



IDAHO DEPARTMENT OF  
**HEALTH & WELFARE**

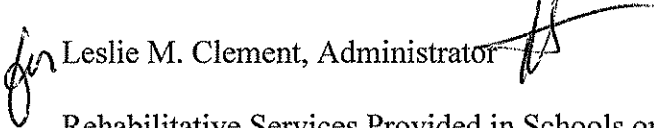
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May 21, 2008

**MEDICAID INFORMATION RELEASE 2008-12**

**To:** Developmental Disabilities Agencies;  
Psychosocial Rehabilitation Services Agencies; and  
EPSDT Service Coordination Agencies

**From:**  Leslie M. Clement, Administrator

**Subject:** Rehabilitative Services Provided in Schools or During School Hours.

Over the past two years, the Department has worked closely with private rehabilitation providers and schools to ensure that participants are using their Medicaid benefits appropriately. However, the Department continues to discover unallowable practices by private rehabilitation providers, and continues to receive questions and complaints from families regarding these practices. Private provider agencies that deliver services to school-age children should use this information release to review and ensure their compliance with Medicaid rules and regulations. The overriding principle of the information in this release is that private providers and participants must not use the Medicaid benefit to supplant the free and appropriate public education benefit available through public schools.

Children can only receive Medicaid rehabilitative services during normal school hours through an educational plan developed in conjunction with their local school district. It is especially important that parents who have chosen private school or home school for their children understand this requirement because Medicaid does not cover rehabilitative services provided in these environments unless the rehabilitation program is coordinated with the child's formal education plan in conjunction with the local school district.

Medicaid has had a long-standing policy that only schools may bill Medicaid for services provided in those schools. In November 2006, the Department issued Information Release #2006-42 clarifying this policy. At that time, the Department also published clarifying rules in IDAPA 16.03.09, "Medicaid Basic Plan Benefits" and IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." These clarifying rules were reviewed and approved during the 2007 legislative session and became final on March 19, 2007.

**Private Rehabilitation Providers May Not Bill Medicaid for School-Based Services, or Educational Services.** Despite these clarifications, we have recently discovered that some Agencies continue to bill Medicaid for services they have provided in a school-based setting. Providers have asserted that they are not in violation of the rule because the service is being

delivered in a private school at a home school, or in the community. The rule makes no such distinction. For DDAs IDAPA 16.03.10.653.05.e states:

- e. Prior to delivering any services in a school-based setting, the DDA must have a contract with the school or the Infant Toddler program. The DDA must not bill Medicaid or the Medicaid participant for these contracted services. Only the school district, charter school, or the Idaho Infant Toddler program may bill Medicaid for these contracted services when provided in accordance with IDAPA 16.03.09 "Medicaid Basic Plan Benefits," Sections 850 through 856. (3-19-07)

For PSR Agencies, IDAPA 16.03.10.124.c states:

Prior to delivering any services in a school based setting, the PSR agency must have a contract with the school or the infant Toddler program. The PSR agency must not bill Medicaid or the Medicaid participant for these contracted services. Only the school district, charter school, or the Idaho Infant Toddler program may bill Medicaid for these contracted services when provided in accordance with IDAPA 16.03.09 "Medicaid Basic Plan Benefits," Sections 850 through 856. (3-19-07)

We have also received reports that private agencies may be billing Medicaid for services provided to school-age children during the normal school day hours. Services delivered to school-age children during these time periods are considered educational services defined in IDAPA 16.03.09.850.02 and are excluded for Medicaid payment as outlined in IDAPA 16.03.10.653.04. In other words, only a provider that is enrolled as a school based provider, i.e., a public school, charter school or infant toddler program, can bill for services typically associated with a normal school day for a school age child. As the rule states above, the private agencies must contract with the school based provider and can not bill Medicaid directly for the contracted services.

**Medicaid covers rehabilitative school based services that are provided by public schools.**

As indicated above, Medicaid can only reimburse rehabilitative services provided in conjunction with their education, when the services are part of a child's educational plan, and when the provider of the service is a Medicaid enrolled school-based services provider. As described in IDAPA 16.03.09.852, public school districts, charter schools, and the Idaho Infant Toddler Program are the only entities eligible to enroll as school-based services providers. Private schools are not subject to the same free and appropriate public education requirements or Individuals with Disabilities Education Act (IDEA), and therefore do not meet criteria to become school based providers. We encourage parents who choose to enroll their children in alternative educational settings, to work together with their school districts to implement an educational plan, so that they have access to the school based Medicaid services for their child.

**Idaho Medicaid is the payor of last resort.**

Implicit in the federal requirements is the principle that Medicaid benefits are available only after all other resources have been exhausted; it is the payor of last resort. 42 USC 1396(a). School-based Medicaid services during the regular school hours and days are available to a child with a

disability because such services are included in the child's individualized education program established pursuant IDEA (20 U.S.C. 1411 *et seq.*) or furnished to an infant or toddler with a disability because such services are included in the child's individualized family service plan adopted pursuant to part C of IDEA (20 U.S.C. 1431 *et seq.*). Replacing these school-based benefits with Medicaid services is not allowed. It fails the payor of last resort test.

In Idaho, School Districts carry the responsibility for assuring that a child with special needs gets necessary services during the school day to benefit from the education provided free to all students. Parents and guardians need to work directly with their local school districts, or contact the State Department of Education with questions or concerns about how to access school based Medicaid services for their children.

The Department has developed a letter for participant families that we are attaching to this information release. We ask that you disseminate the letter to parents and guardians with a school-age child who receives rehabilitative services during regular school hours.

If you have questions regarding this information, please contact Paige Grooms, Medicaid Developmental Disabilities Policy Coordinator at (208) 947-3364.

Thank you for your continued participation in Idaho Medicaid program.

LMC/rs