

CHAPTER He-~~W 500~~ MEDICAL ASSISTANCE ~~CEM 1300~~ SPECIALIZED SERVICESPART He-~~W 589M-1301~~ MEDICAL ASSISTANCE SERVICES PROVIDED IN SCHOOLS ~~BY~~ EDUCATION AGENCIES

~~Readopt with amendment He-M 1301.02, effective 8-23-16 (Document #11165), Adopt He-W 589 cited and to read as follows:~~

He-~~WM 1301~~589.01 Purpose. The purpose of these rules is to describe the services provided by school districts and school administrative units that are reimbursable under NH medicaid for which federal financial participation (FFP) can be claimed and to describe the required qualifications of medical or mental health providers delivering reimbursable services in schools and preschools. Reimbursable services include both NH medicaid covered mandatory and optional services under the NH medicaid state plan, and optional services that are non-covered under the NH medicaid state plan, but coverable pursuant to 1905(a) of the Social Security Act through the EPSDT benefit. The service descriptions are established to allow students to receive necessary services within the least restrictive environment. Participation- Requesting FFP for Medicaid coverable services is discretionary optional for on the part of school districts and school administrative units. These rules are not intended to impose upon school districts and school administrative units the responsibility to provide any services that they are not otherwise legally responsible to provide under RSA 186-C or other law.

He-~~M 1301~~He-W 589.02 Definitions.

(a) “Activities of Daily Living (ADL)” means the ability to perform daily activities including grooming, eating, dressing, transferring, mobility, and toileting.

(b) “Applied behavioral analysis (ABA)” means the process of systematically applying interventions based on the principles of learning theory to improve socially significant behaviors to a meaningful degree, and coverable through the EPSDT benefit when medically necessary and prior authorized in accordance with He-W 546.

(c) “Augmentative and alternative communication (AAC) aids” means electronic or non-electronic aids, devices or systems that assist an student to overcome or ameliorate the communication limitations that preclude or interfere with meaningful participation in current and projected daily activities, such as communication boards or books, speech amplifiers, electronic devices that produce speech and/or written output.

(~~da~~) “Care plan” means a written health care plan, including, but not limited to, an Individualized Education Program or a 504 plan, which is maintained in the student’s file that and documents and supports the medical necessity of all claims for submitted to NH medicaid for FFP any covered medicaid services to include services considered to be medically necessary under EPSDT and to be provided to the student and reimbursed to the enrolled school provider.

(~~eb~~) “Consultation” means the rendering, by a medical or behavioral health provider, of an expert opinion regarding the diagnosis or treatment of a specific student for which the student was present for the consultation for at least 51% of the time, and pursuant to the covered services listed in He-M 1301.04.

(~~fe~~) “Covered service” means a service identified pursuant to He-M 1301.04 that is reimbursable under the NH medicaid state plan the state medical assistance program and provided to a student enrolled in Medicaid.

(g) “Durable medical equipment (DME)” means a type of item pursuant to He-W 571 that is:

(1) Non-disposable and able to withstand repeated use;

(2) Primarily used to serve a medical purpose for the treatment of an acute or chronic medically diagnosed health condition, illness, or injury; and

(3) Not useful to an individual in the absence of an acute or chronic medically diagnosed health condition, illness, or injury.

~~(hd)~~ “Early and Periodic, Screening, Diagnosis and Treatment (EPSDT) services” means a benefit pursuant to 42 CFR 440.40, designed to provide preventative health care, diagnostic services, and early detection and treatment of disease or abnormalities to medicaid ~~eligible-enrolled~~ individuals under age 21. The EPSDT benefit permits coverage of non-covered NH medicaid state plan services but coverable pursuant to section 1905(a) Social Security Act when medical necessary criteria are met pursuant to He-W 546.

~~(ie)~~ “Enrolled school provider” means a ~~NHew Hampshire~~ LEA or school administrative unit (SAU) that has agreed to participate in NH medicaid~~the medical assistance program~~ pursuant to these rules and enrolled with NH medicaid.

~~(jf)~~ “Federal financial participation (FFP)” means the federal share of costs for services, ~~provided pursuant to He M 1301.~~

~~(kg)~~ “Group” means 2 or more persons.

~~(lh)~~ “Individualized education program (IEP)” means a written statement for a child with a disability that is developed, reviewed, and revised in accordance with 34 CFR 300.20 through 300.324, and the applicable NH department of education administrative rules~~“individualized education program” as defined in Ed 1102.03(h).~~

~~(mi)~~ “Local education agency (LEA)” means a local school district.

~~(j)~~ “Other licensed practitioner” means ~~any person licensed or certified under state law to provide medical or behavioral health services and practicing within the scope of his or her licensure pursuant to the applicable state law for his or her licensure or certification.~~

~~(n)~~ “Medical” means related to the following:

(1) Treatment of disease;

(2) Maintenance of health; or

(3) Prevention, alleviation, or curing of disease.

~~(ok)~~ “Medical assistance” means the federally financed medical assistance program established pursuant to Title XIX of the Social Security Act also known as the medicaid program.

(p) “Medically necessary” means reasonably calculated to prevent, diagnose, correct, cure, alleviate or prevent the worsening of conditions that endanger life, cause pain, result in illness or infirmity, threaten to cause or aggravate a handicap, or cause physical deformity or malfunction, and no other equally effective course of treatment is available or suitable for the student requesting the medically necessary service.

~~(ql)~~ “Order” means a written authorization or prescription for the provision of services prescribed by an advance practice registered nurse (APRN), physician’s assistant ~~(PA), or physician~~ or other licensed

practitioner with prescribing privileges as authorized by the appropriate NH medical or mental health licensing board.

(r) “Ordering, referring or prescribing (ORP)” providers

(s) “Other licensed practitioner” means any person licensed under state law to provide medical or mental health services and practicing within the scope of his or her licensure pursuant to the applicable state law for his or her licensure.

~~(t)~~ “Performing-only provider” means a medical or ~~behavioral-mental~~ health care providers that the medicaid program does not allow to independently enroll with medicaid and must be affiliated with an enrolled school provider.

(u) “Personal care services” means medically necessary services related to ADLs due to a student’s illness, injury, or disability which are furnished to a student who is not an inpatient or resident of a hospital, nursing facility, intermediate care facility for people with developmental disabilities, or institution for mental disease, and coverable pursuant to the EPSDT benefit when medically necessary and prior authorized in accordance with He-W 546.

~~(v)~~ “Physician” means a person licensed to practice medicine in ~~NHew Hampshire~~ or the state in which he or she practices.

(w) “Private duty nursing” means the provision of skilled nursing services for students who require more individual and continual skilled nursing observation, judgment, assessment, or interventions than are available from a visiting nurse, in contrast to part-time or intermittent care, such as wound care.

(x) “Psychologist” means a person licensed to practice psychotherapy in NH pursuant to RSA 329-B or equivalent licensing board in the state in which she or he practices.

(y) “Psychotherapist or mental health practitioner” means a licensed clinical social worker, pastoral psychotherapist, clinical mental health counselor, or marriage and family therapist licensed under RSA 330-A who provides mental health services. This definition shall include psychiatrists licensed as physicians under RSA 329 and advanced registered nurse practitioners licensed under RSA 326-B:18 as psychiatric nurse practitioners.

(z) “Psychotherapy” means the professional treatment, assessment, or counseling of a mental illness, symptom, or condition.

~~(o) “Pre-school services” means services to children age 3 up to the age of entry either into kindergarten or first grade, whichever is applicable.~~

(aa) “Rehabilitative assistance services” means medical or remedial services ordered by a physician or other licensed practitioner, acting within the scope of his or licensure, for maximum reduction of a physical or mental disability and restoration of a student to his or her best possible functional level.

~~(ab)~~ “School administrative unit (SAU)” means a legally organized administrative body responsible for one or more school districts pursuant to RSA 194-C:1.

~~(ac)~~ “Section 504 plan (504 plan)” means a plan for services for a student in accordance with Section 504 of the Rehabilitation Action of 1973 as amended.

~~(ad)~~ “Signature” means:

- (1) A person's name handwritten by that person, excluding any photocopy, stamp, or other facsimile of such name; or
- (2) An electronic signature that complies with RSA 294-E.

(aes) "Student" means a person who is eligible ~~for to receive~~ and receiving medical assistance under the medicaid ~~program~~ covered services pursuant to He M 1301.03.

(af) "Supervision" means

(agt) "Under the direction" means that, except as prohibited by state law, the ~~qualified-licensed medical or mental health practitioner~~ professional, whether or not he or she is physically present at the time that services are provided:

- (1) Assumes professional responsibility for the services provided; and
- (2) Assures that the services are medically appropriate and performed safely.

He-~~WM 1301589~~.03 Student Eligibility. To be eligible for ~~medical assistance~~ medicaid reimbursement for covered services, a student shall:

- (a) Have a care plan;
- (b) Be less than 21 years of age;
- (c) Be eligible for and enrolled in ~~for~~ medicaid; and
- (d) Be served by an LEA or SAU that is an enrolled school provider.

He-~~WM 1301589~~.04 Covered Services and Provider Qualifications.

(a) All enrolled school providers shall:

~~(1)~~ (1) Be enrolled with NH medicaid for the purposes of administration and billing;

~~(2)~~ (2) Verify the qualifications, licensure, and certifications, as applicable, of all performing-only providers upon hire and at time of any licensure or certification renewal; ~~and~~

~~(3)~~ (3) Screen all performing-only providers ~~for of~~ Medicaid services for exclusions against the US Office of Inspector General (OIG) exclusion and sanction database pursuant to section 1866(j)(2) of the Social Security Act, section 1903(i) of the Social Security Act, and 42 CFR 1001.1901. The OIG exclusion and sanction database is located at <https://exclusions.oig.hhs.gov> ; ~~and-~~

~~(4)~~ (4) ~~Performing-only providers shall be s~~Screened all performing-only providers upon hire, prior to executing a contract, and on a monthly basis thereafter as long as the performing-only provider is providing Medicaid services for which the enrolled school provider is seeking ~~federal~~ FFP.

(b) All cCovered services shall be:

- (1) Provided through a student's LEA or SAU; ~~and~~

~~(2) Medically necessary: Designed to meet the health needs of a student by facilitating the reduction of a physical or mental impairment and providing rehabilitation.~~

~~(3e) Covered services shall be i~~Included in the student's care plan;

~~(4) or If applicable, medically necessary pursuant to the EPSDT requirements in He-W 546 and be documented in the student's care plan;~~

~~(5d) Covered services shall be P~~provided in a variety of locations and settings as specified in a student's care plan and may occur outside the hours of the usual school day. [For discussion]

~~(ce)~~ Covered services may be provided by staff employed or subcontracted by the enrolled school provider and who are:

(1) Either licensed by the applicable medical or mental health boards to provide the services provided or otherwise under the supervision of the appropriate licensed provider to provide the services as permitted by applicable licensure law; or

(2) If a Board Certified Behavioral Analyst delivering ABA services, appropriately certified by the national Behavioral Analyst Certification Board, and if supervising others, have a supervisory certification issued by the national board and be acting within the scope of the certification.

~~(df)~~ Covered supplies and equipment described under He-~~WM 4301589~~.04 shall:

(1) Be acquired for the use of a specific student;

(2) When purchased, be the property of the student and his or her family; and

(3) When rented or acquired through a used equipment exchange program, be the property of the student and his or her family during the period used.

(e) DME shall be provided by a qualified DME provider, and in accordance with all of the requirements pursuant to He-W 571 including the coverage provisions, documentation, and prior authorization requirements.

(f) AAC aids shall be provided by a qualified DME provider, and in accordance with all of the requirements of He-W 575 including the coverage provisions, documentation, and prior authorization requirements.

(g) Medical evaluation ~~shall be a covered service and~~ shall include the following:

(1) Those services rendered by a physician, APRN, or physician assistant ~~or other licensed practitioner~~ whose opinion or advice is requested regarding the evaluation or treatment of a student's condition;

(2) The course of treatment or therapy ordered suggested ~~by the physician, APRN, or physician assistant or other licensed practitioner, which is overseen by the referring physician or other licensed practitioner;~~ and

(3) An initial evaluation shall be covered; however, if the physician, APRN or physician assistant ~~or other licensed practitioner~~ assumes the continuing care of the student, any service(s) provided subsequent to the initial evaluation by such physician, APRN, or physician assistant

~~or licensed practitioner subsequent to the initial evaluation~~ shall not be considered an evaluation but may be coverable as another service pursuant to this part.

(h) The following medical evaluation services shall be billable under the category of medical evaluation:

(1) Examination of a single organ system, including:

- a. Documentation of complaint(s);
- b. Physical examination and diagnosis of current illness; and
- c. Establishment of a plan of management relating to a specific problem; and

(2) In-depth evaluation with development and documentation of medical data, including:

- a. Chief complaint;
- b. Present illness;
- c. Family history;
- d. Medical history;
- e. Personal history;
- f. System review; and
- g. Physical examination.

(i) Nursing services shall be medically necessary to meet the health needs of a student ~~as described under He M 1301.03 (a) shall be covered services~~ and shall include: [OPEN ITEM]

(1) Any assessments, treatments, or evaluations ~~consultations~~ performed by a licensed registered nurse, licensed practical nurse (LPN), or APRN for a student that are medically necessary ~~in order for the student to benefit from an educational program~~; and

(2) Supplies and equipment necessary for the provision of the covered nursing services as determined by the licensed registered nurse, LPN, licensed practical nurse or APRN.

(j) Nursing services shall be performed by the following:

(1) An APRN licensed to practice in NH by the NH board of nursing in accordance with RSA 326-B:18 or the state in which he or she practices as a registered nurse in an advance practice role; or

(2) A registered nurse or ~~licensed practical nurse~~ LPN who is:

- a. Licensed to practice in NH or the state in which he or she practices; and
- b. Acting under the direction of a physician, APRN, or physician assistant ~~PA~~ for those activities that require an order.

(k) ~~Covered-N~~ nursing services shall include the following:

(1) Administration of medication(s);

- (2) Positioning or repositioning;
  - (3) Assistance with specialized feeding programs;
  - (4) Management and care of specialized medical equipment such as:
    - a. Colostomy bags;
    - b. Nasogastric tubes;
    - c. Tracheostomy tubes; and
    - d. Related devices;
  - (5) Observation of students with chronic medical illnesses in order to assure that medical needs are being appropriately identified, addressed, and monitored; and
  - (6) Other services determined by a registered nurse, ~~LPN licensed practical nurse~~, or APRN to be medically necessary and appropriate.
- (l) Billable categories of nursing services shall include the following:
- (1) Nursing assessment;
  - (2) Nursing treatment;
  - ~~(3) Nursing consultations; and~~
  - ~~(4) Development and documentation of student specific health information related to the practitioner's scope of practice; and~~
  - ~~(5) Supplies and equipment necessary to provide covered nursing services.~~

(m) Private duty nursing services shall be:

- (1) A covered service when it is part of the student's medical regimen and rendered under the order and general direction of the student's physician; and
- (2) Covered and delivered by the practitioners pursuant to He-W 540 and in accordance with all of the requirements of He-W 540 including the coverage provisions, documentation, and prior authorization requirements.

(n) Occupational therapy services shall be a covered service if the services are medically necessary to implement a program of activities in order to develop or maintain adaptive skills necessary to achieve adequate and appropriate physical and mental functioning of a student including:

- (1) Any evaluations, treatment, or ~~assessment consultations~~ performed by an occupational professional qualified under (n) below therapist of students whose abilities to carry out age appropriate tasks are threatened or impaired by physical illness or injury, mental illness ~~emotional disorder~~, or congenital or developmental disability; ~~and~~
- (2) Supplies and equipment necessary to provide the covered occupational therapy services as recommended by an occupational therapist ~~qualified under (n) below; and~~

(3) Occupational therapy services performed by an occupational therapy assistant carrying out a therapy plan developed by the occupational therapist.

~~(o)~~ Occupational therapy services shall be provided by:

(1) An occupational therapist who is licensed to practice in New Hampshire or the state in which he or she practices, and is either:

- a. Registered by the National Board for Certification in Occupational Therapy Inc.; or
- b. A graduate of a program in occupational therapy approved by the Committee on Allied Health Education and Accreditation of the American Medical Association and engaged in the supplemental clinical experience required before registration by the National Board for Certification in Occupational Therapy, Inc.; or

(2) An occupational therapy assistant as defined in RSA 326-C:1, IV working under the direction of a ~~qualified licensed occupational therapist~~professional identified pursuant to (1) above.

~~(p)~~ ~~Covered~~ Occupational therapy services shall require an order. ~~be ordered by a physician, PA or APRN.~~

~~(q)~~ ~~Persons providing~~ Occupational therapy services shall ~~use treatment techniques~~ including:

(1) Task-oriented activities to correct physical or emotional deficits or to minimize the disabling effect of these deficits in the life of the student;

(2) Evaluations of:

- a. Sensorimotor abilities;
- b. Self-care activities;
- c. Capacity for independence;
- d. Physical capacity for prevocational and work tasks; and
- e. Play and leisure performance;

(3) Specific occupational therapy techniques involving:

- a. Improving skills for activities of daily living;
- b. The fabrication and application of splinting devices;
- c. Sensorimotor activities;
- d. The use of specifically designed manual and creative activities;
- e. Guidance in the selection and use of adaptive equipment; and
- f. Specific exercises to enhance functional performance and physical capabilities needed for work activities; and

(4) Other services determined by an occupational therapist to be medically necessary and appropriate.

(~~re~~) Billable categories of occupational therapy services shall include the following:

- (1) Occupational therapy evaluation;
- (2) Occupational therapy, individual;
- (3) Occupational therapy, group; and

~~(4) Occupational therapy, consultation;~~

~~(5) Development and documentation of student specific health information related to the provider's scope of practice; and~~

(4~~6~~) Supplies and equipment which are medically necessary for the provision of ~~covered~~ occupational therapy services.

(~~sf~~) Physical therapy services shall ~~be covered services~~ includeing:

- (1) Any evaluations to determine a student's level of physical functioning, including performance tests to measure strengths, balance, endurance, and range of motion;
- (2) Any treatment services, evaluations, or ~~consultations~~ assessments which might utilize therapeutic exercises or the modalities of heat, cold, water, and electricity, for the purpose of preventing, restoring, or alleviating a lost or impaired physical function; ~~and~~
- (3) Other services, including supplies and equipment, determined by a physical therapist to be medically necessary and appropriate for a student's physical therapy; ~~and-~~

~~(4) Physical therapy services performed by a physical therapy assistant carrying out a therapy plan developed by the physical therapist.~~

(~~ts~~) Physical therapy services shall be provided by:

- (1) A physical therapist who is a graduate of a program of physical therapy approved by the Committee on Allied Health Education and Accreditation of the American Medical Association and the American Physical Therapy Association or its equivalent and licensed to practice in the state of New Hampshire or the state in which he or she practices; or
- (2) A physical therapy assistant as defined in RSA 328-A:2, VIII who is under the direction of a licensed physical therapist~~qualified professional identified~~ pursuant to (1) above.

(~~ut~~) ~~Covered P~~physical therapy services shall be medically necessary ~~and ordered by a physician, APRN or PA.~~

(~~vt~~) Billable categories of physical therapy services shall include the following:

- (1) Physical therapy, evaluation;
- (2) Physical therapy, individual;
- (3) Physical therapy, group; and

~~(4) Physical therapy consultation;~~

~~(5) Development and documentation of student specific health information related to the provider's scope of practice;~~

~~(46)~~ Supplies and equipment necessary for the provision of covered physical therapy services;

~~(7) Development and documentation of student specific health information related to the provider's scope of practice; and~~

~~(8) Supplies and equipment necessary for the provision of covered occupational therapy services.~~

~~(wv)~~ Psychiatric services shall ~~be covered services if ordered by a licensed physician, PA or APRN~~ ~~to~~ be ~~medically necessary for the evaluation, assessment, diagnosis, and treatment of mental health conditions~~ psychiatric problems in order for a student to benefit from an educational program.

~~(xw)~~ Psychiatric services shall be provided by a psychiatrist who is a physician licensed to practice in New Hampshire or the state in which he or she practices and is either board certified or board eligible according to the most recent regulations of the American Board of Psychiatry and Neurology, Inc. or its successor organization pursuant to RSA 135-C:2.

~~(yx)~~ Billable categories of psychiatric services shall include the following:

(1) Psychiatric evaluation and diagnosis; and

(2) Psychiatric treatment; ;

~~(3) Psychiatric consultation; and~~

~~(4) Development and documentation of student specific health information related to the provider's scope of practice.~~

~~(zy)~~ Psychological services shall require an order and ~~be covered services if ordered by a certified psychologist, physician, APRN or PA to~~ be medically necessary for the evaluation, diagnosis, and treatment, and counseling of emotional mental or behavioral illnesses, symptoms, or conditions ~~problems or disturbances in order for a student to benefit from an educational program.~~

~~(aaz)~~ Psychological services shall be provided by:

(1) A psychologist who is a school psychologist or associate school psychologist certified by the state board of education in New Hampshire or in the state in which he or she practices and licensed by the NH board of psychologists or another state's board of psychology; ~~or~~

(2) A psychologist or associate psychologist licensed by the New Hampshire board of psychologists or licensed by another state's board of psychology; ~~;~~

(3) A physician;

(4) APRNs with a psychiatric specialty pursuant to RSA 326-B:18; or

(5) Psychotherapists acting within the scope of his or her licensure.

~~(abaa)~~ Billable categories of psychological services shall include the following:

(1) Psychological testing and evaluation;

(2) Psychodiagnostic testing;

(3) Psychological counseling, individual treatment;

(4) Psychological counseling, group treatment; and

(5) Family counseling, during which the student shall be present at 51% of the counseling session;

~~(6) Psychological consultation; and~~

~~(7) Development and documentation of student specific health information related to the provider's scope of practice.~~

(ac**b**) Mental health services, other than psychiatric and psychological, shall be covered services if they are medically necessary services, ordered, and shall include, other than psychiatric and psychological services identified pursuant to (w) (ab) above that are ordered by a PA, APRN or physician and include, but beare not limited to:

(1) Behavior management;

(2) Individual counseling,

(3) Ggroup counseling, and

(4) Ffamily counseling; during which the student shall be present at 51% of the counseling session; and

(3) Crisis intervention; ~~and~~

~~(4) Development and documentation of student specific health information related to the provider's scope of practice.~~

(ae**e**) Persons providing mental health services shall be:

(1) A ~~school~~ licensed clinical social worker certified by a community mental health program in accordance with He-M 426;

~~(2) Psychotherapists; Licensed to practice mental health in accordance with the NH Board of Mental Health practice pursuant to New Hampshire RSA 330-A:18, RSA 330-A:19, or licensed in the state in which he or she practices for the practice of mental health services or its equivalent;~~

(3) Psychologists ~~L~~icensed by the board of psychology pursuant to RSA 329-B; or

(4) An APRN with a psychiatric specialty pursuant to RSA 326-B:18.

(ad) Substance use disorder (SUD) treatment and recovery support services shall be provided by the licensed qualified providers described in He-W 513, and in accordance with all of the requirements in He-W 513 including the coverage provisions, and documentation requirements.

(ae**d**) Rehabilitative assistance shall ~~be a covered service and~~ include the following assistance with:

(1) Mobility assistance to include;

(2) Communication assistance to include;

(3) Behavioral management to include;

(4) Nutrition; [this is an area for discussion]

(5) Cueing, prompting, and guiding, when provided as part of the assistance with ADLs, communication, or behavior management;

(6) Assistance with adaptive or assistive devices when linked to the student’s medical condition;

(7) Assistance with the use of DME when linked to the student’s medical condition;

~~(5) Medications;~~

~~(8) Personal care services [this is a benefit that must be prior authorized and is an area for discussion].;~~

~~(7) Supported employment for students with vocational IEP goals excluding teaching of job tasks, performing job tasks, or providing academic instruction and including, at a minimum:~~

~~a. Enhancing social and personal development; and~~

~~b. Consultation services in communication, mobility, physical, psychological, or medical well being in the context of vocational goals and employment settings; and~~

~~(58) Any other remedial services, excluding classroom instruction and academic tutoring, that are included in the student’s care plan as medically necessary for the maximum reduction of a student's physical or mental disabilities.~~

~~(afe) Persons Rehabilitation assistants who provide rehabilitative assistance shall:~~

~~(1) Be certified pursuant to Ed 504.05 or Ed 504.06, requirements and certification for paraeducators;~~

~~(2) Have qualifications equivalent to the requirements for certification under Ed 504.05 or 504.06; or [this is an area for discussion.]~~

~~(3) Be other licensed practitioners.~~

~~(agf) Rehabilitation assistants Persons providing rehabilitation assistance under Ed 504.05 or Ed 504.06 as paraeducators, or with qualifications equivalent to Ed 504.05 or 504.06, shall provide rehabilitation assistance services in accordance with Ed 1113.12, (b) and (e). [this is something that needs further development]~~

~~(ahg) Covered rehabilitative assistance shall be medically necessary and shall require an order, and be prior authorized in accordance with He-W 546ed by a physician, APRN or PA.~~

~~(aih) Provision of rehabilitative assistance services shall be reviewed by an physician or other licensed practitioner every 30 days at least weekly. Such review shall include review of the activities performed by the rehabilitative assistant and the effectiveness of the activities as observed by the rehabilitative assistant. include consultation with the staff person providing the rehabilitative assistance, and. The licensed practitioner conducting the review shall, As part of the review, the other licensed practitioner sign the documentation of the service transaction logs provided in order to verify attest that the service was actually provided. [This is something that needs further development and discussion. Training and supervision by the appropriate medical or mental health practitioner.]~~

~~(ai) Billable categories of student rehabilitative assistance shall include the following:~~

~~(1) Student rehabilitative assistance, individual;~~

~~(2) Student rehabilitative assistance, group; and~~

~~(3) Development and documentation of student specific health information related to the provider's scope of practice.~~

~~(aj) Pre-school services shall be covered services and include speech and language services, mobility and orientation, family counseling and information services, and nutrition services. There shall be a physician's order for covered pre-school services from a licensed practitioner.~~

~~—(ak) Pre-school service shall be billed as a single category based on a half day unit. A half day unit shall equal at least 2 hours and not more than 4 hours of service or, at the option of the LEA, be billed as discrete services based on the units of covered service actually provided.~~

~~(ak)~~ Speech, language, and hearing services shall be covered services if they are services, supplies, and equipment ordered by a licensed audiologist or licensed speech pathologist to be medically necessary for the evaluation, diagnosis, and treatment of speech, language, and hearing disorders which result in communication disabilities.

(al) Speech language services shall include services performed by speech language assistants listed in (ao) below carrying out a therapy plan developed by the speech language pathologist.

~~(am)~~ Speech, language, and hearing services shall be provided by:

(1) An audiologist who is licensed to practice in New Hampshire or the state in which he or she practices;

(2) A speech pathologist who is either:

a. Licensed pursuant to RSA 326-F to practice in New Hampshire, which shall be considered equivalent to having met the requirements for the American Speech-Language-Hearing Association (ASHA) Certificate of Clinical Competence in Speech-Language Pathology; or

b. Licensed in the state in which he or she practices and have one of the following:

(i) A Certificate of Clinical Competence from the American Speech and Hearing Association; or

(ii) Completed the equivalent educational requirements and work experience necessary for the certificate; or

(iii) Completed the academic program and is acquiring supervised work experience to qualify for the certificate;

(3) A speech-language assistant as defined in RSA 326-F:1, II-a working under the direction of a qualified ~~licensed speech pathologist professional identified pursuant to (2) above~~; or

(4) A speech-language assistant as allowed in RSA 326-F:2, I(c), working under the direction of a licensed speech pathologist qualified professional identified pursuant to (1) or (2) above.

~~(an) There shall be an order from a physician, APRN or PA for the speech language services.~~

(ap) Billable categories of speech, language, and hearing services shall include the following:

- (1) Individual speech, language, or hearing evaluation;
- (2) Speech, language, or hearing therapy, individual treatment;
- (3) Speech, language, or hearing therapy, group treatment;
- (4) Speech, language, or hearing consultation; and

~~(5) Development and documentation of student specific health information related to the provider's scope of practice; and~~

~~(56) Supplies and equipment medically necessary for the provision of covered speech language and hearing services.~~

(aq) Vision services shall ~~require an order and be covered services if they are services ordered by a licensed optometrist, ophthalmologist, or APRN or PA to~~ be medically necessary for the prevention or rehabilitation of visual impairment or restoration of a student with a visual impairment to his or her best possible functional level.

(ar) Vision services other than those ~~prescribed or~~ provided by an optometrist and ophthalmologist shall be provided in accordance with the order and be provided in accordance with He-W 565 including the coverage provisions, documentation, and prior authorization requirements, when applicable. for covered vision services by a physician or other licensed practitioner. [open item]

(as) Billable categories of vision services shall include: [this section needs work]

~~(1) Aids to vision prescribed by an ophthalmologist or an optometrist;~~

~~(2) Mobility and orientation training;~~

~~(3) Braille instruction and materials;~~

~~(4) Services and supplies related to diagnostic screening and prevention of visual disorders; and~~

~~(15) Other services and supplies medically necessary for the provision of restoration of vision or related functioning to the best possible functional level. [open item. Unclear whether Rehab assistants are doing this work]~~

(at) EPSDT comprehensive and age-appropriate medical assessments and screenings of a child's physical and mental status in accordance with all the requirements pursuant to He-W 546.05 which is the EPSDT administrative rule.

(au) Non-covered services under the NH medicaid state plan but coverable pursuant to Section 1905(a) of the Social Security Act shall be covered through the EPSDT benefit when medically necessary, and services shall be covered including case management and wrap around coordination in accordance with all of the requirements pursuant to He-W 546 including the coverage provisions, documentation, and prior authorization requirements if provided in accordance with He-W 546, and shall be prior authorized by the department in accordance with He-W 546.06.

(av) The following are examples of services described in (au) subject to the requirements of He-W 546:

- (1) Rehabilitative assistance;

(2) Applied behavioral analysis;

(3) Personal care services for individuals under the age of 21;

(4) Wrap around services;

(5) Case management services; and

(6) Other optional services listed in 1905(a) of the Social Security Act and not included in the NH medicaid state plan.

(aw) Any services not listed in this part as covered services shall be given independent review by the department for coverage based on medical necessity in accordance with EPSDT pursuant to He-W 546.

(ax†) Specialized transportation shall be a billable service as follows:

(1) Transportation shall be listed in the student's IEP as a required service and the student shall be physically in the vehicle for the transportation to be billable to medicaid;

(2) Transportation shall be considered a required service if:

- a. The ~~child-student~~ requires transportation in a vehicle specially adapted to serve the needs of the disabled ~~child-student~~, including a specially adapted school bus; or
- b. The ~~child-student~~ resides in an area that does not have school bus transportation, such as those areas in close proximity to a school, but has a medical need for transportation that is noted in the IEP;

(3) The following transportation may be billed as a medicaid service:

- a. Transportation to and from school only on a day when the student receives a medicaid coverable service at school during the school day; and
- b. Transportation to and from a medicaid coverable service in the community during the school day;

(4) The medicaid coverable service in (3)a. and (3)b. above shall be listed in the student's IEP as a required service; and

(5) In addition to the documentation required by He-~~WM 1304~~589.06, transportation providers shall maintain a daily transportation log to include:

- a. Student's name;
- b. Date of service;
- c. Clear indication that the student is being transported either one-way or round-trip;
- d. The total number of students on the bus, both in the morning and the afternoon;
- e. The total miles the bus traveled, both in the morning and the afternoon;
- f. Driver's name; and

g. Driver's signature.

He-~~WM 1301589~~.05 Non-Covered Services. The following shall be ~~considered~~ non-covered services and shall not be eligible for reimbursement:

- (a) Services not listed as covered services in He-~~WM 1301589-04~~;
- (b) Services not listed in a student's care plan~~;~~;
- (c) Services that are not coverable under the Social Security Act and for which ~~no FFP is available~~~~the department is unable to claim FFP~~ for said service;
- (d) Services performed by unqualified ~~providers~~ individuals pursuant to the Social Security Act, or services delivered by provider types not approvable under the Social Security Act to provide Medicaid services;
- (e) Consultations that do not include the student for at least 51% of the consultation; ~~and~~
- (f) Services which are ~~considered~~ non-covered pursuant to He-W ~~506 through He-W 589530.06~~~~;~~;
- (g) Supported employment such as vocation goals and job tasks;
- (h) Academic instruction and tutoring;
- (i) Services performed by teachers of the visually impaired or deaf;
- (j) Leisure activities;
- (k) General supervision of a student as required for any student based on the student's development and for non-medical reasons;
- (l) Personal care services delivered by a family member pursuant to 42 CFR 440.167; and
- (m) Performance of tasks for the sole purpose of assistance with completion of educational assignments.

He-~~WM 1301589~~.06 Documentation and Payment for Services.

- (a) Reimbursement to enrolled school providers shall be the lesser of the following:
  - (1) One half of the actual cost, or
  - (2) The rate established by the department, in accordance with RSA 161:4, VI(a),
- (b) Enrolled school providers shall bill by unit of service and submit claims for payment that include the actual cost to the department's fiscal agent.
- (c) Enrolled school providers that provide covered services pursuant to He-~~WM 1301589~~.04 shall maintain unique documentation for the~~each such delivered~~ services in each student's individual record, with such documentation to include:
  - (1) A copy of the care plan and if an IEP, evidence of implementation of the IEP as required by Ed 1109.04(b);

- (2) The name of the student, the medical assistance ID number, and documentation demonstrating receipt of each unit of the covered service;
  - (3) The names and qualifications and credentials of all performing providers for of persons delivering each covered service;
  - (4) The documentation of the qualifications, names, and signatures of persons directing or supervising the individuals providing the covered services if direction or supervision is required under this part or applicable law and the date of supervisory approval~~He M 1301.04~~.
  - ~~(5) The name and signature, as defined in He M 1301.02(p), of the performing only provider for each covered service~~ Date(s) of each service delivered;
  - (6) The type of covered service provided and a description of each medical or mental health service provided;
  - (7) The date of the provision of the covered service and location where the services were performed;
  - (8) The duration of the provision of the each covered service, number of units performed, and the number of minutes for each delivered service;
  - (9) The start and stop times of the delivered services, and whether there was a break in services or time away by the performing provider;
  - (10) Indication whether the services were delivered in a group setting or individually;
  - (11) Indication of whether the student was actually present for the service and if required to attend 51% of the service, indication whether the student was present for that amount of time;
  - ~~(129)~~ In the case of group services, documentation of the number of participants in the group who received the covered service regardless of the participants' medicaid eligibility~~under He M 1301.03 (e);~~
  - ~~(130)~~ A copy of a physician's or other licensed practitioner's order if required~~pursuant to He M 1301.04;~~
  - ~~(11) In the case of services provided by personnel described pursuant to He M 1301.04 (n)(2), (s)(2), (am)(3), (am)(4), or (am)(5), documentation of the qualifications of the professional providing direction; and~~
  - ~~(142)~~ Documentation of the qualifications and the handwritten signature of the individual(s) attesting to the medical non-academic nature of the covered rehabilitative assistance services provided pursuant to He M 1301.04 (ad), in accordance with He M 1301.04(ah).
- (d) Schools shall submit claims for physical, occupational, and speech-language therapy services in accordance with the following:
1. Only units of direct treatment performed by a physical therapist, occupational therapist, SLP, a physical therapy assistant, occupational therapy assistant, or speech-language assistant shall be billed, meaning the time the therapist or physical therapy assistant, occupational therapy assistant, or speech-language assistant spends providing direct treatment to one recipient;

2. Therapists working as a team to treat one or more students shall not each bill separately for the same or different service provided at the same time to the same student; and

3. If a student requires co-treatment simultaneously by 2 therapists, the total number of units shall be divided between the providers and billed separately by each provider to equal the total time the student was receiving actual therapy services

~~For services provided to a group, the claim shall be prorated among the number of participants in the group, regardless of the participants' eligibility under He M 1301.03(e).~~

(e) The enrolled school provider shall only bill covered service time provided simultaneously by more than one qualified provider and a rehabilitative assistant as follows: described in He M 1301.04, (g)(1), (j), (n), (s), (v), (z), (ae), (am), or (aq) as follows: [open item. For discussion]

(1) By dividing the total time of service by the number of qualified providers, and by billing each provider separately for an equal amount of service time, so that the total time billed equals the actual time the student received services;

(2) If rehabilitative assistance is provided ~~pursuant to He M 1301.04 (ad) (ai)~~ simultaneously with another covered service, the rehabilitative assistance shall be billed in addition to the covered service; or

(3) If rehabilitative assistance is provided by more than one rehabilitative assistant simultaneously, each assistant's service shall be billed separately.

(f) In calculating the cost for transportation, the enrolled school providers may include the following actual costs related to the trip:

- (1) Fuel;
- (2) Insurance;
- (3) Driver's salary and benefits;
- (4) Salary and benefits of other persons working on the bus;
- (5) Depreciation, and
- (6) Maintenance.

(g) The total cost calculated in (f) above shall then be divided by the total number of miles for the trip both ways, and then divided by the total number of students on the bus, regardless of the students' medicaid eligibility ~~under He M 1301.03(e)~~ to determine the cost per mile per student.

(h) In accordance with 34 CFR 300.154 (d)(2)(iv) and Ed 1120.08, informed parental consent shall be obtained prior to the enrolled school provider billing the student's Medicaid.

(i) Enrolled school providers shall maintain records in support of claims submitted for reimbursement for a period of at least 6 years from the date of service or until the resolution of any legal action(s) commenced in the 6 year period, whichever is longer.

He-M 1301.07 Utilization Review and Control.

(a) The department's program integrity unit shall monitor utilization of medical services clinics to identify, prevent, and correct potential occurrences of fraud, waste and abuse in accordance with 42 CFR 455, 42 CFR 456, 42 CFR 1001, and He-~~WM 5891301~~.

(b) The department shall recoup state and federal medicaid payments as permitted by 42 CFR 455, 42 CFR 447, and 42 CFR 456 for a provider's failure to comply with these rules and maintain supporting records in accordance with He-W 520 and He-~~WM 5891301~~.

He-~~WM 1301589~~.08 Documentation of Expenditure of Non-Federal Funds.

(a) The enrolled school provider shall provide documentation annually regarding all services rendered pursuant to these rules.

(b) Such documentation shall:

(1) Demonstrate that:

a. The percentage of federal medical assistance reimbursed, as required by section 1905(b) of the Social Security Act, does not exceed 50% of the actual cost of covered services claimed under the medical assistance program; and

b. In no case are services that are reimbursable under the medical assistance program, but paid by other federal funding, claimed under the medical assistance program;

(2) Be reviewed and signed by the enrolled school provider's superintendent; and

(3) Be submitted to the ~~bureau~~ department no later than October 30 of each year for the preceding fiscal year period; and

(4) Be accompanied by a completed form "Documentation of Expenditure of Non-Federal Funds" (8/2016) for a specific July 1 through June 30 time period which includes an attestation signed and dated by the superintendent stating,

"I hereby certify that all Medicaid funds paid to the above named districts under He-~~WM 5891301~~, Medical Assistance Services Provided by Educational Agencies for the period July 1, xxxx through June 30, xxxx have been supplemented with LEA/SAU and/or non-federal funds to total 100% of the cost of services rendered and that the Medicaid reimbursement does not exceed 50% of the total cost of the services rendered."

(c) Failure to provide the information required pursuant (b) above within 60 days from October 30 to He-M 1301.07 (a) shall result in termination of the enrolled school provider's enrolled provider status until the documentation is received by the Department.

He-~~WM 1301589~~.09 Waivers.

(a) An enrolled provider may request a waiver of specific procedures outlined in He-~~WM 5891301~~ by writing to the administrator of the bureau.

(b) A completed waiver request shall be signed by the enrolled provider's designee.

(c) A waiver request shall be submitted to:

Department of Health and Human Services

Office of Client and Legal Services  
State Office Park South  
105 Pleasant Street, Main Building  
Concord, NH 03301

(d) No federally mandated requirement and no provision or procedure prescribed by state statute shall be waived.

(e) The request for a waiver shall be granted by the commissioner or his or her designee within 30 days if the alternative proposed by the enrolled provider:

- (1) Meets the objective or intent of the rule;
- (2) Does not negatively impact the health or safety of the student(s); and
- (3) Does not affect the quality of services to students.

(f) Upon receipt of approval of a waiver request, the enrolled provider's subsequent compliance with the alternative provisions or procedures approved in the waiver shall be considered compliance with the rule for which waiver was sought.

(g) Waivers shall be effective for a maximum of 3 years.

(h) An enrolled provider may request a renewal of a waiver from the department. Such request shall be made at least 30 days prior to the expiration of a current waiver.