

# Schools, Medical Assistance and Assistive Technology

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# **Why should assistive technology (AT) consultants learn about funding for AT?**

- Billing Project ACCESS may be a job function
- Role as an advocate for children and families to obtain AT “from the system”
- Understand the options for funding and help people with disabilities and families make informed decisions
- Assure access to AT during and after transition to post-secondary activities

# **Assistive technology (AT) must be considered**

- Under Individuals with Disabilities Education Act (IDEA), IEP team must consider AT devices and services for provision of free appropriate public education (FAPE)
- Under IDEA, AT devices and services must be written in the IEP when IEP team decides that they are needed to provide a free appropriate public education (FAPE)

# **But doesn't the local education authority (LEA) HAVE to provide assistive technology (AT) (if in IEP)?**

- YES, BUT..
- The local education authority (LEA) is not prohibited from seeking other sources BUT...
- Can be no delay in the provision of AT
  - IEP must be implemented no later than 10 school days after its completion (22 Pa. Code Section 14.131)

# **Basic Education Circular (BEC) on assistive technology (AT) (1997) (<http://www.pde.state.pa.us>)**

- Responsibility of IEP team to identify AT needed for FAPE
- Timelines
- Inclusion of AT in the IEP
- School has the option to bill Project ACCESS for partial reimbursement (parental consent required)
- The school must not delay the provision of AT
- The school must provide AT regardless of the level of reimbursement available through other sources

Note: Even though there is a 2002 expiration date, this BEC is still in effect.

# Definition: assistive technology (AT) devices

- Any item, piece of equipment, or product system, whether acquired commercially, modified or customized, that is used to increase, maintain, or improve the functional capacities of students with disabilities (*AT Act; subsequently IDEA*)
- *IDEIA* exception: The term does not include a medical device that is surgically implanted, or the replacement of such device (22 U.S.C. Section 1401) (such as cochlear implants)

# **Assistive technology (AT) is more than augmentative and alternative communication (AAC)**

- Includes but is not limited to augmentative and alternative communication (AAC) devices
- Durable medical equipment
- Prosthetics
- Can be high tech or low tech

# What do you think? And do you have any stories to tell?

- Computers (as a component of speech generating device)
- Computers (for writing)
- Speaking Dynamically software (as a component of a speech-generating system)
- Boardmaker
- Assistive listening devices
- Notetakers (e.g. AlphaSmart)



# Definition: assistive technology (AT) services

- Any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device (20 U.S.C. Section 1401)
- May be related services (e.g., part of speech therapy)
- May be part of specially-designed instruction (e.g., special software applications for written communication)

# Medicaid

- Authorized by Title XIX of the Social Security Act
- In PA, provided through “fee for service” and “managed care”
  - Medical Assistance, MA, ACCESS, ACCESS Plus, HealthChoices or managed care organization (MCO), EPSDT (children up to age 21)
- State must follow federal rules and file a state plan with the federal government
- **NOT** the same as **MEDICARE!**

# Medicare versus Medicaid

## Medicare

Enacted by Congress in 1965, Title XVIII

Eligibility based on work record of self or family member

Premiums generally required

## Medicaid

Enacted by Congress in 1965, Title XIX

Needs-based eligibility (income or disability)

No premium for any recipients (as of March 2006)

# Medicare versus Medicaid (continued)

## Medicare

Administered federally  
(through subcontractors)

Will pay before Medicaid

## Medicaid

Administered by state;  
subject to federal  
requirements

“Payer of Last Resort”  
except with respect to  
schools

# Medicare versus Medicaid (continued)

## Medicare

For original Medicare,  
reimbursement after  
delivery

Qualified service provider  
must be licensed and CCC

## Medicaid

Prior approval before SGD  
delivered and claim paid

Qualified SLP must be  
licensed

# Family of One

Children who meet the SSI definition of disability can enroll in Medical Assistance (MA) regardless of parental income and resources (premium may soon be imposed on families with incomes over 200% of federal poverty level)

# Myths about Medicaid

- Only low-income children are eligible
- All children with a disability are eligible for MA
- All children with an IEP are eligible for MA
- All children with a particular diagnosis are eligible for MA

# EPSDT: Medicaid for children

- Early Periodic Screening, Diagnostic, and Treatment Services (EPSDT)
- Child up to age 21 can receive any medically necessary service that is listed in the federal Medicaid statute, even if not in the Medicaid state plan; broad range of services
- Results in gap between what eligible children receive and what eligible adults receive
- Must be provided promptly, and no waiting lists permitted



# EPSDT: Medicaid for children (continued)

- Includes screening services, vision services, dental services, and hearing services for eligible children
- Includes “...such other necessary health care, diagnostic services, treatment, and other measures [listed in the federal statute] to correct or ameliorate defects and physical and mental illnesses and conditions discovered by the screening services, whether or not such services are covered under the State plan” (42 U.S.C. Section 1396d(r)(5))

# **Augmentative and alternative communication (AAC) and Medicaid**

- Medicaid pays for a range of speech generating devices (SGDs) as prosthetics and/or durable medical equipment
- AAC services covered under speech therapy and/or rehabilitation services

# Durable medical equipment (DME)

- Item or device in the Medical Assistance (MA) fee schedule that can withstand repeated use, which is used primarily and customarily to serve a medical purpose, which is customarily not useful to a person in the absence of illness or injury, and which is appropriate for home use (55 Pa. Code Section 1123.2)

# Medicaid home and community-based waivers

- Provide services to persons with disabilities and elderly persons so that they may live in the community rather than an institution
- Waive only comparability, state-wideness, and income/resource limits
- Do not waive due process and other rights
- Permit caps, waiting lists, and eligibility of specific groups (e.g., by diagnosis or age)

# Medicaid home and community-based waivers (continued)

- Generally pay for services not paid for by regular Medical Assistance (Medicaid)
- Cover various types of assistive technology, including home and vehicle modifications (capped amounts) (see chart, page 5, Assistive Technology: How to Pay for the Device or Service That You Need, Disability Rights Network of Pennsylvania)
- Examples of other services are service coordination, habilitation, and respite care

# Medicaid home and community-based waivers (continued)

- Many Waivers in Pennsylvania, such as Early Intervention, Attendant Care, Consolidated (intellectual disability), COMMCARE (traumatic brain injury), Aging, Independence, etc.
- <http://www.dpw.state.pa.us/for-disability-services/alternativestonursinghomes/index.htm>

# Getting assistive technology (AT) through Medical Assistance (MA)

- Child must be enrolled in MA
- AT must be **medically necessary**
- AT cannot be “experimental”
- Requested AT cannot “exceed the need”
- Payer of last resort with respect to other health insurance (proof of denial before claim will be paid)

# **Medical necessity (fee-for-service Medical Assistance)**

Service, item, procedure or level of care that is:

- (a) Compensable under the MA Program,
- (b) Necessary to the proper treatment or management of an illness, injury or disability, AND
- (c) Prescribed, provided or ordered by an appropriate licensed practitioner in accordance with accepted standards of practice

(55 Pa. Code Section 1101.21)



# Medical necessity (HealthChoices/Medical Assistance Managed Care Organization)

- **The service or benefit will or is reasonably expected to:**
  - Prevent the onset of an illness, condition, or disability,
  - Reduce or ameliorate the physical, mental, or developmental effects of an illness, condition, injury, or disability, OR
  - Assist the individual to achieve or maintain maximum functional capacity in performing daily activities, taking into account both the functional capacity of the individual and those functional capacities that are appropriate for individuals of the same age

# Educationally Necessary? Medically Necessary?

- Medical Assistance (MA) cannot refuse to pay for medically necessary services on the grounds that they are the school's responsibility (e.g., because they are included in the IEP) (42 U.S.C. Section 1396b(c))

# **When can the school district access the child's Medical Assistance (MA)?**

- Cannot violate FAPE – FREE appropriate public education
- Cannot MANDATE that parent applies for MA for the child

# **When can the school district access the child's Medical Assistance (MA) (continued)?**

Cannot require parent to file claim for MA services OR bill Project ACCESS if...

- (1) Parent would incur out-of-pocket expense (such as deductible or co-pay)
- (2) Would decrease child's MA benefits or risk loss of MA (including Waiver)
- (3) Would risk parent having to pay out of pocket for MA-covered services required outside of school setting

# **When can the school district access the child's Medical Assistance (MA) (continued)?**

- May use IDEA (Part B) funds to pay parent's MA deductible or copayment
- Family owns the assistive technology (AT) if MA pays for the AT, even if local education authority (LEA) pays deductible or copay
- Must provide the AT if in IEP and cannot take AT away within the school-related context regardless of whether MA ultimately pays for AT

# **When can the school district access the parent's private health insurance?**

- Cannot violate FAPE – FREE appropriate public education
- Must have written informed consent to access parent's private health insurance
- Family owns the assistive technology (AT) if private insurance pays for the AT, even if local education authority (LEA) pays deductible or copay)
- Must provide the AT if in IEP and cannot take AT away within the school-related context regardless of whether private health insurance ultimately pays for AT

# **Prior approval process in fee-for-service Medical Assistance (MA)**

- Required for assistive technology (AT) that costs more than \$600 and for other Department of Public Welfare-designated items
- If prior approval required, provider (vendor) must obtain approval **BEFORE** billing MA
- If request for prior approval for AT not on the MA fee schedule, or to request a higher rate for listed AT, provider can request “1150 Waiver Program Exception”

# Prior approval process in HealthChoices (managed care)

- Each MA managed care organization (MCO) will have its own prior approval process
- Vendor and family should contact the Special Needs Unit of the MA managed care organization (MCO) for specific information on the process



# Prior approval request process for Medical Assistance (MA)

- Speech-language pathologist (SLP) and family assist provider (vendor) in gathering needed documentation
- Provider (vendor) submits prior approval request for device to MA (fee for service or MA Managed Care Organization)
  - Documentation should demonstrate medical necessity (doctor's prescription for specific device, SLP report, letter of medical necessity, etc.)

# Hints for writing successful speech-language pathologist (SLP) report for prior approval

- Understand the coverage requirements
- Use the relevant “lingo”
- Review the Medicare speech generating device (SGD) funding guidelines on [www.aac-rerc.org](http://www.aac-rerc.org)
  - These components are required for Medicare to pay for device, and insurers are turning to them as “appropriate practice” (e.g., Aetna, 2004)

# Speech generating device (SGD) criteria comparison

**AmeriChoice (one MA MCO) Medicare ([www.aac-rerc.org](http://www.aac-rerc.org))**

Demographics – age

Demographics – date of birth;  
age of onset

Diagnosis

Diagnosis; impairment type  
and severity; anticipated  
course of impairment

Speech evaluation

Comprehensive assessment;  
language skills, cognitive skills

Documentation of visual,  
motor, and auditory  
comprehension

Assessment of hearing, vision,  
physical status

# Speech generating device (SGD) criteria comparison (continued)

**AmeriChoice (one MA MCO)**    **Medicare ([www.aac-lerc.org](http://www.aac-lerc.org))**

Daily communication needs;  
ability to meet with non-SGD  
approaches

Results of trial of other AT  
devices

Rationale for device selection,  
including general features of  
recommended SGD+;  
equipment used in  
assessment

# Speech generating device (SGD) criteria comparison (continued)

**AmeriChoice (one MA MCO)**      **Medicare ([www.aac-rerc.org](http://www.aac-rerc.org))**

Documentation of ability to use device independently

Evidence of ability to use; participation of patient/family in choice; commitment to support equipment for daily communication

Treatment plan

Functional communication goals; treatment plan using the SGD, including type of treatment, follow-up

# Speech generating device (SGD) criteria comparison (continued)

**AmeriChoice (one MA MCO)**      **Medicare ([www.aac-rerc.org](http://www.aac-rerc.org))**

Vendor name, provider  
number

Medicare device and  
accessory codes for  
recommended device

Estimated pricing

Letter of medical necessity  
from physician; prescription

Description of physician  
involvement (e.g., review of  
SLP report prior to Rx)

# **Prior approval request process for Medical Assistance (MA) (continued)**

- Medical Assistance (MA) or MA managed care organization (MCO) may APPROVE device (as submitted)
- MA or MA MCO may DENY prior approval
- MA or MA MCO may DENY the requested device but APPROVE an alternate device

# Medical Assistance (MA) appeals

- If prior approval for device is GRANTED, but rate is unsatisfactory (i.e., the vendor will not provide at that rate), the family can appeal; vendor should also appeal the rate
- If prior approval is DENIED, denial must be in writing (but, verbal denials can be appealed)
  - Reasons for denial can include lack of medical necessity, item “exceeds the needs,” etc.
  - Denial notice must explain specific reason for denial



# Medical Assistance (MA) appeals (continued)

- Fee-for-service Medical Assistance (MA) and HealthChoices/MA managed care organization (MCO): Appeal to Department of Public Welfare (DPW)
  - Must make appeal within 30 calendar days of written denial notice (received by DPW by the 30<sup>th</sup> day)
  - Ask for “fair hearing” in appeal to DPW
  - Person who makes verbal appeal must reduce it to writing in 3 working days

# Medical Assistance (MA) appeals (continued)

- HealthChoices/Medical Assistance (MA) managed care organization (MCO): Can ALSO appeal to MA MCO itself
  - MA MCO must give at least 30 days to make appeal
  - State reason for appeal; describe why denial is incorrect; can rely on the definition of “medically necessary”
  - Verbal appeal accepted but must be reduced to writing; written appeal recommended

# Medical Assistance (MA) appeals (continued)

- Can submit supplemental documentation to refute denial and show why specific speech generating device (SGD) is medically necessary
  - E.g., supplemental report by speech-language pathologist (SLP) that device requested, with its specific features, is medically necessary, and why other devices will not serve child's needs
  - Bring copy to DPW fair hearing as well
- Follow up after supplemental information submitted to ask if decision can be made without a hearing

# Medical Assistance (MA) appeals (continued)

- Parents can ask for a telephone hearing
- Key witnesses can testify via telephone, if arranged before hand (speech-language pathologist, doctor, etc.)
- Final administrative action must be taken within 90 days of appeal request; can request interim assistance.
- Further steps allowed if first appeal is not successful

# Transition to post-secondary activities

- Can student take the device with him or her upon graduation?
- If the device was purchased through Project ACCESS, has ownership been transferred from the school to the parents/student?
- Is it time to get a new(er) device?
- Should Office of Vocational Rehabilitation (OVR) be involved? How?

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# Resources available through the Institute on Disabilities and PIAT

Activities to improve access to assistive technology (AT):

- Device Demonstrations

- Device Loan (Pennsylvania's AT Lending Library)

- Public awareness

- Information and referral

Activities to improve acquisition of AT:

- Specialized Case Management

- Device Reutilization

**ACES**

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