

# **Schools, Medical Assistance, and Assistive Technology**

Dynah Haubert, Esquire  
Disability Rights Pennsylvania  
800-692-7443 (voice), 877-375-7139 (TTY),  
[dhaubert@disabilityrightspa.org](mailto:dhaubert@disabilityrightspa.org)

# 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/families make informed decisions
- Assure access to AT during and after transition to post-secondary activities



# **AT must be considered.**

- Under IDEIA, IEP team must consider AT devices and services for provision of free appropriate public education (FAPE)
- Under IDEIA, 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 AT (if in IEP)?

- Yes, BUT..
- The 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 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
- 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: 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)

# AT is more than 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: 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

<b>Medicare</b>	<b>Medicaid</b>
Enacted by Congress in 1965, Title XVIII	Enacted by Congress in 1965, Title XIX
Eligibility based on work record of self or family member	Needs-based eligibility (income or disability)
Premiums generally required	No premium for any recipients (as of March 2006)

# Medicare versus Medicaid (continued)

<b>Medicare</b>	<b>Medicaid</b>
Administered federally (through subcontractors)	Administered by state; subject to federal requirements
Will pay before Medicaid	“Payer of Last Resort” except with respect to schools

# Medicare versus Medicaid (continued)

<b>Medicare</b>	<b>Medicaid</b>
For original Medicare, reimbursement after delivery	Prior approval before SGD delivered and claim paid
Qualified service provider must be licensed and CCC	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
- 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))

# 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

- 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 MA
- Cover various types of AT, including home and vehicle modifications (capped amounts) (see Assistive Technology: How to Pay for the Device or Service That You Need, Disability Rights Pennsylvania)
- Examples of other services are service coordination, habilitation, and respite care

# Medicaid Home and Community-Based Waivers (continued)

- Many waivers in PA such as Early Intervention, Attendant Care, Michael Dallas (for people who are “technology dependent”), Consolidated (MR), COMMCare (TBI), Aging, Independence, etc.
- <http://www.dhs.state.pa.us/Disable/HomeCom mServices/>

# Getting 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 MA)**

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

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

(55 Pa. Code Section 1101.21)

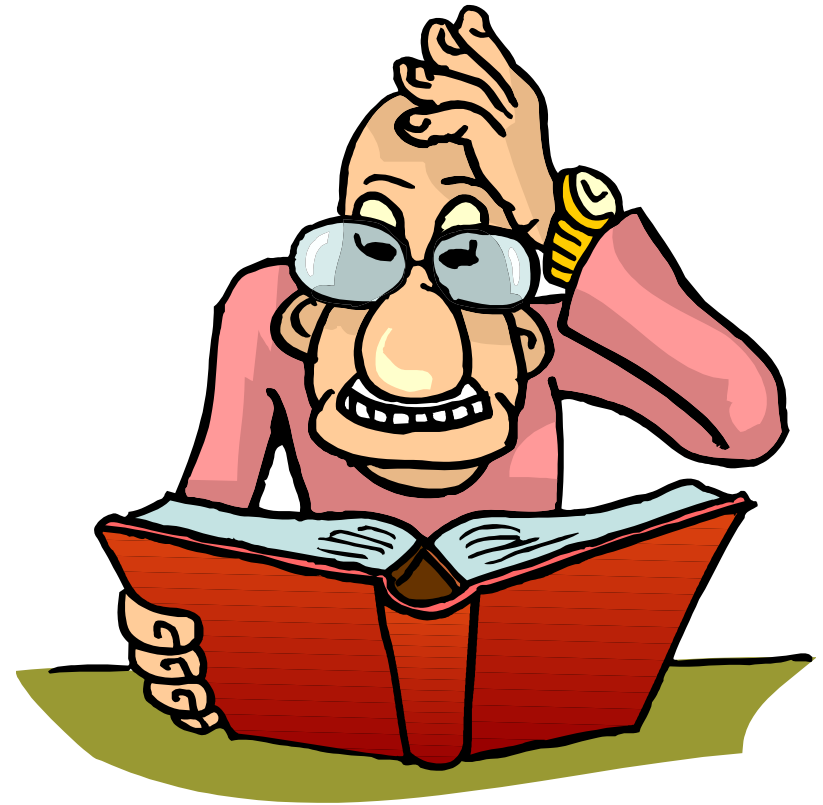


# Medical Necessity (HealthChoices/MA MCO)

- 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 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...

- Parent would incur out-of-pocket expense (such as deductible or co-pay)
- Would decrease child's MA benefits or risk loss of MA (including Waiver)
- 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 IDEIA (Part B) funds to pay parent's MA deductible or copayment
- Family owns the AT if MA pays for the AT (even if 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 AT if private insurance pays for it (even if 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

# **Advantages to Medical Assistance (or private insurance) funding of AT in IEPs**

- Child owns device
- Frees school funding for other special education services
- Facilitates transition to post-secondary activities (e.g., no ownership issues)

# Prior Approval Process in Fee-for-Service Medical Assistance (MA)

- Required for AT that costs more than \$600 and for other DHS-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 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 MCO)
  - Documentation should demonstrate medical necessity (doctor's prescription for specific device, SLP report, letter of medical necessity, etc.)

# Hints for writing successful 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)

# SGD Criteria Comparison

<b>AmeriChoice (one MA MCO)</b>	<b>Medicare (<a href="http://www.aac-rerc.org">www.aac-rerc.org</a>)</b>
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

# SGD Criteria Comparison (continued)

AmeriChoice (one MA MCO)	Medicare ( <a href="http://www.aac-rerc.org">www.aac-rerc.org</a> )
	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

# SGD Criteria Comparison

<b>AmeriChoice (one MA MCO)</b>	<b>Medicare (<a href="http://www.aac-rerc.org">www.aac-rerc.org</a>)</b>
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

# SGD Criteria Comparison

<b>AmeriChoice (one MA MCO)</b>	<b>Medicare (www.aac-rerc.org)</b>
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)**

- MA or MA 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 MA and HealthChoices/MA managed care organization (MCO): Appeal to Department of Human Services (DHS)
  - Must make appeal within 30 calendar days of written denial notice (received by DHS by the 30<sup>th</sup> day)
  - Ask for “fair hearing” in appeal to DHS
  - Person who makes verbal appeal must reduce it to writing in three working days

# Medical Assistance (MA) Appeals (continued)

- HealthChoices/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 SGD is medically necessary
  - E.g., supplemental report by SLP that device requested, with its specific features, is medically necessary, and why other devices will not serve child's needs
  - Bring copy to DHS 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 telephone hearing
- Key witnesses can testify via telephone if arranged before hand (SLP, 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/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 OVR be involved? How?

# Contact information

- Dynah, Haubert, Esquire  
Disability Rights Pennsylvania  
1315 Walnut Street, Suite 500  
Philadelphia, PA 19107  
Voice: 215-238-8070  
Fax: 215-772-3126  
TTY: 877-375-7139  
[dhaubert@disabilityrightspa.org](mailto:dhaubert@disabilityrightspa.org)  
[www.disabilityrightspa.org](http://www.disabilityrightspa.org)

# Resources available through the Institute on Disabilities and PIAT

Activities to improve access to 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