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Region II
Federal Building
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MEDICAID STATE OPERATIONS LETTER 91-84

From: Associate Regional Administrator
Division of Medicaid

To: State Agencies Administering the Medicaid Program

Subject: Clarification of Early and Periodic Screening, Diagnosis and Treatment (EPSDT) - Omnibus Budget Reconciliation Act (OBRA) 1989 Provisions

The purpose of this letter is to provide guidance on Medicaid coverage under EPSDT on several services not traditionally covered by the program. The two main issues raised by the OBRA 89 EPSDT provisions are clarification regarding the scope of non-state plan services States may cover and payment for requests.

The following are examples which States have received from various providers requesting reimbursement on Medicaid items or services:

1. A physician requested payment for swimming classes through a membership at a local health club for a six year old child with cystic fibrosis.

2. A physician requested payment for an Apple computer system and a bedside communication device for a fifteen year old with cerebral palsy.

3. A physician requested an air conditioner to lessen the frequency of seizures for a four year old with a seizure disorder.

4. A physician requested a "beeper" to promote communication for a four year old brain damaged child.

5. A request was received to pay a speech therapist for speech therapy services for a seven year old (in a State where speech therapy is covered in certain settings only and there is no direct reimbursement to speech therapists).

Regarding items 1 through 4, a State has the responsibility to determine the extent of care and services that are medically necessary in any given case. The EPSDT provisions of OBRA 89 require that all medically necessary diagnostic and treatment services within the scope of section 1905(a) of the Social Security Act (the Act) must be available to ameliorate health problems found in EPSDT screening, even if the services are not otherwise covered under a State plan.

OBRA 89 did not, however, alter State flexibility in determining medical necessity. Therefore, with respect to the provision of

specific medical equipment or supplies for an EPSDT recipient, a State must determine whether those items or services are medically necessary in those cases where the item or service is questionable. Furthermore, for services not covered in a State plan, a State must determine-whether the item or service is within the scope of section 1905(a) and, if so, decide the appropriate service category.

In the past, items or services listed in examples I through 4 have been disapproved. A State must not allow items and services under the EPSDT benefit which are not Medicaid services under any reasonable reading of section 1905(a), regardless of whether the items can be considered "medically necessary." The specific items mentioned above, a health club membership for example, are questionable. Nevertheless, it is possible that a child with cystic fibrosis may benefit from the provision of swimming lessons and, if determined to be medically necessary, a State may be able to provide these services in settings other than a health club. For example, under the physical therapy service as listed in section 1905(a)(11) of the Act, a State may cover swimming classes if prescribed by a physician and provided under the direction of a qualified physical therapist.

Similarly, under some circumstances, such a service could be provided as a rehabilitative service. Regulations at 42 CFR 440.130(d) indicate that rehabilitation services include "any medical or remedial services...for maximum, reduction of physical or mental disability and restoration of the recipient to his best possible functional level." However, as indicated above, the determination of medical necessity belongs solely to the State.

In example 5, a State may not arbitrarily limit who can be a qualified Medicaid provider. An EPSDT program does not require States to change the requirements which must be met in order to become a qualified Medicaid provider. In addition, State5 are not required to provide every service through every possible setting or provider type. If an individual speech therapist does not meet the established provider qualifications, a State is not required to allow him or her to provide EPSDT services and receive direct reimbursement. A State continues to have the flexibility to set its own provider requirements. As long as a State can make reasonable representation that adequate access to speech therapists exists for its Medicaid population, it would not be required to include independent speech therapists as Medicaid providers.

If you have any questions please call your State Representative at (212) 264-2775.

Arthur J. O'Leary