School Supportive Health Services Program
Preschool Supportive Health Services Program

Questions and Answers
Issued June 11, 2010

Note: The responses to Questions #11, #19, #21, #25, #31, #32, #33, and #35 were revised December 10, 2012.

Status of School and Preschool Supportive Health Services Program

1. Q. Who is responsible for setting Medicaid policy and reimbursement rates for the Preschool/School Supportive Health Services Program (SSHSP)?

A. The responsibility for setting Medicaid policy and reimbursement rates for the SSHSP resides with the DOH Office of Health Insurance Programs (OHIP). OHIP has restructured the Preschool/School Supportive Health Services Program to meet all applicable federal, state and Medicaid regulations, to ensure that future claims are in compliance with all applicable requirements.

2. Q. What is a State Plan Amendment and how does it impact the SSHSP?

A. A State Plan Amendment (SPA) is a comprehensive written statement prepared by a State and submitted to CMS describing the nature and scope of Medicaid coverage and reimbursement and giving assurance that both will be administered in conformity with the specific requirements of Title XIX of the Social Security Act, the regulations in 42CFR Section 430.10 and other applicable official issuances of the New York State Department of Health. CMS determines whether the SPA can be approved to serve as a basis for federal financial participation in the State Medicaid program. The SPA submitted to CMS defines the services, providers and their qualifications, and reimbursement methodology for the SSHSP. DOH has worked closely with the NYS Department of Education to develop a SPA that meets the federal requirements applicable to the SSHSP.

3. Q. What is the current status of the State Plan Amendment?

A. The SSHSP SPA was approved by CMS on April 26, 2010, effective September 1, 2009. For additional information, see State Plan Amendment #09-61.

4. Q. When will billing for Medicaid-covered preschool/school supportive health services resume?

A. School districts, counties and §4201 schools will be able to begin billing for the SSHSP services described in SPA #09-61 once the necessary system changes are in place. The target date is July 1, 2010.

5. Q. Will school districts, counties, and §4201 schools be able to bill retroactively?

A. Yes. Medicaid billing will be retroactive for services provided on or after September 1, 2009 and prior to July 1, 2009, as long as those services meet the Medicaid requirements as described in SPA #09-61 and there is proper documentation to support the claims.

6. Q. Can school districts, counties and §4201 schools bill retroactively for services provided from July 1, 2009 through August 31, 2009?

A. No. The Medicaid program does not have federal approval to pay claims for services provided during this time period. Therefore, school districts, counties, and §4201 schools may not bill for services provided from July 1, 2009 through August 31, 2009.

Compliance Agreements

7. Q. What is the difference between the Compliance Agreement and the Compliance Program for the SSHSP?

A. There is a Compliance Agreement between NYS and CMS. This is the agreement between the federal and state government to ensure compliance with Medicaid requirements. There is also a Compliance Program required by Social Services Law (SSL) Section 363-d, which is administered by the NYS Office of the Medicaid Inspector General (OMIG). The SSL-required Compliance Program mandates that all Medicaid providers claiming over $500,000/year implement a compliance program.

8. Q. What are the conditions of the NYS Compliance Agreement with CMS?

A. The NYS Compliance Agreement with CMS is the legal arrangement that New York State has with the federal Centers for Medicare and Medicaid Services (CMS) to prevent fraud, abuse, and false billing to Medicaid in the SSHSP. The terms and conditions address:

- Appointment of Compliance Officer and Compliance Committee
- Audit Requirements
- Independent Audits
- Annual Written Reports
- Written Policies to Ensure Compliance
- Training
- Confidential Disclosure
- State Plan Amendment and Revisions to Reimbursement Methodology
- Implementation Plan
- Certifications

9. Q. What is the purpose of the Mandatory Compliance Law?

A. The Mandatory Compliance Law, Chapter 442 of the Laws of 2006, established the NYS Office of the Medicaid Inspector General (OMIG) and created SSL §363-d, which

requires Medicaid providers develop, adopt and implement effective compliance programs aimed at detecting fraud, waste, and abuse in the Medicaid program. The purpose is to ensure that providers establish systemic checks and balances to detect and prevent inaccurate billing and inappropriate practices in the Medicaid program.

10. Q. Who must have an OMIG compliance program?

A. The Mandatory Compliance Law applies to Medicaid providers operating as clinics under the Public Health Law, clinics operating under Mental Hygiene Law, and those providers who order, provide, bill or claim $500,000 or more from Medicaid in a 12-month period. The $500,000 threshold applies if a provider receives the reimbursement directly or indirectly from Medicaid funds. If the provider meets either the statutory provisions or monetary thresholds, there are no exemptions. The law is applicable to providers of preschool and school supportive health services.

Note: The response to Question #11 was revised December 10, 2012. Deletions are ~~struck through~~ and additions are <u>underlined.</u>

11. Q. How can an OMIG compliance program be developed for multiple school districts providing school supportive health services?

A. ~~This response is under development.~~ <u>School districts providing SSHSP services can collaborate on the development of a compliance program. Each school district must then tailor the program for its own use to meet regulations at Title 18 NYCRR (Social Services) – Part 521.</u>

<u>For information on the OMIG compliance program, refer to the Compliance link on the OMIG website at: http://www.omig.ny.gov/data/.</u>

12. Q. What must an OMIG compliance program contain?

A. OMIG compliance programs apply to Medicaid billing and payments. The minimum requirements may be found in 18 NYCRR §521.3 (c) and include:

- Written policies and procedures that describe compliance expectations;
- Designation of an employee vested with the responsibility for the day-to-day operation of the compliance program (compliance officer);
- Training and education for affected employees and persons associated with the provider;
- Establishment of communication lines to the compliance officer for anonymous/confidential disclosure;
- Disciplinary policies to encourage good faith participation in the compliance program by all affected individuals;
- Creation of a system for routine identification of compliance risk areas specific to the provider type;
- Creation of systems for responding to compliance issues as they are raised; and,

- A policy barring intimidation or retaliation for participating in the compliance program.

For additional information on compliance programs, consult the OMIG website at http://www.omig.state.ny.us/data/content/view/79/65

General Requirements – IDEA and SSHSP

13. Q. What is the Individuals with Disabilities Education Act (IDEA)?

A. In 1975, Congress passed Public Law 94-142 (Education of All Handicapped Children Act), which was the first major law to ensure a public education for children with disabilities, ages five to 21. The intent was to provide each student with a disability a free appropriate public education (FAPE). The Act has been reauthorized several times since, includes children ages three to five years, and is now codified as the Individuals with Disabilities Education Act (IDEA) (PL 108-446). States are required to establish and implement policies that assure a FAPE to all children with disabilities.

14. Q. How does Medicaid relate to education for children with disabilities?

A. A 1988 amendment to the Social Security Act provided statutory authority for SSHSP, also known as Medicaid in Education, by allowing Medicaid coverage of medically necessary services included in the Individualized Education Programs (IEPs) of students with disabilities. The purpose of SSHSP is to assist school districts, §4201 schools and counties in obtaining Medicaid reimbursement for certain diagnostic and health support services provided to students with disabilities. The SSHSP applies to students with Medicaid coverage from age three years up to their twenty-first birthday.

15. Q. What is an Individualized Education Program (IEP)?

A. An IEP is a written statement for a student with a disability that is developed, reviewed and revised by a Committee on Special Education (CSE), Subcommittee on Special Education or Committee on Preschool Special Education (CPSE). The IEP is the tool that ensures a student with a disability has access to the general education curriculum and is provided the appropriate learning opportunities, accommodations, adaptations, specialized services and supports needed for the student to progress towards achieving the learning standards and to meet his or her unique needs related to the disability. Each student with a disability must have an IEP in effect by the beginning of each school year. Federal and State laws and regulations specify the information that must be documented in each student's IEP. In New York State (NYS), IEPs developed for the 2011-12 school year and thereafter, must be on a form prescribed by the Commissioner of Education.

16. Q. What are the requirements for Medicaid reimbursement of services under SSHSP?

A. In order for children to receive Medicaid reimbursable services under SSHSP/PSSHSP, they must be Medicaid eligible, be under the age of 21, have been determined to have a disability through the IEP process and have an IEP.

To qualify for reimbursement under New York State Medicaid, SSHSP services must be:

- Medically necessary and included in a Medicaid covered category (speech therapy, physical therapy, etc.);
- Ordered by a practitioner acting within his or her scope of practice;
- Included in the student's Individualized Education Program (IEP);
- Provided by qualified professionals under contract with or employed by a school district; a §4201 school; an approved pre-school; a county in the State or the City of New York;
- Furnished in accordance with **all** requirements of the State Medicaid Program and other pertinent state and federal laws and regulations, including those for provider qualifications, comparability of services, and the amount, duration and scope provisions; and,
- Included in the State's Medicaid plan and/or available under Early Periodic Screening, Diagnosis and Treatment (EPSDT).

17. Q. What is a §4201 school?

A. §4201 State-Supported Schools are institutions for the instruction of the deaf, blind, physically, or multiply disabled under §4201 of the New York State Education Law. There are two State Operated and Supported (4201) Schools and 11 State-Supported (4201) Schools in New York State that offer services to children with disabilities ages three through twenty-one years:

- Cleary School for the Deaf
- Henry Viscardi School
- Lavelle School for the Blind
- Lexington School for the Deaf
- Mill Neck Manor School for the Deaf
- New York Institute for Special Education
- New York School for the Deaf
- Rochester School for the Deaf
- St. Francis Desales School
- St. Joseph's School for the Deaf
- St. Mary's School for the Deaf

Medicaid Covered Services and Provider Qualifications Under SSHSP

18. Q. What Medicaid services are covered under SSHSP?

A. The ten covered services are:

- Physical therapy services
- Occupational therapy services
- Speech therapy services
- Psychological evaluations
- Psychological counseling

- Skilled nursing services
- Medical evaluations
- Medical specialist evaluations
- Audiological evaluations
- Special transportation services

Note: The response to Question #19 was revised December 10, 2012. Deletions are ~~struck through~~ and additions are <u>underlined.</u>

19. Q. What are the requirements for ordering services and what are the credentials for providing services under SSHSP for each of the covered services?

Physical Therapy

To be Medicaid reimbursable these services require a signed and dated written order from a physician, a physician assistant or a nurse practitioner who is acting within the scope of his or her practice under NYS law. The written order must include a diagnostic statement and purpose of treatment. The written order is required prior to treatment. The need for physical therapy services must also be documented in the Individualized Education Program (IEP).

Physical therapy services must be provided by:

- A New York State licensed and registered physical therapist qualified in accordance with the requirements of 42 CFR Section 440.110(a) and with applicable state and federal law and regulations, acting within his or her scope of practice under New York State Law; and having graduated from a Commission on Accreditation in Physical Therapy Education (CAPTE) – approved program; or,
- A certified physical therapy assistant "under the direction of" such a qualified licensed and registered physical therapist (graduate of a CAPTE-approved program), acting within his or her scope of practice under New York State Law. See Q&A #20 for "under the direction of" requirements.

Occupational Therapy

To be Medicaid reimbursable these services require a signed and dated written order from a physician, a physician assistant or a nurse practitioner who is acting within the scope of his or her practice under NYS law. The written order must include a diagnostic statement and purpose of treatment. The written order is required prior to treatment. The need for occupational therapy services must also be documented in the IEP.

Occupational therapy services must be provided by:

- A New York State licensed and registered occupational therapist qualified in accordance with the requirements of 42 CFR Section 440.110(b) and with

applicable state and federal law and regulations, acting within his or her scope of practice under New York State Law; or

- A certified occupational therapy assistant (COTA) "under the direction of" such a qualified licensed and registered occupational therapist, acting within his or her scope of practice under New York State Law. See Q&A #20 for "under the direction of" requirements.

Speech Therapy Services

These services require a signed and dated written order ~~referral~~ from a physician, a physician assistant, a nurse practitioner or a written referral from a speech-language pathologist. The written order/referral must include a diagnostic statement and purpose of treatment. The written order/referral is required prior to treatment. The need for speech and language services must also be documented in the IEP.

Speech therapy services must be provided by:

- A licensed and registered speech-language pathologist qualified in accordance with 42 CFR Section 440.110(c), who is a graduate of a master's program with a certificate of clinical competence (CCC) from the American Speech-Language-Hearing Association (ASHA) or equivalent, and applicable state and federal laws and regulations, acting within his or her scope of practice under New York State law; or
- A teacher certified to provide speech and language services, under the direction of such a qualified licensed and registered speech-language pathologist (ASHA-Certified or equivalent), acting within his or her scope of practice under New York State Law. See Q&A #20 for "under the direction of" requirements.
- A speech-language pathologist who has completed the academic program and has a "Notification of Approval of the Supervisory Plan" in accordance with the requirements of the State Education Law on file and is in the process of acquiring supervised work experience to obtain a license. See Q&A #50 for additional information.

Psychological Evaluations

To be Medicaid reimbursable, psychological evaluations must be provided by a professional whose credentials are comparable to those of providers who are able to provide psychological evaluations in the community and reflected in the IEP. If a psychological evaluation is used to identify a child's health related needs as part of the IEP process, the evaluation is eligible for Medicaid coverage once the evaluation is reflected in the student's IEP. See Q&A #31 for additional information on documentation of evaluations.

Psychological evaluations must be provided by a qualified provider who meets the requirements of 42 CFR Section 440.60 or 42 CFR Section 440.50(a) and other applicable state and federal laws and regulations. Refer to Q&A #21-23, which establish that Medicaid reimbursement is unavailable for school-based personnel. Psychological evaluations must be provided by:

- A New York State licensed and registered psychiatrist, qualified in accordance with 42 CFR Section 440.50(a) and other applicable state and federal law or regulations, acting within his or her scope of practice under NYS law; or
- A New York State licensed and registered psychologist, qualified in accordance with 42 CFR Section 440.60(a) and other applicable state and federal law or regulations, acting within his or her scope of practice under NYS law.

Psychological Counseling Services

To be Medicaid reimbursable, these providers must have credentials which would allow them to provide the same service in the community. Refer to Q&A #21-23, which establish that Medicaid reimbursement is unavailable for school-based personnel. Services require a referral from a physician, physician assistant or nurse practitioner or an appropriate school official, such as a school administrator or the chairperson of the Committee on Preschool Special Education (CPSE) or Committee on Special Education (CSE). The need for psychological counseling must also be documented in the IEP.

Psychological counseling services must be provided by:

- A New York State licensed and registered psychiatrist qualified in accordance with 42 CFR Section 440.50(a) and other applicable state and federal law or regulations, acting within his or her scope of practice under New York State Law; or,
- A New York State licensed and registered clinical psychologist, qualified in accordance with 42 CFR Section 440.60(a) and other applicable state and federal law or regulations, acting within his or her scope of practice under New York State Law; or,
- A New York State licensed clinical social worker (LCSW), qualified in accordance with 42 CFR Section 440.60(a) and other applicable state and federal law or regulations, acting within his or her scope of practice under New York State Law; or,
- A licensed master social worker (LMSW) qualified in accordance with 42 CFR Section 440.60(a) and other applicable state and federal law or regulations, acting within his or her scope of practice under New York State Law, under the supervision of such a qualified LCSW, a licensed and registered psychologist, or a qualified licensed and registered psychiatrist as described above.

Supervision of the clinical social work services provided by the LMSW, with respect to each Medicaid beneficiary, shall consist of contact between the LMSW and supervisor during which:

- The LMSW apprises the supervisor of the diagnosis and treatment of each client;
- The LMSW's cases are discussed;
- The supervisor provides the LMSW with oversight and guidance in diagnosing and treating clients;
- The supervisor regularly reviews and evaluates the professional work of the LMSW; and,
- <u>Applicable prior to 12/8/10:</u> The supervisor provides at least one hour per week or two hours every other week of in-person individual or group clinical

supervision, provided that at least two hours per month shall be individual clinical supervision. Effective 12/8/10 changes were made to the LMSW supervision requirements found in section 74.6 of the Regulations of the Commissioner. As of 12/8/10 the supervisor is required to provide at least two hours per month of in-person individual or group clinical supervision.

Skilled Nursing Services

To be Medicaid reimbursable, skilled nursing services must be supported by a written order, signed and dated by a NYS licensed and registered physician, a physician assistant, or a licensed and registered nurse practitioner acting within the scope of their practice. The written order is required prior to the initiation of services and new orders are required when there are any significant changes in the student's condition. The need for skilled nursing must also be documented in the IEP.

Special Note on Nurse Practitioners
In addition, New York State Education Law §6902(3)(a) scope of practice requirements specify that a nurse practitioner must have a collaboration agreement with a physician, as well as written practice protocols that the nurse practitioner follows and quarterly reviews by the physician of the nurse practitioner's case records. In order to bill Medicaid, documentation of this collaboration agreement, practice protocols, and evidence that the collaborating physician has reviewed patient records must be made available to the Department of Health or its agents for audit purposes (18 NYCRR §505.32(b)).

Skilled nursing services must be provided by:

- A New York State licensed and registered nurse qualified in accordance with the requirements of 42 CFR Section 440.60(a) and other applicable state and federal law and regulations, acting within his or her scope of practice; or,
- A New York State licensed practical nurse qualified in accordance with 42 CFR Section 440.60(a) and other applicable state and federal law or regulations, acting within his or her scope of practice "under the direction of" a licensed registered nurse, a physician, dentist or other licensed health care provider authorized under the Nurse Practice Act.

Note that for licensed practical nurses, the "under the direction of" requirement originates from New York State Education Law §6902(2) and is not the same as the "under the direction of" requirements that apply to therapy assistants or teachers of the hearing handicapped.

Medical Evaluations

Medical evaluations must be reflected in the IEP and must be provided by a New York State licensed and registered physician, physician assistant, or nurse practitioner qualified in accordance with 42 CFR Section 440.50(a), 440.60(a) and other applicable state and federal laws and regulations, acting within his or her scope of practice under NYS law. If a medical evaluation is used to identify a child's health related needs as part of the IEP process, the evaluation is eligible for Medicaid coverage once the evaluation is reflected in the student's IEP. See Q&A #31 for additional information on documentation of evaluations. Refer to the Skilled Nursing

Services section (page 9) for additional information on requirements for nurse practitioners.

A medical evaluation is the assessment and recording of:

- Chief complaints;
- Present illness;
- Past medical history;
- Personal history and social history;
- A system review;
- A complete physical evaluation;
- Ordering of appropriate diagnostic tests and procedures; and,
- Recommended plan of treatment.

Medical Specialist Evaluations

A medical specialist evaluation must be included in the IEP as recommended by the Committee on Preschool Special Education (CPSE) or Committee on Special Education (CSE). If a medical specialist evaluation is used to identify a child's health related needs as part of the IEP process, the evaluation is eligible for Medicaid coverage once the evaluation is reflected in the child's IEP. See Q&A #31 for additional information on documentation of evaluations. Refer to the Skilled Nursing Services section (page 9) for additional information on requirements for nurse practitioners.

A medical specialist evaluation is:

- An examination of the affected bodily area of organ system and other symptomatic or related organ systems;
- The ordering of appropriate diagnostic tests and procedures;
- The reviewing of the results and reporting on the tests and procedures; and,
- The reporting of findings, including test results and recommendations.

Medical specialist evaluations must be provided by:

- A New York State licensed and registered physician specialist acting within his or her scope of practice and related area of specialization;
- A New York State licensed and registered specialist assistant acting within his or her scope of practice and related area of specialization; or,
- A New York State licensed and registered nurse practitioner acting within his or her scope of practice and related area of specialization.

Audiological Evaluations

To be Medicaid reimbursable, audiological evaluation services must be supported by a written order, signed and dated by a NYS licensed and registered physician, physician assistant or nurse practitioner acting within the scope of their practice. The need for an audiological evaluation must also be documented in the IEP. If an audiological evaluation is used to identify a child's health related needs as part of the IEP process, the evaluation is eligible for Medicaid coverage once the evaluation is reflected in the student's IEP. See Q&A #31 for additional information on documentation of evaluations.

An audiological evaluation is the determination of the range nature and degree of hearing loss including:

- Measurement of hearing acuity;
- Tests relating to air and bone conduction;
- Speech reception threshold;
- Speech discrimination;
- Conformity evaluations;
- Pure tone audiometry; and,
- The reporting of findings, including test results and recommendations.

Audiological evaluations must be provided by:

- A New York State licensed and currently registered audiologist with a certificate of clinical competence (CCC) from the American Speech-Language-Hearing Association (ASHA), qualified in accordance with 42 CFR 440.60(a) and 42 CFR 440.110(c)(3) and other applicable state and federal law or regulations, acting within his or her scope of practice.

Special Transportation Services

Special transportation services must be provided by a vendor who is legally authorized to provide transportation services on the date the services are rendered. To be Medicaid reimbursable, special transportation services must be provided by a qualified Medicaid provider and attendance documentation (bus/transportation logs) is required. The need for special transportation must also be indicated on the student's IEP. Transportation must be to a Medicaid-eligible service or from a Medicaid-eligible service. See Q&A #43-45 for additional information on special transportation services.

20. Q. What does "under the direction of" mean?

A. "Under the direction of" means that the qualified practitioner:

- Sees the participant at the beginning of and periodically during treatment;
- Is familiar with the treatment plan as recommended by the referring physician or other licensed practitioner of the healing arts practicing under State law;
- Has input into the type of care provided;
- Has continued involvement in the care provided, and reviews the need for continued services throughout treatment;
- Assumes professional responsibility for the services provided under his or her direction and monitors the need for continued services;
- Spends as much time as necessary directly supervising services to ensure beneficiaries are receiving services in a safe and efficient manner in accordance with accepted standards of practice;
- Ensures that individuals working under his or her direction have contact information to permit him or her direct contact with the supervising therapist as necessary during the course of treatment; and,
- Keeps documentation supporting the supervision of services and ongoing involvement in the treatment of each student.

Note: The response to Question #21 was revised December 10, 2012. Deletions are ~~struck through~~ and additions are <u>underlined.</u>

21. Q. Can a school psychologist make a determination that a child needs a psychological evaluation?

A. ~~This response is under development.~~ <u>Yes. The determination whether a child needs a psychological evaluation must be made by an "appropriate school official or other official". An appropriate school official or other official means any teacher, administrative personnel, Committee on Special Education (CSE)/Committee on Preschool Special Education (CPSE) chairperson or member, or other professional who is familiar with the needs of the individual student. A school psychologist is considered an appropriate school official for the purposes of making a determination that a child needs a psychological evaluation.</u>

22. Q. Who can conduct the psychological evaluation?

A. In order for Medicaid to reimburse for psychological evaluations, they must be provided by a professional acting within his or her scope of practice, and whose credentials are comparable to providers who are able to bill Medicaid for the provision of psychological evaluation services in the community. Psychological evaluations must be provided by:

- A New York State licensed and registered psychiatrist
- A New York State licensed and registered psychologist

23. Q. Are psychological counseling services in an IEP provided by certified school social workers and certified school psychologists eligible for Medicaid payment?

A. No. Professionals providing psychological counseling and/or evaluation services must have the same professional credentials as those who are permitted to provide psychological counseling and/or evaluations in the community.

In order to be Medicaid reimbursable, psychological services in an IEP must be provided by one of the following professionals, acting within his/her scope of practice:

- A NYS licensed and registered psychiatrist;
- A NYS licensed and registered psychologist;
- A NYS licensed and registered clinical social worker; or,
- A NYS licensed master social worker under the supervision of a licensed psychiatrist, licensed psychologist, or licensed clinical social worker.

Documentation Requirements to Support Medicaid Billing

General Requirements and Information

24. Q. What documentation is required to submit claims for Medicaid reimbursement?

A. The documentation that must be on file and made available upon request is as follows:

- The Individualized Education Program (IEP)
- Certification/licensure/registration of staff providing the service (certifications should include any external certifications needed to be a qualified Medicaid provider, such as a Certificate of Clinical Competence from the American Speech-Language-Hearing Association, or collaboration agreements between a nurse practitioner and a physician)
- Referrals for services as required
- Written orders for services as required
- Supervision or direction by a licensed professional where appropriate
- "Under the direction of" documentation when services are provided under the direction of a qualified provider
- Documentation of each encounter, dated and signed **(session notes)**
- Special transportation must be on the IEP, and bus logs must include daily entries for each child, on a one-way basis.

Note 1: Each school district must maintain a record of the educational institution from which each physical therapist graduated for comparison with a list of CAPTE-approved programs.

Note 2: There may be other documentation requirements, in addition to Medicaid requirements, that apply to students receiving special education services. For example, a written referral, signed and dated, to the Committee on Special Education and/or Committee on Preschool Special Education and quarterly progress notes are required. In addition, parental consent for release of information and a provider agreement and statement of reassignment are required for students with IEPs.

Note: The response to Question #25 was revised December 10, 2012. Deletions are ~~struck through~~ and additions are <u>underlined.</u>

25. What must be included in a session note?

A. Session notes specifically document that the service provider delivered certain evaluation and/or services to a student on a particular date. Session notes must be completed by all qualified service providers delivering preschool/school supportive health services that have been ordered by an appropriate practitioner and included in a student's IEP for each service delivered. Session notes must include:

- Student's name
- Specific type of service provided
- Whether the service was provided individually or in a group <u>(specify actual group size)</u>

- The setting in which the service was rendered (school, clinic, other)
- Date and time the service was rendered (length of session — record session start time and end time)
- Brief description of the student's progress made by receiving the service during the session
- Name, title, signature and credentials of the person furnishing the service and signature/credentials of supervising clinician as appropriate

26. Q. What are the changes to the billing methodology?

A. Effective with SPA #09-61, each service encounter must be documented for reimbursement. Current Procedural Terminology (CPT) codes must be used to identify the specific services provided during the encounter.

27. Q. What is Medicaid reimbursement for SSHSP based on?

A. The service CPT codes under SSHSP, except for transportation, were benchmarked at 75% of the 2010 Medicare fee schedule for the mid-Hudson region. For special transportation, one-way rates of payment have been set based on a statistically valid cost study that was conducted in 1999 to establish round trip transportation rates. The rates were trended forward based on changes in the Consumer Price Index and converted to one-way rates.

28. Q. Where is the Centers for Medicare and Medicaid (CMS) Medicare fee schedule located?

A. The Medicare fee schedule may be found at www.cms.gov

29. Where is the fee schedule for SSHSP located?

A. The fee schedule with CPT codes for SSHSP will be posted separately on the SED Medicaid website at http://www.oms.nysed.gov/Medicaid/.

30. Q. Does the Medicaid fee schedule for SSHSP cover those services that can be provided in group setting?

A. Yes. There are different CPT codes for individual and group services, including speech therapy, physical therapy, occupational therapy, and psychological counseling services.

Evaluations

Note: The response to Question #31 was revised December 10, 2012. Deletions are ~~struck through~~ and additions are underlined.

31. Q. Are evaluations covered before a child has an IEP?

A. ~~If an evaluation is used to identify a child's health-related needs as part of the IEP process, the evaluation is eligible for Medicaid coverage once the evaluation is reflected in the child's IEP. In addition, in order for reevaluations (triennial and other~~

~~reevaluations) to be reimbursed by Medicaid, the need for the reevaluation must be documented in the IEP.~~

An initial evaluation is the evaluation(s) that is done prior to the development of a student's first Individualized Education Program (IEP). As stated in Medicaid Alert # 12-03, issued on March 1, 2012, effective April 1, 2012 (date of service), an initial evaluation for PT, OT, ST, or psychological counseling is not Medicaid reimbursable unless an IEP is developed which includes a recommendation for ongoing services in that same therapy type. In addition, all other Medicaid requirements must be met:

- The written order/referral (dated prior to the evaluation) must be on file,
- The evaluation must be completed by a Medicaid qualified provider,
- The evaluation must be documented, and
- The evaluation must be included in the IEP.

It is important to note that IDEA-driven evaluations are Medicaid reimbursable only for students determined to have a disability.

Evaluations that are conducted upon referral to the Committee on Special Education (CSE) or Committee on Preschool Special Education (CPSE) where the student is not found eligible for special education services, and an IEP is not developed, are not eligible for Medicaid reimbursement.

Written Orders

Note: The response to Question #32 was revised December 10, 2012. Deletions are ~~struck through~~ and additions are underlined.

32. Q. Do the written orders need to be on a prescription pad form?

A. No. However, the written order must include:

- The name of the child for whom the order is written;
- The complete date the order was written and signed;
- The service(s) ~~that is~~ being ordered;
    - Note on frequency and duration: The frequency and duration of the ordered service must either be specified on the order itself or the order must explicitly adopt the frequency and duration of the service in the IEP by reference;
- Ordering ~~P~~provider's contact information (office stamp or preprinted address and telephone number);
- Signature* of a NYS licensed and registered physician, a physician assistant, or a licensed nurse practitioner acting within his or her scope of practice (for psychological counseling services this also includes an appropriate school official and for speech therapy services, a speech-language pathologist**);
- The time period for which services are being ordered;
- The ordering practitioner's National Provider Identifier (NPI) or license number; and,
- Patient diagnosis and/or reason/need for ordered services.

* Please note that stamped signatures are not allowable.

**For purposes of the SSHSP, where written referrals are permitted (e.g., speech therapy services, psychological counseling services), the written referral must include the information listed above. It should be noted that the written order/written referral must be in place prior to the initiation of services (prospective), including evaluations. Refer to Medicaid Alert # 12-11 for further clarification on written orders/referrals.

Note: The response to Question #33 was revised December 10, 2012. Deletions are ~~struck through~~ and additions are underlined.

33. Q. Can/should frequency of services be included in the written order?

A. ~~The frequency of services may be included on the written order at the discretion of the ordering provider.~~ All written orders/referrals completed on and after 1/1/2013 must either include the frequency and duration of the service to be furnished or must adopt — by explicit reference to the IEP — the frequency and duration of the ordered service in the IEP.

34. Q. (a) What is the proper way to indicate the time frame for which the order is written, for example "9/8/10-6/28/11" or "2010-2011 school year"? (b) If the written order says "2010-11 school year" and is dated 9/18/10, can the prescription be used for the summer 2011 services, since the summer is within the 12 month validity?

A. (a) The preferred format for dates is mm/dd/yyyy – mm/dd/yyyy. The school year begins July 1 of each year. A written order for services for the 2010-11 "school year" would be valid for the time period July 1, 2010 through June 30, 2011. (b) No, because the "school year" ends on June 30, 2011. For services on or after July 1, 2011 another order would need to be written and in place before July 1, 2011. Please note that the date of the written order must be prior to delivery of the services that are billed to Medicaid.

Note: The response to Question #35 was revised December 10, 2012. Deletions are ~~struck through~~ and additions are underlined.

35. Q. Is it sufficient for the written order to state … "per the IEP"?

A. ~~No.~~ According to 20 U.S.C. §1401(26)(A), related services "are 'designed to enable a child with a disability to receive a free appropriate public education" or "to benefit from special education.'" SSHSP services are a subset of IDEA-defined related services. The IEP determines which related services are needed to facilitate the student's educational progress. It does not constitute medical necessity.

All written orders/referrals completed on and after 1/1/2013 must include frequency and duration of the service to be furnished or must adopt — by explicit reference to the IEP — the frequency and duration that will be delivered to the student. The use of the terminology "per the IEP" is acceptable on a written order/referral and means that the ordering provider is making an explicit reference to the frequency, duration,

and other conditions of service delivery (e.g., individual vs. group) of the service detailed in the existing IEP. Regardless of how the ordering practitioner chooses to specify frequency and duration of the ordered service(s) the written order must contain all other required elements as stated in Q+A # 32.

36. Q. If the IEP states physical therapy 3 times per week, and the written physician order states physical therapy 2 times per week, what services should be provided, and what services may be billed to Medicaid?

A. Because provided services are driven by what is included in the IEP, the district, county, or §4201 school should provide physical therapy services 3 times per week. However, because medical necessity has only been established for two of those days, Medicaid may only be billed for two times per week. If the services identified in the IEP are not the same as those ordered by the physician or other qualified practitioner, Medicaid can only be billed for those services included in the written order.

37. Q. If the physician/qualified practitioner does not date the order form, can it be used for the full IEP if it is received before services start?

A. No. A written order for services must include the complete date that the order was written and be signed by the appropriate practitioner and include service dates.

38. (a) Can receipt of a written order be established by a faxed date or a stamped-in date by the school district/county/§4201 school? (b) Is a practitioner's stamped signature acceptable?

A. (a) A date stamp or faxed date recorded by the school district/county/§4201 school is **not** acceptable. The written order must be dated and signed by the practitioner. If the order does not indicate a time frame, it may be considered valid for a period of one year from the date the order was written. (b) The use of a signature stamp or the signature of an administrator on written orders for services is not acceptable. The practitioner must sign the prescription or order.

39. Q. Do occupational therapy, physical therapy and speech therapy services require individual written orders (scripts)? Currently most schools have all related services on one script.

A. No, individual written orders (scripts) are not required. The related services may all be on one written order, provided each student's need for each service is specifically determined and documented.

Documentation of Service Delivery and Record Retention

40. Q. Where are services generally documented on the IEP?

A. On the State's model IEP form, services must be documented in the Recommended Special Education Programs and Services section of the IEP.

41. Q. What constitutes contemporaneous as relates to record keeping or progress notes?

A. The duties of the provider are discussed in Social Services Law at 18 NYCRR Section 504.3(a). Providers must prepare and maintain contemporaneous records that demonstrate the provider's right to receive payment under the Medicaid program. "Contemporaneous" records means documentation of the services that have been provided as close to the conclusion of the session as practicable. In addition to preparing contemporaneous records, providers in the Medicaid program are required to keep records necessary to disclose the nature and extent of all services furnished and all information regarding claims for payment submitted by, or on behalf of, the provider for a period of six years from the date the care, services or supplies were furnished or billed, whichever is later.

42. Q. What is the current requirement for retaining Medicaid records and documentation for reimbursement under the School Supportive Health Services Program (SSHSP)?

A. The 2009 Settlement and Compliance Agreement between New York State and the federal agencies effectively ended the January 2002 SED directive that all Medicaid records since January 1, 1990 for reimbursement under SSHSP be held/retained until further notice. The normal retention policy now in effect is to retain the following records for a minimum of six years from the date that the services were paid:

- All documents relating in any manner to Medicaid reimbursement for services;
- All documents relating in any manner to referrals, prescriptions or orders for these services;
- All documents relating in any manner to the provision of these services; including but not limited to those showing dates that services were provided, the specific service that was provided, those that identify the professional providing the services or under whose direction the services were provided and their professional qualifications, progress and other notes, memoranda, correspondence, emails, reports, transportation logs, and other documents relating to services rendered; and,
- All Individualized Education Programs (IEPs) for Medicaid eligible students. Please note that you may need to retain some or all of these documents for a longer retention period than six years due to other retention requirements. When destroying old documents, schools/districts/counties are advised to adhere strictly to their own written policies regarding record retention and destruction, and to document the process they follow.

Special Transportation Services

43. Q. What criteria are used by the Committee on Special Education (CSE) or the Committee on Preschool Special Education (CPSE) to determine a child's need for special transportation?

A. Most students with disabilities receive the same transportation services as students without disabilities. The CSE and CPSE are responsible for determining whether a student's disability prevents him or her from using the same transportation or manner in

which to get to school as students without disabilities. In determining whether to include special transportation on a student's IEP, the CSE and the CPSE should consider and document the needs of the student. The IEP must include specific transportation recommendations to address each of the student's needs, as appropriate. Factors in the decision-making process include the student's mobility, behavior, communication skills, and physical and health needs.

Special transportation is limited to those situations where the child receives transportation to obtain a Medicaid-covered service (other than transportation), or from a Medicaid-covered service, and both the Medicaid-covered service and the need for special transportation are included in the child's IEP. Special transportation can only be billed on a day that a Medicaid reimbursable service was delivered and may only be billed at the rate for each one-way trip.

44. Q. What are the requirements for submitting claims for Special Transportation?

A. Special transportation recommended by the Committee on Special Education (CSE) and Committee on Preschool Special Education (CPSE) and identified on the students' IEP is eligible for Medicaid funding.

Note: Special transportation can only be billed on a day that a Medicaid reimbursable service (other than transportation) was delivered and may only be billed at the rate for each one-way trip.

Claims for Medicaid reimbursement for special transportation must be supported by the following documentation:

- The IEP must specify the nature of the student's special transportation needs;
- The Medicaid reimbursable services to be delivered to the child must also be included in the child's IEP;
- Session notes for the Medicaid reimbursable service other than transportation that was delivered to the student.

The **bus/transportation log** must include:

- The student's name;
- Both the origination of the trip and time of pickup;
- Both the destination of the trip and time of drop off;
- Bus number or the vehicle license plate number; and,
- The full printed name of the driver providing the transportation.

Providers are urged to maintain a record with all information listed above to support claims for Medicaid transportation services.

In addition, transportation departments must be made aware of the necessary documentation and record retention requirements for the claiming of Medicaid services.

These items are considered unacceptable documentation of a trip: a driver or vehicle manifest, or dispatch sheet; an issuance of prior authorization by the authorizing agent

with subsequent checkmarks on a prior authorization roster; or an attendance log from the school or program.

45. Q. How will transportation be billed under the new State Plan Amendment (SPA) #09-61?

A. Special transportation will continue to be billed using a rate-based methodology. One-way rates of payment have been developed and will be made available on SED's website at http://www.oms.nysed.gov/Medicaid/. Special transportation can only be billed on a day that a Medicaid-reimbursable service was delivered and may only be billed at the rate for each one-way trip.

Training and Additional Resources

46. Q. Will training be available?

A. Yes. Training will be provided on the compliance agreement between the federal Centers for Medicare and Medicaid Services and the state government to ensure compliance with Medicaid requirements; the Confidential Disclosure Policy; and on the new requirements for SSHSP under SPA #09-61. Consult the SED Medicaid website at http://www.oms.nysed.gov/Medicaid/ for updates.

47. Q. Where can I get additional information about School Supportive Health Services?

A. Additional information about School Supportive Health Services is available on the Department of Health website and the State Education Department Medicaid website at http://www.oms.nysed.gov/Medicaid/.

Questions related to School Supportive Health Services may be sent via email to MedinEd@mail.nysed.gov.