UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

DEC 2 0 2007

Mr. John D. Hill
Medicaid Liaison
Division of Exceptional Learners
Indiana Department of Education
Room 229, State House
Indianapolis, Indiana 46204-2798

Dear Mr. Hill:

This letter addresses the Medicaid question you and other colleagues with the National Alliance for Medicaid in Education, Inc. (NAME) presented to staff from the Office of Special Education and Rehabilitative Services (OSERS) and the Office of Special Education Programs (OSEP) at a July 17, 2007 meeting. At that meeting, you requested clarification regarding the Individuals with Disabilities Education Act (IDEA) Part B regulations in 34 CFR §300.154(a)(1), specifically whether school-based Medicaid billing is optional or a mandate under the IDEA.

Section 300.154(a)(1) of the regulations requires that an interagency agreement or other mechanism for interagency coordination between the state educational agency (SEA) and noneducational public agency include identification of, or a method for defining, the financial responsibility of each agency for providing services to ensure a free appropriate public education (FAPE) to children with disabilities. Further, it requires that the financial responsibility of each noneducational public agency, including the state Medicaid agency and other public insurers of children with disabilities, must precede the financial responsibility of the local educational agency (LEA) (or the state agency responsible for developing the child's individualized education program (IEP)).

The IDEA, however, does not require that states participate in Medicaid, or that state Medicaid programs include any particular array of programs or services. Nor does it require or mandate school-based billing. It does provide that the financial responsibility of noneducational agencies precedes the responsibility of the LEAs of the state if the noneducational agencies are otherwise obligated under federal or state law, or assigned responsibility under state policy or pursuant to an interagency agreement, to provide or pay for services that also are considered special education and related services necessary to provide FAPE to children with disabilities. See 34 CFR §300.154(b). One way that the financial responsibility of the state Medicaid agency would precede that of the LEAs could be through appropriate school-based billing for services that are covered under Medicaid, but that is not the only way to meet the IDEA requirements.

Based on section 607(e) of the IDEA, we are informing you that our response is provided as informal guidance and is not legally binding, but represents an interpretation by the U.S. Department of Education of the IDEA in the context of the specific facts presented.

We hope that you find the response to your question helpful. If you need further assistance, please feel free to contact Mary Williams or Deborah Morrow at (202) 245-7586 or (202) 245-7456 respectively.

Sincerely,

William Knudsen
Deputy Assistant Secretary
Office of Special Education and
Rehabilitative Services

cc: Dr. Robert Marra