, October, 2017 pp. 13-15. Data provided in the DOE presentation on p. 14 shows that wealthier districts spend twice as much per special education student than less wealthy communities. As the allocation is expenditure driven, the disparity grows each successive year. See also: Selected Data from FY2017 Review of Special Education EPS Component dated October 19, 2017. The MEPRI presentation to the Committee provided further information including the growth of special education expenditures on P.2, special education model allocations on p. 3, the growth of state Maintenance of Effort component of the special education allocations on p. 5. (Both presentations recognized that the maintenance of effort component in the EPS funding formula was not named well and has caused some confusion with the federal maintenance of effort).

(2) The costs of tuition, board, and special education services paid to other SAUs or private schools which have been approved by the Commissioner for the provision of special education and related services as reported on the EF-S-07 Report.

C. Costs of Qualified Personnel

The salary and benefit costs for qualified educational personnel shall be funded in part by the Department to the extent that these personnel are assigned to special education functions. The personnel providing early intervention services must meet qualifications that are consistent with any state-approved or recognized certification, licensing, registration, or other comparable requirements that apply to the area in which such personnel are providing early intervention services.

(1) Certified Educational Personnel

For B-5 special education teachers shall have a #282 certificate.

For 5-20:

These shall include administrators, teachers and educational specialists assigned to provide or administer special education services:

Department of Education Certificate Title	
Administrator of Special Education	*#030*
Assistant Administrator of Special Education	*#035*
Special Education Consultant	*#079*
School Psychologist	*#093*
Vocational Education Evaluator	*#094*
Speech & Hearing Clinician	*#293*
School Nurse **	*#524*
Teacher of Students w/ Disabilities	*#282*
Teacher - Severe Impairments	*#286*
Teacher - Hearing Impairments	*#292*
Teacher - Visual Impairments	*#291*
Adapted Physical Education	*#515*

***Only as is necessary as identified on the child's Individualized Education Program (IEP).*

School units may not report as program costs the salaries or benefits (full or prorated) of regular classroom teachers, administrators or educational specialists (such as guidance

For those school administrative units in which the annual December 1st Child Count for the most recent year is less than 15% of the school administrative unit's resident pupils as determined under 20-A MRSA §15674, subsection 1, paragraph C, subparagraph (1), the special education Child Count percentage may not increase more than 0.5% in any given year, up to a maximum of 1.0% in any given 3-year period. For each special education child above the 15% maximum, the unit receives an additional weight of .38. In addition, each school administrative unit must receive additional funds:

(1) For lower staff-student ratios and expenditures for related services for SAUs with fewer than 20 special education children identified on the annual December 1st Child Count as required by the federal Individuals with Disabilities Education Act for the most recent year;

(2) For high-cost in-district special education placements. Additional funds must be allocated for each child estimated to cost 3 times the statewide special education EPS per-pupil rate. The additional funds for each child must equal the amount by which that student's estimated costs exceed 3 times the statewide special education EPS per-pupil rate;

(3) For high-cost out-of-district special education placements. Additional funds must be allocated for each child estimated to cost 4 times the statewide special EPS per-pupil rate. The additional funds for each child must equal the amount by which that student's estimated costs exceed 4 times the statewide special education EPS per-pupil rate; and

(4) To ensure the SAU meets the federal maintenance of effort requirement for receiving federal Individuals with Disabilities Education Act funds.

B. Essential Program and Services Funding Act: Allowable Special Education Costs

(1) The salary and benefit costs of qualified professional personnel, Educational Technicians, clerical staff or qualified independent contractors providing special education services or related services.

counselors) that provide instruction and services to children with disabilities in the same manner as to all other children.

(2) Auxiliary Staff

These shall include those Educational Technicians I, II, and III approved by the Department's Office of Certification and assigned full-time or part-time to provide special education services. The salaries or benefits (full or partial) of persons who are assigned as Educational Technicians in regular classrooms and are not providing direct services to children with disabilities within those classrooms, are not allowable special education costs.

(3) Licensed or Credentialed Providers

These shall include those persons licensed or credentialed by appropriate state or national agencies to provide related services to children with disabilities.

(a) Qualified Licensed or Credentialed Providers

Job Title	*Licensing Authority*
Audiologists	*Maine Board of Speech, Audiology and Hearing*
Interpreter / Transliterator	*Office of Licensing and Registration, Department of Professional and Financial Regulation*
Licensed Clinical Professional Counselors Licensed Marriage and Family Therapists	*Maine Board of Counseling Professionals Licensure*
Occupational Therapists and Occupational Therapy Aides	*Maine Board of Examiners of Occupational Therapy Practice*
Physical Therapists and Physical Therapist Assistants	*Maine Board of Examiners of Physical Therapy*
Psychologists	*Maine Board of Examiners of Psychologists*
Social Workers	*Maine Board of Social Workers Licensure*
Speech-Language Pathologists, Speech-Language Pathology Aides and Assistants	*Maine Board of Speech, Audiology and Hearing*

Certified Employment Specialist	*Association of Community Rehabilitation Educators (ACRE) Note: Must also hold Educational Technician III authorization through the Maine Department of Education*
Board Certified Behavior Analyst	*Behavior Analyst Certification Board*
Certified Assistive Technology Professional	*Rehabilitation Engineering and Assistive Technology Society of North America*
Orientation and Mobility Specialist	*Academy for Certification of Vision Rehabilitation and Education Professionals*
Recreation Therapist	*National Council for Therapeutic Recreation Certification*

(b) Required Procedures for Contracted Special Education Services.

(i) Use of independent contractors - If the IEP Team determines that the provision of special education or related services is necessary to identify or provide for a child's special education needs and if the provider of such special education or related services is not an employee of the SAU, such services shall be provided in accordance with the terms of a written contract approved by the superintendent or the State IEU.

(ii) Contracts – SAUs shall negotiate a written contract with any individual or agency from which they wish to obtain special education or related services.

The following information shall be included in each contract:

(I) Total costs for services, listed in detail;

(II) Nature and extent of consultation and/or evaluation services to be provided;

(III) The name, social security number, and certification/licensure of the provider;

(IV) Provision for the proration of charges and payments; and

(V) Provision for the timely exchange of essential information and individual student

XI. EARLY INTERVENTION SERVICES FOR YOUNG CHILDREN B-2 AND RELATED SERVICES FOR CHILDREN THREE TO TWENTY

General Principles: Need for Early Intervention Services

"Early intervention services" means developmental services that are provided under public supervision; are provided at no cost except where federal or state law provides for a system of payments by families, including a schedule of sliding fees; are designed to meet the developmental needs of an infant or toddler with a disability, as identified by the individualized family service plan team in one or more of the following areas, physical development, cognitive development, communication development, social or emotional development or adaptive development; meet the standards of the state in which the services are provided; are provided by qualified personnel; to the maximum extent appropriate, are provided in natural environments, including the home, and community settings in which children without disabilities participate; and are provided in conformity with an individualized family service plan. [20 USC 1432(4)]
Appropriate early intervention services must be based upon scientifically based research.

"**Related Services**" means special education transportation, and such developmental, corrective, and other related services pursuant to the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1401 (26) and, *as defined by the Commissioner,* as required to assist children with disabilities to benefit from special education. The term related services does not include a medical device that is surgically implanted, or the replacement of such device. [20 USC 1401(26)]

Related services does not include a medical device that is surgically implanted, the optimization of that device's functioning (e.g., mapping), maintenance of that device, or the replacement of that device. Nothing in the prior paragraph limits the right of a child with a surgically implanted device to receive related services that are determined by the IEP Team to be necessary for the child to receive FAPE, limits the responsibility of an SAU to appropriately monitor and maintain medical devices that are needed to maintain the health and safety of the child, including breathing, nutrition, or operation of other bodily functions, while the child is transported to and from school or is at school; or prevents the routine checking of an external component of a surgically implanted device to make sure it is functioning properly. [34 CFR 300.34(b)(2)(i-iii)]

Early Intervention Services B-2	Related Services 3 to 20
Audiology includes: i. Identification of children with auditory impairment, using at risk criteria and appropriate audiologic screening techniques; ii. Determination of the range, nature, and degree of hearing loss and communication functions, by use of audiological evaluation procedures; iii. Referral for medical and other services necessary for the habilitation or rehabilitation of children with auditory impairment; iv. Provision of auditory training, aural rehabilitation, speech reading and listening device orientation and training, and other services; v. Provision of services for prevention of hearing loss; and vi. Determination of the child's need for individual amplification, including selecting, fitting, and dispensing appropriate listening and vibrotactile devices, and evaluating the effectiveness of those devices.	Audiology includes— i. Identification of children with hearing loss; ii. Determination of the range, nature, and degree of hearing loss, including referral for medical or other professional attention for the habilitation of hearing; iii. Provision of habilitative activities, such as language habilitation, auditory training, speech reading (lipreading), hearing evaluation, and speech conservation; iv. Creation and administration of programs for prevention of hearing loss; v. Counseling and guidance of children, parents, and teachers regarding hearing loss; and vi. Determination of children's needs for group and individual amplification, selecting and fitting an appropriate aid, and evaluating the effectiveness of amplification.
Family Training and Counseling Family training, counseling, and home visits means services provided, as appropriate, by social workers, psychologist, and other qualified personnel to assist the family of a child eligible under this part in understanding the special needs of the child and enhancing the child's development.	Counseling services means services provided by qualified social workers, psychologists, or other qualified personnel. *A licensed clinical professional counselor licensed by the Maine State Board of Counseling Professionals Licensure may provide assessment, consultation, counseling and referral services to children with disabilities and their parents consistent with the laws and regulations governing the practice of professional counseling (32 MRSA Chap. 119). A licensed marriage and family therapist may provide counseling services.*

	Parent counseling and training means assisting parents in understanding the special needs of their child; providing parents with information about child development; and helping parents to acquire the necessary skills that will allow them to support the implementation of their child's IEP or IFSP.
Health Services. Health services means services necessary to enable a child to benefit from the other early intervention services under this part during the time that the child is receiving the other early intervention services. i. The term includes: a. Such services as clean intermittent catheterization, tracheostomy care, tube feeding, the changing of dressings or colostomy collection bags, and other health services; and b. Consultation by physicians with other service providers concerning the special health care needs of eligible children that will need to be addressed in the course of providing other early intervention services. ii. The term does not include the following: a. Services that are surgical in nature (such as cleft palate surgery, surgery for club foot, or the shunting of hydrocephalus); purely medical in nature (such as hospitalization for management of congenital heart ailments, or the prescribing of medicine or drugs for any purpose); or related to the implementation, optimization (e.g. mapping), maintenance, or replacement of a medical device that is surgically implanted, including a cochlear implant. • Nothing in this part limits the right of an infant or toddler with a disability with a	

surgically implanted device (e.g, cochlear implant) to receive the early intervention services that are identified in the child's IFSP as being needed to meet the child's developmental outcomes. • Nothing in this part prevents the EIS provider from routinely checking that either the hearing aid or the external components of a surgically implanted device (e.g, cochlear implant) of an infant or toddler with a disability are functioning properly; b. Devices (such as heart monitors, respirators, and oxygen, and gastrointestinal feeding tubes and pumps) necessary to control or treat a medical condition. c. Medical-health services (such as immunizations and regular "well-baby" care) that are routinely recommended for all children.	
	Hearing Aids Each public agency (*SAU)* must ensure that hearing aids worn in school by children with hearing impairments, including deafness, are functioning properly.[34 CFR 300.113(a)] *Hearing aids will be checked no less than weekly by an individual assigned the responsibility and trained to identify typical malfunctions in hearing aids.*
	Interpreting services, as used with respect to children who are deaf or hard of hearing, includes oral transliteration services, cued language transliteration services, and sign language, transliterator and interpreting services, such as communication access realtime transliteration (CART), C-print, and type service and special interpreting services for children who are deaf/blind.

	i. An interpreter for a student who is disabled shall be licensed with the Office of Licensing and Registration, Department of Professional and Financial Regulation, (32 MRSA Chap. 22 and accompanying regulations). *ii. A cued speech transliterator shall be licensed with the Office of Licensing and Registration, Department of Professional and Financial Regulation, (32 MRSA Chap. 22 and accompanying regulations).*
Medical Services (only for diagnostic or evaluation purposes) means services provided by a licensed physician to determine a child's developmental status and need for early intervention services.	Medical Services means services provided by a licensed physician to determine a child's medically related disability that results in the child's need for special education and related services. Such medical services shall be for diagnostic and evaluation purposes only.
Vision services means: i. Evaluation and assessment of visual functioning, including the diagnosis and appraisal of specific visual disorders, delays and abilities that affect early childhood development; ii. Referral for medical or other professional services necessary for the habilitation or rehabilitation or visual functioning disorders, or both; and iii. Communication skills training, orientation and mobility training for all environments, visual training, independent living skills training, and additional training necessary to activate visual motor abilities. Qualified personnel for vision services are vision specialists, including ophthalmologists and optometrists, *and teacher of the Blind and Visually Impaired.*	Orientation and mobility services means services provided to students who are blind or visually impaired by qualified personnel to enable those students to attain systematic orientation to and safe movement within their environments in school, home, and community; and includes travel training instruction and teaching students the following, as appropriate: i. Spatial and environmental concepts and use of information received by the senses (such as sound, temperature and vibrations) to establish, maintain, or regain orientation and line of travel (e.g., using sound at a traffic light to cross the street); ii. To use the long cane to supplement visual travel skills or as a tool for safely negotiating the environment for students with no available travel vision; iii. To understand and use remaining vision and distance low vision aids; and iv. Other concepts, techniques, and tools.
Occupational therapy includes services to address the functional needs of a child related to adaptive development, adaptive behavior and play, and sensory, motor, and postural development. These services are designed to improve the child's functional	Occupational therapy means— i. Services provided by a qualified occupational therapist; and ii. Includes—

ability to perform tasks in home, school, and community settings, and include: i. Identification, assessment, and intervention; ii. Adaptation of the environment, and selection, design and fabrication of assistive and orthotic devices to facilitate development and promote the acquisition of functional skills; and iii. Prevention or minimization of the impact of initial or future impairment, delay in development, or loss of functional ability.	a. Improving, developing or restoring functions impaired or lost through illness, injury, or deprivation; b. Improving ability to perform tasks for independent functioning if functions are impaired or lost; and c. Preventing, through early intervention, initial or further impairment or loss of function. *A licensed occupational therapist may provide occupational therapy The maximum student-therapist caseload, including both consultation and direct services, shall not exceed 50 students per each full-time equivalent provider.* *Occupational therapy includes improving, developing or restoring functions impaired or lost through illness, injury, or deprivation; improving ability to perform tasks for independent functioning if functions are impaired or lost; and preventing, through early intervention, initial or further impairment or loss of function.* *Occupational therapy assistants may provide services under the professional supervision of an appropriately licensed therapist as required by the laws and regulations regarding the practice of occupational therapy and physical therapy (32 MRSA Chapters 32 and 45-A and accompanying regulations).*
Physical therapy includes services to address the promotion of sensory-motor function through enhancement of musculoskeletal status, neurobehavioral organization, perceptual and motor development, cardiopulmonary status, and effective environmental adaptation. These services include: i. Screening, evaluation and assessment of infants and toddlers to identify movement dysfunction; ii. Obtaining, interpreting and integrating information appropriate to program planning to prevent, alleviate, or compensate for movement dysfunction and related functional problems; and	Physical therapy means services provided by a qualified physical therapist. *A licensed physical therapist may provide physical therapy services The maximum student-therapist caseload, including both consultation and direct services, shall not exceed 50 students per each full-time equivalent provider.* *Physical therapist assistants may provide services under the professional supervision of an appropriately licensed therapist as required by the laws and regulations regarding the practice of occupational therapy and physical therapy (32 MRSA Chapters 32 and 45-A and accompanying regulations).* *Physical therapy means services provided by a qualified physical therapist.*

iii. Providing individual and group services or treatment to prevent, alleviate or treatment to prevent, alleviate, or compensate for movement dysfunction and related functional problems.	
Psychological services include: i. Administering psychological and developmental tests and other assessment procedures; ii. Interpreting assessment results; iii. Obtaining, integrating, and interpreting information about child behavior, and child and family conditions related to learning, mental health, and development; and iv. Planning and managing a program of psychological services including psychological counseling for children and parents, family counseling, consultation on child development, parent training, and education programs.	Psychological services includes— i. Administering psychological and educational tests, and other assessment procedures; ii. Interpreting assessment results *offering diagnostic impressions;* iii. Obtaining, integrating, and interpreting information about child behavior and conditions relating to learning; iv. Consulting with other staff members in planning school programs to meet the special educational needs of children as indicated by psychological tests, interviews, direct observation, and behavioral evaluations; v. Planning and managing a program of psychological services, including psychological counseling for children and parents; and vi. Assisting in developing positive behavioral intervention strategies. *A certified school psychologist or psychologist licensed by the Board of Examiners of Psychologists may provide consultation services to children, school staff members and parents; evaluation services for children; behavior management including assisting in designing, implementing, evaluation and modifying positive behavioral intervention strategies; and social skills training (including individual or group counseling for children). Psychologists may provide psychotherapy if required by a child with a disability and specified in the child's IEP. A certified school psychologist may offer diagnostic impressions.* *The Maine Psychological Association (MePA) maintains a register for Neurocognitive Testing Assistants (NTAs). NTAs must be registered and supervised by a psychologist, who is the evaluator, and who is licensed by the Department of Professional and Financial Regulation Board of*

	Examiners of Psychologists. This register is referenced by the Department of Education when special education directors request reimbursement for a student's assessment. *This registration procedure has been in effect since August, 2001, as a result of a Final Report of the Commissioner of Professional and Financial Regulation to the Joint Standing Committee on Education and Cultural Affairs.* *The registration requires, as recommended in this Report and required by the Legislative Committee, a minimum of a bachelor's degree in psychology or a related field. The licensed psychologist is fully responsible and liable for the conduct of the NTA.* *The Report further states that the Department of Education indicated to the Department of Professional and Financial Regulation and to the Board of Examiners of Psychologists that a program of self-regulation, such as a registration program administered by a private organization such as the MePA, would satisfy federal requirements, so long as the minimum qualifications for registration are established and met by the registrants. This provision will remain in effect in this chapter until the Department of Professional and Financial Regulation Board of Examiners of Psychologists completes rulemaking on the neurocognitive assistants.*
	Recreation includes assessment of leisure function; therapeutic recreation services; recreation programs in schools and community agencies; and leisure education.
	Rehabilitation counseling services means services provided by qualified personnel in individual or group sessions that focus specifically on career development, employment preparation, achieving independence, and integration in the workplace and community of a student with a disability. The term also includes vocational rehabilitation services provided to a child with disabilities by vocational rehabilitation programs funded under the Rehabilitation Act of 1973, as amended.

Nursing services include: i. The assessment of health status for the purpose of providing nursing care, including the identification of patterns of human response to actual or potential health problems; ii. Provision of nursing care to prevent health problems, restore or improve functioning, and promote optimal health and development; and iii. Administration of medications, treatments, and regimens prescribed by a licensed physician.	School health and school nurse services means health services that are designed to enable a child with a disability to receive FAPE as discussed in the child's IEP. School nurse services are provided by a qualified school nurse. School health services are services that may be provided by either a qualified school nurse or other qualified person.
Social work services include: i. Making home visits to evaluate a child's living conditions and patterns of parent-child interaction; ii. Preparing a social or emotional developmental assessment of the child within the family context; iii. Providing individual and family-group counseling with parents and other family members, and appropriate social skill-building activities with the child and parents; iv. Working with those problems in a child's and family's living situation (home, community, and any center where early intervention services provided) that affect the child's maximum utilization of early intervention services; and v. Identifying, mobilizing, and coordinating community resources and services to enable the child and family to receive maximum benefit from early intervention services.	Social work services includes— i. Preparing a social or developmental history on a child with a disability; ii. Group and individual counseling with the child and family; iii. Working in partnership with parents and others on those problems in a child's living situation (home, school, and community) that affect the child's adjustment in school; iv. Mobilizing school and community resources to enable the child to learn as effectively as possible in his or her educational program; and v. Assisting in developing positive behavioral intervention strategies. *A social worker licensed by the Maine Board of Social Worker Licensure may provide social work services including preparing a social or developmental history of a child with a disability; group and individual counseling with the child and family; working with those problems in a child's living situation (home, school, and community) that affect the child's adjustment in school; and*

	mobilizing school and community resources to enable the student to learn as effectively as possible in his or her educational program and assisting in developing positive behavioral interventions and strategies. *A social worker licensed by the Maine Board of Social Worker Licensure may provide social work services to children, school staff members, and parents consistent with the laws and regulations governing the practice of social work (32 MRSA Chap. 83 and accompanying regulations). The maximum student-therapist caseload shall not exceed 50 children per each full-time equivalent licensed social worker.*
Assistive Technology Assistive technology device means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of children with disabilities. The term does not include a medical device that is surgically implanted, or the replacement of such device. Assistive technology service means a service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. Assistive technology services include: i. The evaluation of the needs of a child with a disability, including a functional evaluation of the child in the child's customary environment; ii. Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by children with disabilities; iii. Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;	Assistive Technology Assistive technology device. In general the term assistive technology device means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of a child with a disability. The exception is the term does not include a medical device that is surgically implanted, or the replacement of such device. Assistive technology service means any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. Such term includes: i. The evaluation of the needs of such child, including a functional evaluation of the child in the child's customary environment; ii. Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by such child; iii. Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices; iv. Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

iv. Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs; v. Training or technical assistance for a child with disabilities or, if appropriate, that child's family; and vi. Training or technical assistance for professionals (including individuals providing early intervention services) or other individuals who provide services to or are otherwise substantially involved in the major life functions of individuals with disabilities. *If the IFSP Team determines that an AT device or service is necessary for the provision of services and specifies the AT device or service in the child's IFSP, the SAU is responsible for ensuring the provision of the AT device or service. The use of the purchased AT device(s) in a child's home or other settings is required if the child's IFSP Team determines that the child needs these devices in order for the child to benefit from early intervention services.* *An Assistive Technology Professional (ATP) must meet the national RESNA ATP Certification and keep the certification current so that the individual is on the Certification Directory.* *A provider who is already qualified to provide services and consultation on the use of assistive technology in the provider's practice is not required to also have this National Certification. (Such as OT,PT, or Speech)*	v. Training or technical assistance for such child, or where appropriate, the family of such child; and vi. Training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of the child. *If the IEP Team determines that an assistive technology device or service is necessary for the provision of a Free, Appropriate Public Education and specifies the assistive technology device or service within the children's IEP, the school administrative unit is responsible for ensuring the provision of the assistive technology device or service at no cost to the parents.* *On a case-by-case basis, the use of school purchased assistive technology devices in a student's home or in other settings is required if the child's IEP Team determines that the child needs access to those devices in order to receive a free appropriate public education.* *An Assistive Technology Professional (ATP) must meet the national RESNA ATP Certification and keep the certification current so that the individual is on the Certification Directory.* *A provider who is already qualified to provide services and consultation on the use of assistive technology in the provider's practice is not required to also have this National Certification. (Such as OT,PT, or Speech)*
Speech-language pathology services include: i. Identification of children with communicative or oropharyngeal disorders and delays in development of communication skills, including the diagnosis and appraisal of specific disorders and delays in those skills;	Speech-language pathology services includes: i. Identification of children with speech or language impairments; ii. Diagnosis and appraisal of specific speech or language impairments;

ii. Referral for medical or other professional services necessary for the habilitation or rehabilitation of children with communicative or oropharyngeal disorders and delays in development of communication skills; and iii. Provision of services for the habilitation, rehabilitation, or prevention of communicative or oropharyngeal disorders and delays in development of communication skills. *Speech and Language Services B-2.* *Speech and language services may be provided by a speech-language pathologist licensed by the Maine Board of Speech, Audiology and Hearing or speech and language clinician certified by the Department, when recommended by the IFSP Team and included in the child IFSP. The maximum child-therapist caseload, including case management, consultation, and direct services, shall not exceed 50 for each full-time equivalent speech-language pathologist or speech and language clinician.*	iii. Referral for medical or other professional attention necessary for the habilitation of speech or language impairments; iv. Provision of speech and language services for the habilitation or prevention of communicative impairments; and v. Counseling and guidance of parents, children, and teachers regarding speech and language impairments. *A speech-language pathologist licensed by the Maine Board of Speech, Audiology and Hearing, or speech clinician certified by the Department may provide speech and language services if recommended by the IEP Team and included in the child's Individualized Education Program. The maximum child-therapist caseload, including both consultation and direct services, shall not exceed 50 for each full-time equivalent speech-language pathologist or speech clinician.* *A certified speech clinician may provide speech and language services if employed by an administrative unit. A certified speech clinician shall also be licensed by the Maine Board of Speech, Audiology and Hearing in order to provide contracted speech and language services* A speech-language pathology aide or assistant registered with the Board of Speech, Audiology and Hearing may provide speech and language services under the supervision of a licensed speech-language pathologist as required by 32 MRSA Chapter 77 and accompanying regulations relating to the practice of speech-language pathology.
Transportation and related costs includes the cost of travel (e.g., mileage or travel by taxi, common carrier, or other means) and other costs (e.g., tolls and parking expenses) that are necessary to enable a child eligible under this part and the child's family to receive early intervention services.	Transportation - Special Education Transportation includes: i. Travel to and from school and between schools; ii. Travel in and around school buildings; and iii. Specialized equipment (such as special or adapted buses, lifts, and ramps), if required to provide special transportation for a child with a disability. *Special education transportation shall be specified by the IEP Team in the child's Individualized Education Program when the Team determines that the*

	transportation is necessary in order for the child with a disability to benefit from an education program. The IEP Team shall determine any modifications and/or adaptations, including the employment of a "transportation aide," that need to be made to the unit's regular transportation services in order to ensure appropriate and accessible transportation services. *Pursuant to 20-A MRSA §5401(4) special education students shall be provided transportation as provided by Chapter 301 or to and from classes. 20-A MRSA §7001 (4-B) defines "related services" as special education transportation and such developmental, corrective and other related services, as defined by the Commissioner, as are required to assist children with disabilities to benefit from their special education programs.* *Therefore, special education transportation in Maine is that which is above and beyond regular transportation described in 20-A MRSA §5401-5402.* *Transportation for special education for state wards and state agency clients is treated as a related service and included on the child's IEP. Transportation costs for state wards and state agency clients are claimed for subsidy on the EF-S-04B State Agency Client Billing Form.* *Transportation cost associated with out-of-district special education programs is considered a predicted per pupil transportation cost as defined in 20-A §15672 (22A) and includes an adjustment for out of district special education transportation as reported on the EF-M-43, subsidy for which is governed by 20-A §5205.*
	Transportation - Residential School *School administrative units which have placed children with disabilities in residential schools shall provide transportation to these children at the beginning and the end of the school year, on weekends if the school does not provide weekend residential services, and on regularly scheduled vacations and holidays that correspond to the calendar of the residential school. Local administrative units shall provide for additional trips when determined by the IEP Team to be part of the child's Individualized Education Program.* *In cases where the parents or guardian and the IEP Team*

	determine that there is reason to transport the parents or guardian to the school during the holiday or vacation periods, this arrangement may be made in lieu of transporting the child to his/her residence. *If the parents of a child with a disability have been asked and agreed to transport the child to and/or from a residential school, the administrative unit shall reimburse the parents for mileage and necessary travel expenses in accordance with school district employee reimbursement policies and providing that such transportation is at no cost to the parent. Reimbursement to the parents shall be made within 45 days of each trip. If another means of transportation is procured, such as air or bus, the allowable rate shall be the actual cost.* *Necessary travel expenses (such as tolls, parking, food and lodging) for the student and/or any required adult escort shall also be reimbursed in accordance with school district employee reimbursement policies.*
Nutrition services include: i. Conducting individual assessments in: a. Nutritional history and dietary intake; b. Anthropometric, biochemical, and clinical variables; c. Feeding skills and feeding problems; and d. Food habits and food preferences; ii. Developing and monitoring appropriate plans to address the nutritional needs of children eligible under this part, based on the findings from individual nutritional assessments; and iii. Making referrals to appropriate community resources to carry out nutritional goals. Nutrition services may be provided by registered dieticians.	

Case management services means the activities carried out by a service coordinator to assist and enable an eligible child and the child's family to receive the services, rights and procedural safeguards authorized to be provided under the State's early intervention program.	*The IEP case manager may oversee a child's (age 3 to 20) needs to assure that due process requirements under the federal Individuals with Disabilities Education Act are met. The case manager communicates with SAU staff, parents, the child, and teachers to provide coordination and follow up for the IEP process.*
Sign language and cued language services include teaching sign language, cued language, and auditory/oral language, providing oral transliteration services (such as amplification), and providing sign and cued language interpretation.	

Services provided by a Board Certified Behavior Analyst (BCBA). The BCBA and BCBA-D are independent practitioners who also may work as employees or independent contractors for an organization. The BCBA conducts descriptive and systematic behavioral assessments, including functional analyses, and provides behavior analytic interpretations of the results. The BCBA designs and supervises behavior analytic interventions. The BCBA is able to effectively develop and implement appropriate assessment and intervention methods for use in unfamiliar situations and for a range of cases. The BCBA seeks the consultation of more experienced practitioners when necessary. The BCBA teaches others to carry out ethical and effective behavior analytic interventions based on published research and designs and delivers instruction in behavior analysis. BCBAs supervise the work of Board Certified Assistant Behavior Analysts and others who implement behavior analytic interventions. A BCBA in Maine must meet the national Behavior Analyst Certification Board qualifications. The certification must be provided to his/her employer or when he/she contracts with an organization. A BCBA must keep his/her certificate current to ensure that he/she remains on the Certificate Registry.

XII. PROGRAM APPROVAL

1. Programs for Children with Disabilities B-5

A. State Approval of Private Early Childhood Special Education (ECSE) Programs. Each private ECSE program that serves children B-5 with disabilities must meet all applicable requirements of either the Rules for Licensing of Child Care Facilities, 10-148, CMR 32; the Rules for the Certification of Family Child Care, 10-148, CMR 33; or the Rules for the Licensing of Nursery Schools, 10-148, Chapter 36, and submit an application for special education approval to the Child Development Services (CDS) State Intermediate Educational Unit (IEU) utilizing a format prescribed by the Commissioner. Children B-2 are to be served in their natural environment to the maximum extent possible, unless their IFSP Teams determine that their program should be with children who are not typically developing.

Each application must include the following:

(1) Requirements for approval:

(a) General description of the program;

(b) Qualification or certification of staff (copies of professional licenses (if applicable));

(c) Plan of instruction, curriculum, assessments, access to the general curriculum, and extracurricular activities, if applicable;

(d) Documentation of adequacy of facilities to meet the needs of the children served by the school/program;

(e) Adequate related services;

(f) Professional supervision. At least one full time staff member shall be designated as the educational administrator for the program. Such person shall be assigned to supervise the provision of special education services in the school and ensure that the services specified in each child's IFSP or IEP are delivered. The educational administrator shall possess certification either as: an Administrator of Special Education (030); an Assistant Administrator of Special Education (035); a Special Education Consultant (079); or a Teacher – Disabled Students (282, B-5) or a Teacher – Severe Impaired (286)

Appendix A

Table A1: Special Education Expenditures by Program, FY2010 and FY2015 (in $Millions)

Special Education Program	FY2010	FY2015	Change	% Change
Regular Classroom	$24.0	$26.7	$2.7	*11.1%*
Resource Room	$104.9	$121.5	$16.6	*15.8%*
Self-Contained	$64.8	$85.7	$20.9	*32.2%*
Home / Hospital	$0.3	$0.3	$0.0	*3.2%*
Administration	$26.8	$27.3	$0.5	*1.8%*
Extended school	$2.0	$1.9	-$0.1	*-7.2%*
Other	$45.2	$61.7	$16.5	*36.4%*
Total	**$268.1**	**$325.0**	**$57.0**	***21.3%***

Table A2: Special Education Expenditures by Function, FY2010 and FY2015 (in $Millions)

Special Education Function	FY2010	FY2015	Change	% Change
Instruction	$195.6	$236.0	$40.5	*20.7%*
Student Attendance	$8.3	$10.9	$2.6	*31.9%*
Student Guidance	$0.6	$1.0	$0.4	*68.2%*
Student Health	$0.3	$2.5	$2.2	*841.7%*
Student Psychological Services	$7.7	$9.5	$1.8	*23.0%*
Speech pathology	$19.7	$24.0	$4.3	*21.6%*
Occupational therapy	$6.5	$10.6	$4.1	*64.2%*
Audiology	$0.6	$0.5	-$0.1	*-17.5%*
Physical Therapy	$1.8	$2.8	$1.0	*56.5%*
Other Support - Student	$0.4	--	--	
Special Services Administration	$26.8	$27.3	$0.5	*1.9%*
Total	**$268.1**	**$325.0**	**$57.0**	***21.3%***

Table A3: Special Education Expenditures by Object Code, FY2010 and FY2015 (in $Millions)

Special Education Program	FY2010	FY2015	Change	% Change
Salaries	$199.0	$231.5	$32.5	*16.3%*
Benefits	$51.2	$72.6	$21.4	*41.9%*
Training & Development (Incl travel)	$0.3	$0.4	$0.1	*50.1%*
Contracted Special Education Services	$17.6	$20.1	$2.5	*14.1%*
Other professional services	$0.0	$0.5	$0.5	*986.8%*
Total	**$268.1**	**$325.0**	**$57.0**	***21.3%***

Maine Regional Programs 2017-2018 [CONTACT & APPROVAL LIST

Regional Program	Program contact	Contact Info	Fiscal Agent	Agreement contact	Member SAU's	Approved
Compass Behavior Support Program (COMPASS)	Steven Bailey, Director stevebailey@aos93.org	767 Maine St. Damariscotta, ME 04543 563-3044	AOS 93	Steven Bailey, Director stevebailey@aos93.org	AOS 93: Bremen, Bristol, Damariscotta, Jefferson, Newcastle, Noblebro, South Bristol	July, 2016
Pathways Educational Center Program (P.E.C.)	Steven Bailey, Director stevebailey@aos93.org	767 Maine St. Damariscotta, ME 04543 563-3044	AOS 93	Steven Bailey, Director stevebailey@aos93.org	AOS 93: Bremen, Bristol, Damariscotta, Jefferson, Newcastle, Noblebro, South Bristol	July, 2016
Regional Educational Treatment Center (RETC) Reviewed 2017 for renewal	Christine Sullivan, Director csullivan@auburnschl.edu Marcey Crosskill, Admin Asst. morosskill@auburnschl.edu	80 Lake St. Auburn, ME 04210 786-4498 783-9949 (fax)	Auburn	Ryan Fairchild, Director rfairchild@auburnschl.edu	Lead:AuburnMembers: Lewiston, RSU#52, RSU#16, Lisbon	September, 2014
The TIDES Program - Teaching Independence, Diversity, Empowerment and Self-Esteem Reviewed 2017 for renewal	Tim O'Connor, Director toconnor@rsu23.org Helen Stevens, Admin Asst. hstevens@rsu23.org	40 Emerson Cummings Blvd. OOB, ME 04064 934-5751 x 113 934-5751 x 114 934-1917 (Fax) 937-4980 (TIDES)	OOB	Tim O'Connor, Director toconnor@rsu23.org	Lead: OOB Members: Saco, RSU#57	Feb 26, 2015 Renewed August 15, 2017

Maine Regional Programs 2017-2018 [CONTACT & APPROVAL LIST

Regional Program	Program contact	Contact Info	Fiscal Agent	Agreement contact	Member SAU's	Approved
The Western Maine Regional Program for Children with Exceptionalities Established 7/1/2017	Richard Colpitts: Superintendent rcolpitts@msad17.org Jane Morse, Special Education Director jmorse@msad17.org	232 Main St. Suite2 South Paris, ME 04281 (207) 743-8972	MSAD17	Jane Morse – Special Education Director (New Hire: TBD)	Lead: MSAD17 Members: RSU 44 MSAD72	June 26, 2017
MSAD 1 & MSAD 45 Regional Program Neighbor helping Neighbor	Denise Bosse: Special Education Director MSAD 1 bossed@sad1.org Megan Stanley: Special Education Director MSAD 45 Mstanley@msad45.net	79 Blake Street, Suite #1 P.O. Box 1118 Presque Isle, Maine 04769-1118	MSAD 1	Brian Carpenter Superintendent of Schools MSAD 1 & MSAD 45	MSAD 1 MSAD 45	August 15, 2017
Pending: RSU 10	Debra Alden: Superintendent RSU 10 dalden@rsu10.org Clarissa Fish: Special Education Director RSU 10 cfish@rsu10.org	33 Nash Street Dixfield, Maine 04224	RSU 10		RSU 10 RSU 78 RSU 58 MSAD 44 RSU 78 RSU 9 and FCTEC RSU 56 MDOL - VR Spurwink	
Pending: Sheepscot Regional Education Program Wiscasset	Heather Wilmot: Superintendent Wiscasset hwilmot@wicassetschools.org	225 Gardiner Road Wiscasset, Maine 04578 (207)882-4123	Wiscasset		Wiscasset RSU 1 RSU 12 AOS 98 AOS 93	

Maine Regional Programs 2017-2018 [CONTACT & APPROVAL LIST

Regional Program	Program contact	Contact Info	Fiscal Agent	Agreement contact	Member SAU's	Approved
Bangor Regional Multiple Handicap Program Reviewed 2017 for renewal	Patti Rapaport, Director parapaport@bangorschools.net Christy Babin, Asst. Director cbabin@bangorschools.net Linda G. Poirier, Admin Asst. lpoirier@bangorschools.net	73 Harlow St. Bangor, ME 04401 992-4173 992-4149 (Fax) 973-6145 973-6314 (Fax) 992-4173 992-4149 (Fax)	Bangor	Patti Rapaport, SPRPCE Director parapaport@bangorschools.net	Lead:Bangor Members: AOS#47, Dedham, Orrington, AOS#81, MSAD#63, Airline CSD, Brewer, Glenburn, Greenbush, Hermon, Maine Indian Education, Milford, RSU#22, RSU#26, RSU#64, RSU#87 Veazie	Feb 3, 2015
Bangor Regional Therapeutic Day Program Reviewed 2017 for renewal	Michelle Jacobson, Director mjacobson@bangorschools.net Vicki Taylor, Admin Asst. vtaylor@bangorschools.net	208 Maine Ave. Bangor, ME 04401 992-4741 941-0812 (Fax)	Bangor	Patti Rapaport, SPRPCE Director parapaport@bangorschools.net	Lead:Bangor Members: AOS#47, Dedham, Orrington, AOS#81, MSAD#63, Airline CSD, Brewer, Glenburn, Greenbush, Hermon, Maine Indian Education, Milford, RSU#22, RSU#26, RSU#64, RSU#87 Veazie	May 19, 2015

Attachment 2(a)

STATE OF MAINE
DEPARTMENT OF EDUCATION
23 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0023

PAUL R. LEPAGE
GOVERNOR

STEPHEN L. BOWEN
COMMISSIONER

April 30, 2012

Senator Brian D. Langley
Representative David E. Richardson
Members of the Joint Standing Committee on Education and Cultural Affairs
#100 State House Station
Augusta, ME 04333-0100

Senator Earle L. McCormick
Representative Meredith N. Strang Burgess
Members of the Joint Standing Committee on Health and Human Services
#100 State House Station
Augusta, ME 04333-0100

Dear Senator Langley, Representative Richardson, Senator McCormick, Representative Strang Burgess and Members of the Joint Standing Committees on Education and Cultural Affairs and Health and Human Services,

Please find attached a report pursuant to LD 1003 - Resolve, To Assist Maine Schools To Obtain Federal Funds for Medically Necessary Services. This report has been prepared by the Departments of Education and Health and Human Services at the request of the committee.

The attached report summarizes the status of the ongoing work of an interagency stakeholders group that was formed to discuss and resolve issues pursuant to the Resolve. These issues include proposed policy changes; a communication plan; a plan to provide the training required to school administrative units and the Child Development Services System and a detailed budget. In addition, the group was charged to present a timeline for preparation, submission and anticipated approval of the amendments to the State Plan for Medicaid services, pursuant to the Maine Revised Statutes, Title 22, chapter 855. This statute relates to providing medically necessary services to eligible children in school-based settings.

We believe that you will find that this report and attachments demonstrate significant progress in addressing the Committees' concerns. We are happy to discuss the report and any questions you may have.

Sincerely,

Stephen Bowen
Commissioner
Department of Education

Mary C. Mayhew
Commissioner
Department of Health and Human Services

Report: LD 1003-Resolve, To Assist Maine Schools to Obtain Federal Funds for Medically Necessary Services

Goal as Identified in LD 1003:

The goal is to ensure that eligible children receive the services they need in the most appropriate settings and to ensure those services that qualify as medically necessary are reimbursed.

Understanding the Problems:

There are Public Schools, Special Purpose Private Schools (SPPS) and Child Development Services (CDS) sites and contracted providers that are not currently billing MaineCare for medically necessary services for eligible children.

The Department of Health and Human Services (DHHS) and the Department of Education (DOE) are working collaboratively to facilitate open communications with the Public Schools, SPPS, and CDS site providers and contracted providers to identify the challenges currently facing schools, and to identify changes that may need to be made to the State Plan and MaineCare Benefits Manual to assist providers in compliantly billing for medically necessary services. A stakeholders group has been formed to include DHHS, DOE, CDS, Maine Administrators of Services for Children with Disabilities (MADSEC) and the Maine School Management Association (MSMA). This group is working collaboratively to identify objectives and work on activities that will support providers billing in the short and long-term, including conducting an analysis of the potential benefits of creating a new section of policy specifically designed for school-based providers vs. creating a billing manual to support providers in billing the current sections of policy.

- *Meeting dates: 3/9/12, 3/13/12, 3/23/12, 3/30/12, 4/2/12, 4/9/12, 4/19/12, 4/23/12 and 4/30/12*
- *Future Meeting Dates: 5/7/12, 5/14/12, 5/21/12, 6/4/12, 6/11/12, 6/18/12, 6/25/12, 7/2/12, 7/9/12, 7/16/12, 7/23/12, 7/30/12*

Refinement of MaineCare Policies

- **Accomplished:**
  - DHHS received an advisory from the Centers for Medicare and Medicaid Services (CMS) stating that, so long as federal comparability requirements are met, CMS does not have concerns with the State using a separate section of MaineCare policy or a billing manual to explain the existing sections of MaineCare policy. Federal comparability requirements dictate that the service and the qualified providers are the same, regardless of the setting the service is provided in.

- **In Progress:**
  - Review of other state models, including New York, New Hampshire, Texas and Colorado. DHHS has conducted a review of each states model, and the larger interagency stakeholders group is now in the process of reviewing each model.
  - Risk to benefit analysis of utilizing service-based sections of policy (Physical Therapy, Occupational Therapy, etc.) vs. utilizing a setting-based section of policy, i.e. a separate school-based services section of policy.

- Development of an inventory of what services are being offered in schools, to include both MaineCare services and education-based services. This inventory will also include a list of which qualified providers are currently providing services in educational settings.
- Review of the process for administrative claiming. The stakeholder group will make a recommendation to the Commissioners of the Departments of Education and Health and Human Services regarding the costs and benefits of the State pursing administrative claiming.

- **Problem Solving Going Forward:**
  - Through the interagency stakeholders group DOE, and DHHS will coordinate to write either a separate section of MaineCare policy or a school-based services guide. Both agencies, along with Maine Administrators of Services for Children with Disabilities (MADSEC) and Maine School Management Association (MSMA) will have meaningful input in the development of whichever document is determined to be appropriate and effective.
  - Through the interagency stakeholders group, DOE and DHHS will coordinate to write a billing guide based on either the existing sections of MaineCare policy or based on the new section of MaineCare policy that may be developed.
  - DOE and DHHS will coordinate to develop and provide training to staff in educational settings regarding policy and billing.

State Plan Amendment (SPA)

- **Accomplished:**
  - Received clarification from CMS that comparability cannot be waived automatically if school-based services are listed in the Early, Periodic, Screening, Treatment and Diagnostic (EPSDT) section of the State Plan.
  - Confirmed with CMS that their primary concern surrounding federal comparability is services provided in one setting cannot be so different from services provided in another setting, as concerns regarding service quality may arise.
  - Confirmed with CMS that documentation is required in all settings in which the service is provided. DHHS and DOE also received the federal guidance regarding what is required to be in progress notes/clinical documentation.

- **In Progress:**
  - Identification of whether any State Plan Amendments will be necessary.
  - Review of other State Plans, including those of, New York, New Hampshire, Texas and Colorado.
  - Identification of medically necessary services that are currently being provided in schools, including nursing services etc.
  - Identification of State Plan changes that may be necessary if DHHS establishes a process that will allow billing for administrative services.

- **Problem Solving Going Forward:**
  - Decide if the school-based services model should be included in the State Plan in its entirety, and therefore be approved by CMS prior to implementation.
  - If appropriate, include school-based services in the EPSDT section of the State Plan.

- If appropriate, revise the qualified provider section as currently written in the Maine State Plan.
- If appropriate, include billing for administrative services in the State Plan.

Collaboration:

Inter-Departmental Collaboration

DOE and DHHS continue to hold weekly meetings with a collaborative group of inter-departmental representatives to discuss and resolve specific billing issues and other provider concerns. Participants include representatives from DHHS (Office of Child and Family Services, Children's Behavioral Health Services and Office of MaineCare Services), CDS, DOE and other parties as needed.

Interagency Stakeholders Group

- DOE, DHHS, CDS, MADSEC and MSMA have worked together to develop a list of schools that are currently providing but not billing for medically necessary services for MaineCare eligible children.

Communication

- DHHS has identified a single contact within provider relations and the policy division who is able to address and make changes to all of the policies/services that are provided within a school setting.
- DHHS is developing a listserve message that will be sent to school-based providers, CDS sites and providers and SPPS which will include the contact information for the designated representatives as well as Molina customer service.
- DHHS and DOE plan to modify existing DHHS and DOE websites to provide providers with the contact information they need to resolve billing issues and clarify policy questions.
- The interagency stakeholders group will meet with several districts that are currently not billing MaineCare in order to assess and identify the barriers that have led School Administrative Units to not bill for medically necessary services for MaineCare eligible children.
- DHHS has created a targeted listserve that will only include educational-based providers and will be utilized to inform those groups when changes are made that will affect services provided in an educational setting. All messages will be written with and reviewed by the interagency stakeholders group to assure ease of access and readability.

Issues Identified To Date:

- Need to ensure comparability of the training requirements for school-based and community based Behavioral Health Professionals. This issue was raised by CMS.
- Need to clarify billing for third party liability claims.
- Need to clearly define what is meant when a service is provided "under the direction of."
- Need to address concerns regarding rates paid versus the usual and customary charge, i.e. the cost of what is being paid to the servicing provider.
- Need to clarify that the definition of medical necessity has been recognized as an issue and will be reviewed further.

MaineCare in Education 2017

A MaineCare School-Based Services Billing Guide for Providers

Table of Contents

MaineCare Billing for School-Based Services

General Information

The purpose of this guide is to provide information to school administrative units and equivalent providers billing for services under the policy sections outlined below in the MaineCare Benefits Manual (MBM). The guide should be viewed as a supporting document to the policy, rather than as a standalone policy. Providers of school-based MaineCare services are responsible for familiarizing themselves with all Medicaid regulations, policies, and procedures currently in effect and as they are issued. School-based providers can receive MaineCare provider updates by signing up for MaineCare's e-messages or RSS feed at http://www.maine.gov/dhhs/oms/news_page_index.html. Archived provider updates are available at http://www.maine.gov/dhhs/oms/provider-updates-archives.html.

Rule Reference

Providers must be familiar with all current rules and regulations governing the MaineCare program. Provider manuals are meant to assist providers in billing MaineCare; they do not contain all MaineCare rules and regulations. This guide pertains only to school-based services. Additional paper copies of MaineCare rules are available through our Provider Relations unit and the Secretary of State's website. The following rules and regulations describe services that may be provided as school-based services:

Chapter 1	***General Administrative Policies and Procedures***
Chapter 2	***Specific Policies by Service***
Section 28	Rehabilitative and Community Support Services for Children with Cognitive Impairments and Functional Limitations
Section 65	Behavioral Health Services
Section 68	Occupational Therapy
Section 85	Physical Therapy
Section 96	Private Duty Nursing and Personal Care Services
Section 109	Speech Therapy
Section 113	Transportation
Chapter 3	***Allowances for Services***
Section 28	Rehabilitative and Community Support Services for Children with Cognitive Impairments and Functional Limitations
Section 65	Behavioral Health Services
Section 68	Occupational Therapy
Section 85	Physical Therapy
Section 96	Private Duty Nursing and Personal Care Services
Section 109	Speech Therapy
Section 113	Transportation
Chapter 10	
Section 2	Katie Beckett Benefit

Questions

This billing guide is designed to answer most questions about school-based services; however, questions may arise that require a call to a specific group such as Provider Relations, or the Prior Authorization unit. The list of key contacts may also be useful. Specific program policy information, MaineCare manual notices, replacement/updated policies, fee schedules, forms, and much more are available on the maine.gov website as well.

Claims Review

MaineCare claims are electronically processed and not always reviewed by medical claim experts prior to payment to determine if the services provided were appropriately billed. Although the claims system can detect and deny some erroneous claims, there are claim errors which it cannot detect. For this reason, payment of a claim does not confirm that the service was correctly billed or the payment provider was correct. Periodic retrospective reviews will be performed which may lead to the discovery of incorrect billing or payment issues. If a claim is paid and the Department later discovers that the service was incorrectly billed or the claim was erroneous in some other way, the Department is required by federal regulations to recover any overpayment.

Program Overview

MaineCare is a health benefit for eligible individuals and families with lower income and resources. MaineCare is a means-tested program that is jointly funded by the state and federal governments, and administered by the state. Among the groups of people served by MaineCare are certain eligible U.S. citizens and resident aliens, including lower income adults and their children, and people with disabilities who meet the Social Security Administration's standard of disabled. Poverty alone does not necessarily qualify an individual for MaineCare. MaineCare is the largest source of funding for medical services for people with limited income. The program is designed to meet the medically necessary needs of our members.

This guide contains specific technical information about program requirements associated with seeking payment for covered services rendered in a school setting. The purpose of this guide is to inform schools on the appropriate methods for claiming reimbursement for the costs of medically-necessary services provided.

Providers of Services to Child Members: School-Based vs. Non-School-Based Claim Submissions

As long as there is clear documentation for each session, showing that separate services are being provided, and as long as overall limits for services are not exceeded, (even if services are provided by the same person/agency) concurrent billing is allowable when a member is provided services in more than one setting, on the same day.

Providers are able to provide services in more than one setting, pursuant to any limitations on the service outlined in the MaineCare Benefits Manual.

Claims submitted for school-based services provided in connection with an IFSP or an IEP must indicate the correct Place of Service Code as "03," along with a modifier of either TL or TM in order for us to differentiate between the school and the non-school-based service provided.

Key MaineCare School-Based Contacts

	Contact	Phone	E-Mail
KEPRO/APS Prior Authorization		866-690-5585 Fax: 866-598-3963	MaineCareProvider@molinahealthcare.com
Children's Behavioral Health (DHHS-OCFS)			http://maine.gov/dhhs/ocfs/cbhs/programs.shtml
Districts 1,2 (York, Cumberland Counties)	Cathy Register, Resource Coordinator	207-822-2331	Cathy.register@maine.gov
Districts 3,4,5 (Androscoggin, Franklin, Lincoln, Kennebec, Knox, Oxford, Sagadahoc, Somerset, Waldo)	Kellie Pelletier, Resource Coordinator	207-624-7910	Kellie.A. Pelletier@maine.gov
Districts 6,7,8 (Aroostook, Hancock, Penobscot, Washington Counties)	Cheryl Hathaway, Resource Coordinator	207-561-4204	Cheryl.hathaway@maine.gov
Child Development Services (CDS)	Janna Gregory, State Deputy Director	207-624-6660 Fax: 207-624-6661	http://www.maine.gov/education/speced/cds/updates.html
Non-Emergency Transportation	Carrie Collins Planning and Research Associate, Non-Emergency Transportation	207-287-6348	Carrie.Collins@maine.gov
Office of MaineCare Services, Children's and Waiver Services	Ginger Roberts-Scott, LSW, CPS Program Manager	207-624-4084	Ginger.roberts-scott@maine.gov
Office of MaineCare Services, Policy Division	Trista Collins, State Medicaid Educational Liaison	207-624-4094	MaineCareinEducation.DHHS@maine.gov Trista.collins@maine.gov
Provider Enrollment		866-690-5585 Fax: 877-314-8776	MaineCareEnroll@molinahealthcare.com
Provider Relations	Kenneth Jamison, School-Based Services Specialist	207-624-6938	Kenneth.w.jamison@maine.gov
State of Maine Department of Education (DOE)		207-624-6600 Fax: 207-624-6700 TTY: 888-577-6690	http://maine.gov/education/

Claim Submission

Claims may be filed using Direct Data Entry on the MaineCare portal. This is the preferred method of billing.

Paper claims may be mailed to: MaineCare Claims Processing, M-5500, Augusta, ME 04333.

Additional Resource Links

The Maine Integrated Health Management Solution (MIHMS) website is available at https://mainecare.maine.gov/ProviderHomePage.aspx for:

- Claims and billing
- Excluded providers
- Prior Authorization (PA)
- Provider enrollment
- Referrals

https://mainecare.maine.gov/Default.aspx

Through this link you can access the MIHMS portal, known as Health PAS-Online. From this portal, you can access your trading partner account, check the status of claims, member eligibility, billing instructions, and complete Direct Data Entry (DDE). This portal also provides you with any up-to-date additional information on the MIHMS system.

How does MaineCare Define "School?"

As relates to Section 28 services:

28.01-13 **School** is a program that has been approved by the Department of Education, as either a Special Purpose Private School or a Regular Education Public School Program under 05-071 C.M.R. ch 101 §XII and 20-A MRSA §7204 (4), 7252-A and 7253, and 05-071 C.M.R. ch 101, §12, or a program operated by the Child Development Services System 20-A MRSA §7001(1-A).

As relates to Section 65 services:

65.03-4 **School** is a program that has been approved by the Department of Education, as either a Special Purpose Private School or a Regular Education Public School Program under 05-071 C.M.R., Chapter 101, § XII and 20-A MRSA §7204 (4), 7252-A and 7253, and 05-071 C.M.R., Chapter 101, §12, or a program operated or contracted by the Child Development Services System 20-A MRSA § 7001(1-A) that has enrolled as a provider and entered into a provider agreement, as required by MaineCare. For the purposes of this rule, a school may provide the following services:

(1) Neurobehavioral Status Exam, Neuropsychological Testing and Psychological Testing, as described in Section 65.06-7, and

(2) Children's Behavioral Health Day Treatment, as described in Section 65.06-13.

MEMBER ELIGIBILITY FOR SERVICES

EPSDT

The term EPSDT is shorthand for Early and Periodic Screening, Diagnosis and Treatment, and is the standard applied when evaluating the need for services for children under the age of 21. The EPSDT standard requires that a Medicaid agency cover preventive, dental, mental health, and developmental and specialty services when such services are medically necessary to correct, ameliorate, or prevent health conditions. EPSDT provides for broader benefits for children as compared to adults. Any service, if medically necessary, that is included under section 1905(a) as a mandatory or optional service, may be covered under the EPSDT standard, regardless of whether or not the service is included in MaineCare's State Plan.

Minimum Requirements

All services must meet the following minimum requirements:

1. Be medically necessary;
2. Be ordered, prescribed, or recommended by a physician or other licensed practitioner of the healing arts;
3. Be included in the Member's Individualized Education Plan or Individualized Family Service Plan; and,
4. Be medical in nature (as opposed to educational).

It is the provider's responsibility to verify a member's eligibility for MaineCare prior to providing services, as described in Chapter I, Section 1 of the MaineCare Benefits Manual.

504 Plans

MaineCare reimbursement is not available for students receiving services from an Accommodation Plan in accordance with Section 504 of the Rehabilitation Act. Section 504 plans do not meet federal or state requirements for Medicaid reimbursement.

Homeschooled Students & Parentally-Placed Private School Students

School units are obligated to follow all federal laws during the identification process for providing services to students.

IDEA 2004 states there is "no individual right to special education and related services. No parentally-placed private school child with a disability has an individual right to receive some or all of the special education and related services that the child would receive if enrolled in a public school." (IDEA Part 300, B, 300.137).

Superintendent Agreements

For MaineCare purposes, superintendent agreements have no bearing on any school-based provider seeking reimbursement for services. If a service is listed on a student's IFSP or IEP, and it is medically necessary, there is the potential for Medicaid reimbursement. It does not make a difference from MaineCare's perspective where the child is living, or the terms of any agreement in place by superintendents.

PROVIDERS

Billing v. Rendering Providers

The following may bill MaineCare for school-based services:

A program that has been approved by the Department of Education, as either:

- A Special Purpose Private School or a regular education public school program under 05-071 C.M.R. ch 101 §XII and 20-A MRSA §7204 (4), 7252-A and 7253, and 05-071 C.M.R. ch 101, §12, or
- A program operated by the Child Development Services system 20-A MRSA §7001(1-A).
- An enrolled MaineCare provider who has contracted with a School to provide services.

It is important to note that billing providers are different from rendering providers. Rendering providers are the professionals who actually provide the service. Please see Chapter 1, Section 1.02 of the MaineCare Benefits Manual for further clarification.

There are several ways that a school may establish relationships with these professionals:

1. Direct Reimbursement of Health Professionals: The school (or school district) **employs** health professionals. When the school employs staff who will provide the health services, the school can enter a provider agreement with MaineCare and receive payments for the covered services provided.

2. Contracting with Health Professionals: The school (or school district) **contracts** with health practitioners to furnish services. Under this type of arrangement, the health practitioner (not the school) is the provider of services, and payments are made to the practitioner, unless the practitioner assigns its right to payment to the school district.

3. Combination of direct employment and contracting: The school (or school district) uses a combination of employed health professionals and contracted health professionals to furnish services.

4. Mix of direct employment and contracting: The school provides some services directly, but contracts out entire service types without directly employing any practitioner in a particular service category.

Service by Provider Type

Behavioral Health	Psychiatrist; Psychologist; LCSW; LMSW (Clinical Conditional); LCPC; LMFT; BCBA BHP (RCS Only)
Medical Evaluations	Physician; Physician Assistant; Nurse Practitioner
Nursing Services	RN or LPN; Independent Nurse, Home Health Agency
Occupational Therapy	Occupational Therapist; Occupational Therapy Assistant
Physical Therapy	Physical Therapist; Physical Therapy Assistant
Rehabilitative and Community Support Services for Children w/Cognitive Impairments and Functional Limitations	Behavioral Health Professional; BCBA

Speech and Hearing	Speech Language Pathologist; Audiologist; Speech-Language Pathology Assistant
Transportation	Broker; Other Enrolled School-Based Provider; **Reimbursement will be processed through brokerage system, not through MaineCare directly.

Child Development Service (CDS) Contracted Providers

When a provider delivers services to MaineCare enrolled children, and those services are listed on the an IFSP or IEP as managed by CDS, the provider is providing a school-based service for those members. It is vital that providers ensure the correct use of modifiers when billing for services listed on an IEP. Services requiring these modifiers include Section 65 services, as well as Occupational Therapy (OT), Physical Therapy (PT), and Speech and Hearing (ST) services.

All school-based services provided to children by CDS and their contracted providers are assessed DOE seed. It is therefore necessary that claims are appropriately identified as school-based when submitted to MaineCare.

If a member receives services from a non-school-based provider in addition to school-based claims, documentation would need to be kept indicating that two separate services were provided on the same day. One claim could be submitted for the service provided (with script from PCP), and another claim could be submitted for the school-based service provided.

Please make sure the correct Place of Service of "03" is used for the service provided in a school.

There are no modifiers at this time that can be used for Section 28 services.

(Please see section in this guide entitled "Modifiers" for further explanation).

Often, some services, such as evaluation, are not listed on a member's IEP. In those cases, the service should not be billed as a school-based service.

PROVIDER ENROLLMENT AND REVALIDATION

Enrollment Instructions for Schools That Are Providers of School-Based Services
In order to provide consistency in the MIHMS enrollment process, providers must follow the guidelines below when enrolling schools or when revalidating enrollment. **Municipal School Units that do not operate schools but instead pay tuition to other schools should not enroll as MaineCare providers.** The school where the student receives the MaineCare medical service needs to be the enrolled provider who bills for the services.

**Please be guided by what the State of Maine Department of Education refers to as your entity's legal name. If you have questions regarding this, please contact the Department of Education for assistance.*

Naming Requirements:

If you are part of a Maine School Administrative District (MSAD):

For example: MSAD #2000

Pay-To Provider/Bill to Name:	MSAD #2000
Service Location Names:	Summerville High School
	Summerville Middle School
	Summerville Elementary School
	**Summerville Early Childhood Therapy Services
	**Summerville Early Childhood Other

If you are part of a Regional School Unit (RSU):

For example: RSU 2000

Pay-To Provider/Bill to Name:	RSU 2000
Service Location Names:	Summerville High School
	Summerville Middle School
	Summerville Elementary School
	Summerville Early Childhood Therapy Services
	Summerville Early Childhood Other

If you are a Municipal School Unit (MSU):

Pay-To Provider/Bill to Name:	Summerville Public Schools
Service Location Names:	Summerville High School
	Summerville Middle School
	Summerville Elementary School
	**Summerville Early Childhood Therapy Services
	**Summerville Early Childhood Other

If you are a Special Purpose Private School (SPPS):

Pay-To Provider/Bill to Name:	Park Avenue, Inc.
Service Location Names:	Park Avenue School, Inc.
	Park Avenue School, Inc. Parentally-Placed Services**
	**Park Avenue Early Childhood Therapy Services
	***Park Avenue Early Childhood Other

**These site names indicate services provided to children ages 3-5, formerly serviced by Child Development Services (CDS). Please see section titled "Transition from CDS" for additional clarification.

School District Transitions from CDS for Early Childhood Services to School District Responsibility
In order to provide services for children formerly served by Child Development Services (CDS), ages 3-5, who are not yet enrolled in kindergarten, each school district will need to add two new service locations.

For billing purposes, the physical address listed for the two new sites being set up will be the district office, not necessarily where the actual service takes place.

The name of the first site will be "Early Childhood Therapy Services" which will allow the district to enroll as a Provider Type 87 to provide Specialties 164 (Therapy Services: Speech, PT, OT), 020 Community Support Services (Section 65, Behavioral Health Services) and Specialty 142 (Nursing).

The name of the second site will be "Early Childhood Other." This will allow a district to enroll as a Provider Type 92 "Early Childhood Provider" and provide Specialty 163, (Section 28, Rehabilitative and Community Support Services for Children with Cognitive Impairments and Functional Limitations).

It is imperative that districts set up these new locations so that seed can be appropriately assessed on all claims provided through IDEA. Place of service on these claims will be "03" to indicate they were provided at a school.

Department of Education Approval
It is important to understand that prior to enrolling as a school, all enrollment requests will be verified with the Department of Education.

Also, in accordance with the *Maine Unified Special Education Regulations* (MUSER) Birth to Age Twenty, 05-071, Chapter 101, 2015, private preschool programs must meet the requirements under XII, Program Approval. Any private preschool applying for this provider type will need to provide MaineCare with a copy of your approval letter from Child Development Services (CDS) upon request.

Enrollment Instructions for School-Based Providers That Are Not Schools

This enrollment and claims submission guidance change is being made to ensure that all school-based service claims are correctly paid in accordance with MaineCare Member Policy 65.06-13, 65.03-4 and that appropriate seed is assessed for these claims.

At this time, only providers who meet MaineCare's definition of "School" as defined in MBM 28.01-13 and MBM 65.03-4 are eligible to enroll as a School provider type. This includes Provider Types 87-Public School, 88-Special Purpose Private School, 89-Intermediate Education Unit, and 92-Early Childhood Provider.

If provider does not meet the definition of a "School" at the time of your upcoming scheduled Provider Revalidation with MaineCare, the provider will need to complete a maintenance case on the MIHMS Health PAS Online Portal to terminate any site currently listed as a school.

If a provider has a site enrolled as a school where non-school-based services are also provided, the provider will need to enroll a new Service Location in order to submit claims for those services.

All providers must make sure that when a school-based service claim is submitted, the Place of Service code on the claim is "03" if that is where the service was delivered. This accurately reflects a service being provided in a school. If the service was provided at an office, or other location, providers must use the appropriate Place of Service codes.

Providers who perform services in a school which are not directed by an IFSP or an IEP, as described above, remain eligible to bill for services and also must use also the Place of Service Code "03" for "School." This will ensure that these services do not incorrectly get assessed for seed.

Provider Types and Specialty Code Descriptions for School-Based Services

Provider Type	Specialty	MaineCare Benefits Manual Specific Policies, By Service
87- Public School	164- Therapy Services	***Based on Rendering Providers:*** Section 65: Behavioral Health Services Section 68: Occupational Therapy Services Section 85: Physical Therapy Services Section 109: Speech and Hearing Services
87- Public School	020- Community Support Services 142- Private Duty Nursing 163- Children's Community Rehabilitation	Section 65 Behavioral Health Services Section 96: Private Duty Nursing and Personal Care Services Section 28: Rehabilitative and Community Support Services for Children with Limited Cognitive Impairments and Functional Limitations
88- Special Purpose Private School	164- Therapy Services	***Based on Rendering Providers:*** Section 65: Behavioral Health Services Section 68: Occupational Therapy Services Section 85: Physical Therapy Services Section 109: Speech and Hearing Services
88- Special Purpose Private School	020- Community Support Services 142- Private Duty Nursing 163- Children's Community Rehabilitation	Section 65: Behavioral Health Services Section 96: Private Duty Nursing and Personal Care Services Section 28: Rehabilitative and Community Support for Children with Limited Cognitive Impairments and Functional Limitations
89- Intermediate Education Unit	164- Therapy Services	***Based on Rendering Providers:*** Section 65: Behavioral Health Services Section 85: Physical Therapy Services Section 109: Speech and Hearing Services
92- Early Childhood Provider	163- Children's Community Rehabilitation	Section 28: Rehabilitative and Community Support Services for Children with Cognitive Impairments and Functional Limitations

Enrollment and Revalidation Provider Fees

Schools, and most school-based providers are exempt from provider paying enrollment fees during enrollment and revalidation.

SERVICES

Covered Services

The following services are covered as school-based services under MaineCare:

1. Physical Therapy Services;
2. Occupational Therapy Services;
3. Speech and Hearing Services, including Audiology Services;
4. Behavioral Health, including Day Treatment, neuropsychological testing, psychological testing
5. Rehabilitative and Community Support Services for Children with Cognitive Impairments and Functional Limitations;
6. Nursing Services;
7. Medical Evaluations;
8. Transportation.

Service and Components

Behavioral Health	Day Treatment; Outpatient Services
Physical Therapy	Therapeutic procedures for physical, behavioral and developmental disorders; performance and interpretation of tests and measurements; treatment planning; splinting supplies
Occupational Therapy	Therapeutic procedures for physical, behavioral and developmental disorders; performance and interpretation of tests and measurements; treatment planning; splinting supplies
Speech and Hearing	Evaluations; individual and group speech, voice and language therapy; hearing screening; augmentative and alternative communication evaluation services; therapeutic adaptations and set-up for assistive/adaptive equipment; equipment reprogramming; aural or language rehabilitation; hearing aid evaluation and related procedures
Rehabilitative and Community Support Services for Children with Cognitive Impairments and Functional Limitations	Comprehensive assessments; Day Treatment services (1:1 or group behavioral support services); specialized services
Nursing Services	Health assessments; medical treatments and procedures; administration and/or monitoring of medication; consultations with licensed physicians and staff
Medical Evaluations	Evaluation of chief complaints; review of medical history; physical evaluation; ordering of diagnostic tests and procedures; recommendation of a plan of treatment
Transportation	Need based on location of medical services utilized as indicated by IFSP/IEP during school hours. Transportation is provided directly, or reimbursed through Friends, Family, Neighbor Program.

Nursing Services

If a student is eligible for services under Section 96, Private duty Nursing and Personal Care services, and the services are listed on the IFSP/IEP, with a prior authorization, reimbursement may be sought for Nursing Services.

At this time, school-based nursing services can be provided by (1) An agency, (2) an Independent RN, or (3) an RN/LPN who is an employee of the school district.

Under current policy, as employees of school districts, RNs or LPNs are able to perform tasks within the Nurses Practice Act, and under the scope of their individual licensures.

An "Independent" RN has his or her own NPI number, and bills directly with the correct Place of Service Code being 03. (The rate is lower because an Independent RN would not have the same overhead costs as an agency).

Schools must ensure that their contracts do include Section 96 Services. In order to be considered school-based, services must be listed on the member's IFSP or IEP.

A Prior Authorization must be obtained by the provider prior to the start of any nursing services.

Provider must enroll the RN or LPN as a rendering provider.

Transportation

Special needs transportation includes transportation services for members with special needs that are outside of traditional transportation services provided for members without disabilities.

Services Include:

Special needs transportation services are covered when all of the following criteria are met:

- Transportation is provided to and/or from a Medicaid-covered service on the day the service was provided.
- The Medicaid-covered service is included in the member's IEP.
- The member's IEP includes specialized transportation service as a medical need.

Special needs transportation includes the following:

- Transportation from the member's place of residence to school (where the member receives medically-necessary services covered by MaineCare's school-based services program, provided by the school, and/or return to the residence).
- Transportation from the school to the office of a medical provider who has a contract with the school to provide medically necessary services covered by MaineCare's school-based services program.
- In most cases, members with special education needs who ride the regular school bus to school with other non-disabled children will not have a medical need for transportation services and will not have transportation listed in their IEP. The fact that members may receive a medical service on a given day does not necessarily mean that special transportation also would be reimbursed for that day.
- In order to comply with MaineCare's Non-Emergency Transportation (NET) policy in Section 113, all requests will be handled through MaineCare's brokerage system. This includes requests to provide transportation directly, and requests for reimbursements made through MaineCare's Friends, Family, Neighbors program. At no time would MaineCare be billed or reimbursed directly from providers. However, school requests will be facilitated to ensure efficient processes for these requests. To initiate new transportation requests, please email MaineCareinEducation.DHHS@maine.gov to obtain the necessary forms and instructions.

SERVICE LIMITATIONS

In order for services to be reimbursed through MaineCare's school-based services policy, the service must be listed on either the student's IEP (Individualized Education Plan) or IFSP (Individualized Family Services Plan). The listing of the service on the IEP is the piece which connects the medical service to the school-based service.

The IEP document specifies educationally appropriate goals for the child and should list any service recommendations medical necessary for the child to succeed in their educational program. An Individualized Treatment Plan (ITP) is also required- for some services- to describe service design, treatment interventions/methods, and individual goals while specifying frequency and duration of services. For example, the IEP may specify that day treatment is necessary for the child. In the ITP, it would specify the medically necessary goals.

General Limitations

1. MaineCare will only reimburse for medically necessary services.
2. In order for a service to be considered School-based, it must be listed on the child's IEP/IFSP and also included in a treatment plan if applicable.
3. Refer to Chapters I and II of the MaineCare Benefits Manual for additional non-covered services, including academic, vocational, socialization, or recreational services.
4. Transportation costs may only be reimbursed during the normal school calendar year. In addition, this may include Extended School Year (ESY); however, this does not include the weeks between school-year prior to the start of ESY and the time post ESY prior to the start of the new academic year. All dates must coincide with child's IEP dates for both regular school and ESY.

   In addition, it is requested that all school-based providers try to have their requests in by August 15th for a new school year, and by May 15th for summer ESY services. This will allow our transportation specialists the time to make arrangements as efficiently as possible in order to meet the needs of all students. We realize there will always be last-minute requests, but we also are aware that IEP meetings are generally held in the spring to secure ESY and fall placements.

5. A note for rendering providers:

   Please be reminded that rendering providers need to be enrolled with MaineCare prior to delivery of services. MaineCare does not backdate rendering provider contracts for failure to enroll in a timely manner. Please contact Provider Relations if you have questions about this.

   **Reminder: Children's Behavioral Health Day Treatment has a limit of 6 hours per day maximum in accordance with MaineCare Member Policy 65.06-13.

DOCUMENTATION

As with any MaineCare service, providers of school-based services are required to maintain and/or submit documentation to MaineCare or to its contractor(s). Providers must adhere to both general documentation requirements and service specific requirements.

General Documentation Requirements

Providers must maintain an individual record for each member receiving school-based MaineCare services. This record must contain the following components:

1. IEP/IFSP: All services for which MaineCare reimbursement is sought must be listed on the child's IEP or IFSP.
2. Member's name, address, birthdate, and MaineCare ID number;
3. ****Parental consent to bill MaineCare which should include the following**:**
   Each consent form for school-based service reimbursement from MaineCare should include the following components:
   - Student and parent/guardian names
   - Student DOB
   - Student's Medicaid A# (If applicable)
   - Name of district requesting reimbursement
   - Date of consent start, and end (this should coincide with IEP expiration date).
   - For summer ESY transportation requests, specific start and end dates for those ESY services must be included.
   - List of specific services for which claims will be submitted, including:
     1. Frequency and duration of all services - <u>these need to be individually listed</u> §300.9(a), (b); CMS Medicaid School-Based Administrative Claiming Guide, p54(1).
     2. Explanation regarding parental consent pursuant to 34 CFR. §300.154, §300.9(a), (b).
     3. Explanation that if a child has MaineCare through the Katie Beckett program, the cost of services provided by the School Administrative Unit will count against the student's annual cap.

Examples: (*This grid is for illustrative purposes and not intended to be a recommendation for service intensity. Service intensity is determined on an individual basis due to strengths, needs, and medical necessity*).

	Service	*Frequency and Duration*
Section 28	Rehabilitative and Community Support Services	5 times weekly @ 4 hours
Section 65	Behavioral Health Services	3 times weekly @ 6 hours
Section 68	Occupational Therapy	1 time weekly @ 60 minutes
Section 85	Physical Therapy	1 time weekly @ 30 minutes
Section 96	Private Duty Nursing, Personal Care Services	5 times weekly @ 15 minutes
Section 109	Speech/Hearing Services	2 times weekly @ 30 minutes
Section 113	Non-Emergency Transportation	5 days per week @ 30 minutes per day

4. Chronologically ordered written progress notes for each day the member is seen (also referred to as the treatment or session note) shall contain:
    - Identification of the nature, date, and provider of any service given;
    - The start time and stop time of the service, indicating the total time spent delivering the service;
    - Any progress toward the achievement of established long and short range goals;
    - The signature of the service provider for each service provided; and,
    - A full account of any unusual condition or unexpected event, including the date and time when it was observed and the name of the observer.

Note: Some individual sections may also have additional progress note requirements.

SERVICE SPECIFIC DOCUMENTATION REQUIREMENTS

Documentation for Behavioral Health Services and Rehabilitative and Community Support Services for Children with Cognitive Impairments and Functional Limitations

Providers of Rehabilitative and Community Support Services for Children with Cognitive Impairments and Functional Limitations must maintain documentation for each member, as described in 28.05 of the MaineCare Member Manual.

Documentation for Children's Behavioral Health Day Treatment

Providers for Children's Behavioral Health Day Treatment must maintain documentation for each member as described in 65.09-3 of the MaineCare Member Manual.

Documentation for Children with Transportation Services

Provider requesting service must provide the following documents at the time the service is being requested:

1. IEP with transportation listed as a documented service.
2. Parental consent form.
   Each consent form for school-based service reimbursement from MaineCare should include the following components:
    - Parent/guardian name
    - Student name
    - Student DOB
    - Student's Medicaid A#
    - Name of district requesting reimbursement
    - Date of consent start, and end (this should coincide with IEP expiration date)
    - For summer ESY transportation requests, we will also need specific start and end dates for those ESY services)
    - List of specific services for which claims will be submitted, including:

   Frequency and duration of all services - these need to be individually listed §300.9(a),(b); CMS Medicaid School-Based Administrative Claiming Guide, p54(1).

3. Brokers may request to see a copy of a member's valid ITP for Section 28 or Section 65 services if there is any question as to the date and times that services will be provided.

   In cases where the member is in the first 30 days of the evaluation period for Section 65 day treatment and an ITP has not been developed, verification of a Prior Authorization will be sufficient to obtain approval for transportation (MBM 65.09).

PRIOR AUTHORIZATION

Certain school-based services must be prior authorized by the MaineCare Services' Prior Authorization Unit or its authorized entity before the service is referred and/or provided. Services requiring prior authorization include:

1. Nursing services;
2. Certain extended psychological evaluations as described in 65.08-8.
3. Audiological evaluations, if an evaluation has been performed by another audiologist within the previous four (4) months;
4. Rehabilitative and Community Support Services for Children with Cognitive Impairments and Functional Limitations applied behavioral analysis services;
5. Day treatment services; and,
6. Transportation

Frequency: Prior authorizations for ongoing services must be resubmitted quarterly with the exception of transportation. Transportation authorizations must be submitted with start and end dates consistent with current IFSP/IEP provided, as often as requests are being made.

Documentation Required for Prior Authorizations

Documentation submitted in support of a prior authorization request must be sufficient to establish medical necessity, as opposed to educational necessity. The following documentation must be submitted in order to initiate a prior authorization request:

1. A copy of the IEP or IFSP that includes information sufficient to establish medical necessity; OR
2. A copy of the IEP or IFSP AND additional supporting documentation (such as a Comprehensive Assessment report) including an ITP (Individualized Treatment Plan);

AND

3. Parental consent form to bill Medicaid (required only for transportation prior authorizations)

**MaineCare or its contracted entity may request additional information in order to determine medical necessity for a service.

Modifiers

For OT, PT, speech, and Section 65 services, it is required that providers utilize the modifiers below for school-based claims. This indicates which claims should match a student's IFSP or IEP.

Modifiers do not need to be used for the prior authorization; however, they do need to be included when the claim is submitted.

"TL" - Services delivered under and Individualized Family Service Plan (IFSP)
"TM" - Services delivered under and Individualized Education Plan (IEP) with MaineCare addendum denoting medical necessity of the service.

Rate Setting Guidance

Chapter 65.11 states that payment for services will be made at the lowest of the following:

1. The amount listed in Chapter III;
2. The lowest amount allowed by the Medicare Part B carrier; or
3. The provider's usual and customary charge.

The usual and customary charge is not a set rate, but rather is determined by the provider. If the usual rate for a service is lower than the MaineCare rate, which is the rate that should be billed. MaineCare does not dictate this calculation, but it is determined by the provider's cost of service delivery.

Place of Service Codes

All schools will need to make sure that when a school-based service claim is submitted, the Place of Service Code is "03."

Providers who perform services in a school that not directed by and IFSP or IEP, as described above, may remain eligible to bill for services and must also use the Place of Service Code "03" when providing a service in a school.

Privacy and Security of Health Information - HIPAA

The Maine Department of Health and Human Services (the "Department") takes the protection of health information very seriously. DHHS has a Director of Healthcare Privacy who serves as the Department's Privacy Officer, and each office has Privacy and Security Officials or Privacy Liaisons who work to follow state and federal healthcare privacy laws, including the Health Insurance Portability and Accountability Act of 1996, or HIPAA. HIPAA has many purposes, but in part, it tells us how we can use and share protected health information, and the safeguards that are required to keep that information secure. HIPAA does not apply to all of our offices or programs, but when it does, we are required to follow it. There are steep penalties for failing to comply with the law. Even if an office does not fall under HIPAA, the Department still promises to use reasonable safeguards to protect the information of the individuals we serve.

The Department implements and updates confidentiality policies, procedures, training, and forms that the law requires for us to keep health information protected, whether that information is part of a conversation, in a paper chart, or part of an electronic record. Only the minimum health information necessary to conduct business is to be used or shared. Additionally, we only enter into agreements with other organizations to help us with our business processes if they agree to safeguard the information as the law requires.

We will also investigate any possible breach of patient or client data that happens at a Department office or with one of our vendors or business associates. If an actual breach occurs, the Department will contact individuals whose information is at risk, and report the breach to government regulators.

If you have questions, you may contact our Director of Healthcare Privacy at DHHS.Privacy@maine.gov.

FERPA

The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99) is a federal law that protects the privacy of student education records. The law applies to all schools that receive funds under an applicable program of the U.S. Department of Education.

For additional information, you may call 1-800-USA-LEARN (1-800-872-5327) (voice). Individuals who use TDD may use the Federal Relay Service or you may contact us at the following address: Family Policy Compliance Office, U.S. Department of Education, 400 Maryland Avenue, SW, Washington, D.C. 20202-8520.

CONFIDENTIALITY

Standards of Confidentiality

(From CMS, "Medicaid and School Health Guide: A Technical Assistance Manual, 1997")

Federal Medicaid regulations regarding confidentiality require that those receiving released recipient information must have standards of confidentiality comparable to the state Medicaid agency itself. This requirement is an additional condition for the release of information. However, a provider is not entitled to additional information simply because it is bound by contract and administrative regulations to protect confidentiality.

Release of Information

Every exchange of information outside a discrete organization entity or agency is considered a release. HCFA cannot authorize releases of recipient information unless there is a specific and direct connection to a Medicaid-covered service. To permit release of additional information to providers, there must be some basis to assure that the release meets the statutory and regulatory requirement of serving a purpose directly related to State Plan administration. The member's consent is not necessary for releases that are not in response to outside requests but are, instead, essential to plan administration or service delivery. The requirement for recipient consent applies to requests for information from an outside source, not releases which are essential to ordinary program operations provided to members at the time of application for Medicaid.

Accessing Data

Providers may access the Medicaid eligibility information only by entering the member's MaineCare identification number or two or more of the following data elements: (1) member's full name, including middle initial; (2) member's date of birth, and (3) member's social security number; and by entering date or dates of service(s).

Third Party Reimbursement

State and federal rules and regulations determine the Department's liability for payment of claims submitted to MaineCare for services provided to individuals enrolled in a health maintenance organization or managed care plan or those who have other available third party resources. MaineCare is the payer of last resort. The only exception is for services involving Indian Health Services (IHS) claims. IHS is the payer of last resort for Native Americans enrolled in MaineCare. For more information regarding Maine's third-party liability, please access the MaineCare Member Handbook here: http://www.maine.gov/sos/cec/rules/10/ch101.htm

Choice to Not Provide Consent to Bill MaineCare

Federal Medicaid regulations at 42 CFR 431.51 and section 1902(a)(23) of the Act require Medicaid beneficiaries to have the freedom to choose from all qualified providers. Therefore, Medicaid-eligible children cannot be limited to school health providers for Medicaid covered services.

Federal law requires that in order for Medicaid to be billed, a public agency:

(A) Must obtain parental consent, consistent with 300.9; and (B) Notify parents that the parents' refusal to allow access to their public benefits or insurance does not relieve the public agency of its responsibility to ensure that all required services are provided at no cost to the parent (IDEA 300.154, (2) (iv) (A), (B)).

MaineCare Seed Payments

School districts and Child Development Services have an obligation to pay seed to the Department of Education for all MaineCare school-based services provided through IDEA, for which reimbursement is sought.

If you are aware of any instances in which seed is not being currently assessed, please make contact with Denise Towers at Department of Education.

All questions regarding MaineCare seed/match procedures should be directed to the Department of Education.
You can also find information on the 2012 MaineCare seed/match procedures for School Administrative Units here: https://mainedoenews.net/2012/08/16/mainecare-seed-match-procedures/, and information regarding MaineCare seed payment reports and adjustments can be found here: http://www.maine.gov/education/data/mainecareseed.htm.

How Families Apply for MaineCare

To apply for MaineCare, individuals can:

1. Walk in to any of the Office for Family Independence (OFI) offices in person and ask for a paper application.
2. Call to request an application at 855-797-4357, Option 8.
3. TTY users can call Maine Relay 711.
4. There is an online chat feature available on the My MaineCare Connection site, which can be found at: https://www1.maine.gov/benefits/account/login.htmlEmails can be sent to mmchelp.dhhs@maine.gov.
5. Apply at https://www1.maine.gov/benefits/account/login.html.

There is also an online pre-screening tool at the website above that will allow families to find out what they could potentially be eligible for if they are not ready to complete an application.

What Factors Impact Eligibility for Different MaineCare Programs

There are a number of different MaineCare programs for which OFI determines eligibility. From a very basic level, the following things are used to determine eligibility (and not necessarily in this order):

- Family Household Size
- Income
- Assets
- Citizenship
- Disability

MaineCare Member Responsibilities

MaineCare members do have a responsibility to report changes within ten days. This includes changes of address, and changes to income, assets, and household composition.

Katie Beckett Program

When families do not qualify for MaineCare due to being over the income and/or asset limit, and there is a child in the home who is disabled, the Katie Beckett program offers the opportunity for the disabled child to be considered for MaineCare coverage, separate from their household size. This allows the parental income and assets to be excluded so that a child has potential eligibility.

After this piece is determined, the child then has to be determined disabled either by the Social Security Administration, or by the Department's Medical Review Team. Both entities use the same standards to determine disability. The teams review medical documentation from the child's providers to see if they meet the criteria for disability. If the child meets the standard, an additional assessment is done to see if the child meets an institutional level of need. This assessment is done by a nurse through an outside contracted agency. If a child is determined disabled and meets the nursing home level of care requirement, then a premium is determined based on parental income, and MaineCare is granted.

Katie Beckett Premiums

This is a premium-based program so families do have to pay a monthly fee for this benefit. Fees are based on the total amount of income which comes into a household on a monthly basis. Even though there is a premium, MaineCare benefits are the same for these children as they are for any other child receiving MaineCare. There is no difference in member benefits.

In addition, members who have MaineCare through the Katie Beckett program are subject to an annual limit. They need to be informed that the costs for school-based services will be included in their calculation of utilized benefits any time consent is provided for school-based service reimbursement.

References

Chapter I	General Administrative Policies and Procedures
Chapter 2	**Specific Policies by Service**
Section 28	Rehabilitative and Community Support Services for Children with Cognitive Impairments and Functional Limitations
Section 65	Behavioral Health Services
Section 68	Occupational Therapy
Section 85	Physical Therapy
Section 96	Private Duty Nursing and Personal Care Services
Section 109	Speech Therapy
Section 113	Transportation
Chapter 3	**Allowances for Services**
Section 28	Rehabilitative and Community Support Services for Children with Cognitive Impairments and Functional Limitations
Section 65	Behavioral Health Services
Section 68	Occupational Therapy
Section 85	Physical Therapy
Section 96	Private Duty Nursing and Personal Care Services
Section 109	Speech Therapy
Chapter 10	Kate Beckett

Attachment 2(c)

MaineCare Payments

	Q417 has not been processed yet
$2,982,267.02	MaineCare payments to SAUs for Q317
$3,055,862.02	MaineCare payments to SAUs for Q217
$1,080,212.38	MaineCare payments to SAUs for Q117
$7,118,341.42	Total MaineCare payments to SAUs 2017
$3,394,985.31	MaineCare payments to SAUs for Q416
$2,585,050.98	MaineCare payments to SAUs for Q316
$2,304,741.49	MaineCare payments to SAUs for Q216
$1,434,027.23	MaineCare payments to SAUs for Q116
$9,718,805.01	Total MaineCare payments to SAUs 2016
$3,715,328.31	MaineCare payments to SAUs for Q415
$2,509,707.04	MaineCare payments to SAUs for Q315
$2,896,857.50	MaineCare payments to SAUs for Q215
$1,297,287.17	MaineCare payments to SAUs for Q115
$10,419,180.02	Total MaineCare payments to SAUs 2015
$3,161,145.71	MaineCare payments to SAUs for Q414
$2,453,864.41	MaineCare payments to SAUs for Q314
$2,449,050.96	MaineCare payments to SAUs for Q214
$1,131,088.55	MaineCare payments to SAUs for Q114
$9,195,149.63	Total MaineCare payments to SAUs 2014
$3,060,576.40	MaineCare payments to SAUs for Q413
$2,255,153.01	MaineCare payments to SAUs for Q313
$2,173,216.85	MaineCare payments to SAUs for Q213
$2,275,868.92	MaineCare payments to SAUs for Q113
$9,764,815.18	Total MaineCare payments to SAUs 2013