THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234

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To: District Superintendents
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Early Childhood Direction Centers
SETRC Professional Development Specialists
Commissioner's Advisory Panel for Special Education

From: James P. DeLorenzo
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Office of Vocational and Educational Services for Individuals with Disabilities

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Office of Management Services

Subject: Special Education Itinerant Teacher (SEIT) Services and Related Services for Preschool Students with Disabilities

In Reply to: New York State Office of the State Comptroller Audit # 2003-S-39

The purpose of this memorandum is to clarify certain issues regarding the provision of SEIT and related services to preschool students with disabilities pursuant to section 4410 of New York State Education Law as cited in Audit #2003-S-39 by the Office of the State Comptroller and to ensure that SEIT and related services are provided in an efficient and cost effective manner.

SEIT services are defined in section 4410(1)(k) of Education Law and section 200.16 of the Regulations of the Commissioner of Education to mean services provided by certified special education teachers of an approved preschool program on an itinerant basis to a preschool student with a disability, at a site determined by the board of education, to:

- provide specialized individual or group instruction directly to the student; and/or
- provide consultation to the child's teacher to adjust the learning environment and/or modify instructional methods to meet the individual needs of a

preschool student with a disability who attends an early childhood program (e.g., a regular preschool program, a day care or Head Start program).

Related services are developmental, corrective and other support services as are required to assist a student with a disability. Related services must be provided by appropriately certified or licensed individuals pursuant to Part 80 of the Regulations of the Commissioner of Education. Related services include, but are not limited to, speech-language pathology, audiology, interpreting services, psychological services, physical therapy, occupational therapy, counseling services (including rehabilitation counseling), orientation and mobility services, evaluative and diagnostic medical services to determine if a student has a medically related disability, parent counseling and training, school health services, school social work, assistive technology services, appropriate access to recreation, including therapeutic recreation, other appropriate developmental or corrective support services, and other appropriate support services and includes the early identification and assessment of disabling conditions in students. Related services do not include a medical device that is surgically implemented, or the replacement of the device.

Roles and Responsibilities

The implementation of the State's preschool special education program, funded on a fiscally sound, cost-effective basis, depends on collaboration and coordination among school districts, approved preschool special education programs, related service providers and municipalities.

I. School District Committees on Preschool Special Education (CPSE) Responsibilities

The CPSE provides for the evaluation of a preschool child to determine his/her eligibility for preschool special education programs and services and if the child is determined eligible, to develop an individualized education program (IEP). If a preschool child with a disability is recommended to receive SEIT and/or related services, in addition to other required information, the IEP must include the following:

- the name of the approved preschool special education program provider and related service provider from the lists developed and maintained by municipalities and provided to school districts, pursuant to sections 200.16(f)(2) and 4410(5)(b)(ii); and
- the frequency[1] (i.e., how often), duration (i.e., length of each session), intensity (i.e., group[2] or individual) and location (i.e., setting) for each program and/or related service recommended.

Generally, SEIT and related services are scheduled to be provided in separate time periods (e.g., half-hour sessions). Based on the needs of individual students, the CPSE may recommend that SEIT and related services be provided simultaneously,

[1] The level of SEIT may not be less than two hours per week.
[2] The instructional group size may not exceed five students.

within the same time period, to meet the unique needs of the preschool child. In this case, the IEP of the preschool child should specify that it is necessary to deliver the two services at the same time. An example of this would be a recommendation for a physical therapist to provide direction or assistance related to the appropriate positioning of a preschool child during a session of SEIT or another related service such as speech therapy.

II. Approved Preschool Special Education Itinerant Teacher Programs and Related Service Provider Responsibilities

To ensure that SEIT and related services are provided in an efficient and cost effective manner, approved preschool special education program and related service providers must:

- provide preschool children with disabilities the special education programs and services at the frequency, duration and intensity specified in their IEPs;
- establish a schedule, including beginning and ending dates and program closings, for legal holidays and periods of vacation;
- maintain and make attendance registers available for inspection by appropriate personnel of the State Education Department (SED), the municipality and the school district in which each preschool child resides. Documentation of the provision of service, consistent with the IEP, for enrolled preschool children with disabilities and for those receiving related services only must be kept for seven years after the end of the school year in which programs and services are provided. Providers must ensure that these records contain the correct starting and ending dates of programs and services;
- document and communicate with CPSEs when students have excessive, frequent and/or regular absences that impact a child's receipt of services as required by their IEPs, including:
  - the reasons for such absences, and
  - the steps the provider agency has taken to address such absences;
- arrange for SEIT/related services to be provided to the child by qualified substitute staff or arrange for make-up sessions when SEIT and/or related services sessions are missed due to staff absences;
- maintain records that include time spent on coordination, preparation for and attendance at CPSE meetings, travel and other required functions by programs providing SEIT services as defined in section 200.9(f)(2)(ix)(c) of the Regulations of the Commissioner of Education; and
- maintain records requested by municipalities and school districts to support all billing for programs and services. SEIT and related service providers must ensure accurate and timely documentation of SEIT and related services sessions.

<u>Billing for SEIT</u>

SEIT services are reimbursed on an enrollment basis. Billing for SEIT services must be consistent with the student's enrollment, as defined by section

200.9(f)(2)(ix) of the Regulations of the Commissioner of Education, the Reimbursable Cost Manual (RCM), and SED policy and guidance, as follows:

- Billing for SEIT services includes total time spent providing direct and/or indirect SEIT as defined in section 200.16(h)(3)(ii) of the Regulations of the Commissioner of Education in accordance with the student's IEP.
- Billing is based on one-half hour blocks of time at the SEIT rate established by SED.
- Billing for each student receiving SEIT services in a group is required to be at the full unit of service rate divided by the number of students scheduled to be in a group.
- Pursuant to section 200.9(f)(2)(ix)(c) of the Regulations of the Commissioner of Education, billable time cannot be less than 66 percent or more than 72 percent of any SEIT's total employment hours. Providers must maintain adequate records to document direct and/or indirect service hours provided as well as time spent on all other activities related to each student served.
- Missed sessions due to student or staff absence must be documented. Missed SEIT sessions do not effect reimbursement for SEIT services.

Billing for Related Services

Reimbursement for related services is on a **"fee-for-service"** basis in accordance with the frequency and duration of the services in the IEP and authorized during the period beginning with the first date of student's receipt of the related services until the last date of student's receipt of the services. Related service sessions missed due to student or staff absences must, to the maximum extent feasible, be made up to ensure that the student receives a free appropriate public education.

- Billing for related services is based on the fee established by the municipality.
- Billing for each student receiving related services in a group is based on a group rate established by the municipality regardless of the number of students scheduled to be in the instructional group.
- The maximum number of related service sessions, based on frequency of services and the beginning and ending dates established by the IEP, in effect sets a "ceiling" for the maximum billable dollars based on that number multiplied by the fee for each session. Therefore, billings should not exceed the maximum number of related service sessions, based on the frequency of services and the beginning date established by the IEP and the last date of the student's receipt of the services.

III. Municipality Responsibilities

Municipalities must develop and publicize procedures regarding records and documentation to be maintained by approved preschool special education programs and related service providers which contract with municipalities for preschool services, including, but not limited to:

- attendance and billings records;

- information to be provided to the municipality at certain times or under certain circumstances, or upon the request of the municipality; and
- information to be available for review or audit by the municipality.

Municipalities must also establish and maintain internal controls regarding payments for programs and services to determine and ensure that:

- records of SEIT and related service sessions include the beginning and ending dates of service provision, as required in the student's IEP, as well as the sessions for which payments are made, including documentation of service provision consistent with the student's IEP.
- related service providers are paid only for the services provided consistent with the frequency and duration prescribed in the student's IEP.
- procedures are in place that include, but are not limited to, verifying service billings to attendance records at least on a test basis to ensure that students were present on the days that the related services were claimed to be provided.

Questions regarding this memorandum may be directed to:

Rate Setting Reimbursement Unit	(518) 474-3227
STAC, Special Aids & Medicaid Unit	(518) 474-7116
Special Education Policy Unit	(518) 473-2878
Special Education Quality Assurance Regional Offices	
Eastern Regional Office	(518) 486-6366
Western Regional Office	(585) 344-2002
Hudson Valley Regional Office	(518) 473-1185
Central Regional Office	(315) 428-3287
Long Island Regional Office	(631) 884-8530
New York City Regional Office	(718) 722-4544

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