Direct Services and AAC Checklist

Q: Does the school district understand that there is there an age limit on students who can be billed under the Program? Y___N___
(The children billed may be up to age 22.)[1]

Q: Does the school district understand what the definition of an IEP is under the Program? Y___N___
(A written statement, developed and approved in accordance with special education law in a form established by the Department of Elementary and Secondary Education, that identifies a student's special education needs and describes the services a school district shall provide to meet those needs.[2] In other words, the IEP must affirmatively order services.)

Q: Does the school district understand the term "Medically Necessary?" Y___N___
(**"Medically Necessary" is defined at 130 CMR 450.204: "** The service is reasonably calculated to prevent, diagnose, prevent the worsening of, alleviate, correct, or cure conditions in the member[3] that endanger life, cause suffering or pain, cause physical deformity or malfunction, threaten to cause or to aggravate a handicap, or result in illness or infirmity; and there is no other medical service or site of service, comparable in effect, available, and suitable for the member requesting the service, that is more conservative or less costly to the MassHealth agency. … Medically necessary services must be of a quality that meets professionally recognized standards of health care, and must be substantiated by records including evidence of such medical necessity and quality. A provider must make those records, including medical records, available to the MassHealth agency upon request".[4])

Q: Is the District aware of what documentation is needed in order to claim for health-related services? Y___N___

(Providers must document the delivery of all special education health-related Medicaid covered services provided to children as outlined in Municipally Based Health Service, Bulletin 9, dated October 2003. Schools must also document all Administrative Activities at the time they are provided.[5]**)** MassHealth/School-Based Medicaid has not provided guidance as to what is required for documentation of Administrative Activities outside the Random Moment Time Study (RMTS) process, however districts should consider having their RMTS participants keep notes in a log as to what they were doing when answering a School-Based Medicaid random moment questionnaire.

Q: Is the District aware of other records must a school district maintain in order to support claiming for eventual inspection and/or audit by EOHHS? Y___N___

(Adequate documentation to substantiate the provision of services payable under MassHealth. All providers must keep such records, including medical records, Direct Services records and Administrative Activities records as are necessary to disclose fully the extent and medical necessity of all services provided to, or prescribed for,

[1] Provider Contract, p. 2, definition of "Eligible members" pursuant to the 6/14/14 revised contract
[2] Id., p. 2, definition of "Individualized Education Program"
[3] "member" = "child"
[4] 130 C.M.R. 450.204; Provider Contract, p. 3, definition of "Medically Necessary"
[5] School-Based Medicaid Program User Guide, p. 6

children under school based Medicaid,[6] Including, but not limited to, the records described in 130 CMR 450.205[7] and 42 CFR §431.107[8]. All records, including but not limited to those containing signatures of medical professionals authorizing services, such as prescriptions, must, at a minimum, be legible and comply with generally accepted standards for recordkeeping within the applicable provider type as they may be found in laws, rules, and regulations of the relevant board of registration, professional treatises, and guidelines and other information published, adopted, or promulgated by state or national professional organizations and societies. The following data elements are required:

- **School District Name/Provider Number**
- **Student Name (complete legal name)**
- **Date of Birth**
- **Student Medicaid Number**
- **Date service is provided to the student**
- **Activity/Procedure Note- A written description of the service provided to the student and must document the extent and duration of the medical service provided**
- **Document Group or Individual Service, including group size**
- **Service Time- Quantity of service delivered to a child, recorded as an amount of time**
- **Original Ink Signature or Electronic Signature in compliance with Municipally Based Health Services Bulletin 10[9])**

Q: Is the District aware that it is responsible to ensure that all contractors (including private schools, collaboratives and Chapter 766 schools) document services appropriately and maintain the required records? Y___N___[10]

Q: Is the District aware that records must be maintained for 6 years? Y___N___
(For service delivery records, 6 years from the date of service. For cost reports or data that supports cost reports, 6 years from the date of the "filing" of the cost report.[11])

Q: Is the District aware that records must be created at the time that Direct Services and Administrative Activities are delivered? Y___N___
(See footnote[12])

Q: Is the District aware of the direct services that are reimbursable, assuming provider agreement and regulatory mandates are met? Y___N___
(Physical Therapy, Occupational Therapy, Audiology, Speech, Nursing, Personal Care(caution), Behavioral Health Services, Diagnostic, Screening, Preventative & Rehabilitative Services and Assessments.[13])

Q: Is the District aware of when direct services may be billed by a school district? Y___N___

[6] Provider Contract, p. 12, 1.11..A
[7] See Attachment A
[8] See Attachment B
[9] School-Based Medicaid Program User Guide, p. 6
[10] Id., p. 7. A mandated form has been developed cooperatively by serval agencies and associations, including the DESE and the state Medicaid Office. The form can be found on the DESE website: http://www.doe.mass.edu/sped/28mr/ Last viewed on 4/6/17

[11] School-Based Medicaid Program User Guide, p. 6; 130 C.M.R. 450.205(G)
[12] Provider Contract, p. 12, 1.11..A
[13] Provider Contract, p. 4, 1.6.A.1

(When the child is Medicaid eligible; the services are listed in the child's IEP; the services are "medically necessary;" the services are furnished by qualified practitioners acting within the scope of their licensure; and the services are documented as delivered in accordance with regulatory mandates and guidance.[14])

Q: Is the District aware of the limit on the group size that can be billed in the direct services context? Y___N___

(Because the CMRs that govern individual therapies in the MassHealth program indicate a limit to group size, MSB asked MassHealth if there are limits to group size for Speech, PT, OT, Nursing, and Mental Health in the School-Based Medicaid Services program. On January 25, 2013, MSB received the following answer from MassHealth: "No. School-Based Medicaid Bulletin 17, April 2009 does not limit the maximum number of students in a group. This answer from MassHealth seems to be inconsistent with the controlling regulations which seem to indicate that group therapy is limited to 6 or less people. [15] School districts should weigh this inconsistency when determining whether or not to bill groups of greater than 6 students.)

Q: Is the District aware of reimbursable Physical Therapy activities? Y___N___

(Therapy services, including diagnostic evaluation and therapeutic intervention, designed to improve, develop, correct, rehabilitate, or prevent the worsening of physical functions that have been lost, impaired, or reduced as a result of acute or chronic medical conditions, congenital anomalies, or injuries. Physical therapy emphasizes a form of rehabilitation focused on treatment of dysfunctions involving neuromuscular, musculoskeletal, cardiovascular/pulmonary, or integumentary systems through the use of therapeutic interventions to optimize functioning levels.[16])

Q: Is the District aware of who is qualified to deliver reimbursable Physical Therapy? Y___N___

(Licensed by the Massachusetts Division of Registration in Allied Health Professions or a Physical Therapist Assistant licensed by the Massachusetts Board of Registration of Allied Health Professionals under the Supervision of a Physical Therapist.[17])

Q: Is the district aware of the requirements of "under the supervision of" in the context of the delivery of Physical Therapy? Y___N___

(Supervision of physical therapist assistants requires, at a minimum, that a supervising physical therapist perform the following:

- interpret available information concerning the individual under care;
- provide initial evaluation;
- develop plan of care, including long and short term goals;
- identify and document precautions, special problems, contraindications, anticipated progress, and plans for reevaluation;
- select and delegate appropriate tasks in the plan of care;
- designate or establish channels of written and oral communication;
- assess competence of supportive personnel to perform assigned tasks;
- direct and supervise supportive personnel in delegated tasks; and
- re-evaluate, adjust plan of care when necessary, perform final evaluation and establish follow-up plan.

[14] School-Based Medicaid Program User Guide, p. 3, 4
[15] 130 C.M.R. 432.402
[16] Id.
[17] School-Based Medicaid Program User Guide, p. 5; Appendix 3; Provider Contract, p. 4, 1.6..A.1.; 130 CMR 432.404(A)

- Provide timely assessments as defined in the regulation [18])

Q: Is the District aware that Physical Therapy needs to be "prescribed?" Y___N___
(Physical Therapy must be prescribed by a physician or other licensed practitioner of the healing arts within the scope of his or her practice under State law.[19])

Q: Is the District aware of reimbursable Occupational Therapy activities? Y___N___
(Therapy services, including diagnostic evaluation and therapeutic intervention, designed to improve, develop, correct, rehabilitate, or prevent the worsening of functions that affect the activities of daily living that have been lost, impaired, or reduced as a result of acute or chronic medical conditions, congenital anomalies, or injuries. Occupational therapy programs are designed to improve quality of life by recovering competence, preventing further injury or disability, and to improve the individual's ability to perform tasks required for independent functioning, so that the individual can engage in activities of daily living.[20])

Q: Is the District aware of who is qualified to deliver reimbursable Occupational Therapy? Y___N___
(An individual who is licensed by the Massachusetts Division of Registration in Allied Health Professions and currently registered by the National Board for Certification in Occupational Therapy (NBCOT)[21] and, or an individual providing occupational therapy who is licensed as an occupational therapy assistant by the Massachusetts Board of Registration of Allied Health Professionals and under the supervision of a qualified occupational therapist.[22])

Q: Is the District aware of the requirements of "under the supervision of" in the context of the delivery of Occupational Therapy? Y___N___
(Adequate supervision of occupational therapy assistants requires, at a minimum, that a supervising occupational therapist perform the following:

- provide initial evaluation;
- interpret available information concerning the individual under care;
- develop plan of care, including long and short term goals;
- identify and document precautions, special problems, contraindications, anticipated progress, and plans for reevaluation;
- select and delegate appropriate tasks in the plan of care;
- designate or establish channels of written and oral communication;
- assess competence of supportive personnel to perform assigned tasks;
- direct and supervise supportive personnel in delegated tasks; and
- re-evaluate, adjust plan of care when necessary, perform final evaluation and establish follow-up plan.[23])

Q: Is the District aware that Occupational Therapy need to be "prescribed?" Y___N___

[18] 259 CMR 5.02(1) through (3). Timely assessments that assess and document student status are defined in the school setting as at least every 90 days- 259 CMR 5.03(2)(c).
[19] School-Based Medicaid Program User Guide, p. 4; MassHealth School-Based Medicaid Bulletin 17
[20] 130 CMR 432.402
[21] 130 CMR 432.404(B). Even though the regulation requires registration with the American Occupational Therapy Association (AOTA), the certification division of the AOTA was "spun off" several years ago and certifications are now issued by the National Board for Certification in Occupational Therapy (NBCOT)
[22] School-Based Medicaid Program User Guide, Appendix 3; Provider Contract, p. 4, 1.6..A.1
[23] 259 C.M.R. 3.02(1) through (3)

(Occupational Therapy must be prescribed by a physician or other licensed practitioner of the healing arts within the scope of his or her practice under State law.[24])

Q: Is the District aware of are reimbursable Audiology activities? Y___N___
(These services include, but are not limited to, testing related to the determination of hearing loss, evaluation for hearing aids, prescription for hearing-aid devices, and aural rehabilitation.[25])

Q: Is the District aware of who is qualified to deliver reimbursable Audiology? Y___N___
(An individual who is licensed by the Massachusetts Division of Professional Licensure, Board of Registration in Speech-Language Pathology and Audiology or an individual licensed as an audiology assistant by the Massachusetts Board of Registration in Speech-Language Pathology and Audiology and providing audiology under the direction of a qualified audiologist. [26])

Q: Is the District aware that Audiology needs to be "referred?" Y___N___
(Audiology must be referred by a physician or other licensed practitioner of the healing arts within the scope of his or her practice under State law.[27])

Q: Is the District aware of reimbursable Speech Therapy activities? Y___N___
(Therapy services, including diagnostic evaluation and therapeutic intervention, that are designed to improve, develop, correct, rehabilitate, or prevent the worsening of speech/language communication and swallowing disorders that have been lost, impaired, or reduced as a result of acute or chronic medical conditions, congenital anomalies, or injuries. Speech and language disorders are those that affect articulation of speech, sounds, fluency, voice, swallowing (regardless of presence of a communication disability), and those that impair comprehension, spoken, written, or other symbol systems used for communication.[28])

Q: Is the District aware of who is qualified to deliver reimbursable Speech? Y___N___
(An individual who is licensed by the Massachusetts Division of Registration in Speech-language Pathology and Audiology and meets one of the following conditions: Has a certificate of clinical competence from the American Speech and Hearing Association or has obtained a statement from ASHA of certification equivalency; or an individual providing speech who is licensed as a speech assistant by the Massachusetts Board of Registration in Speech-Language Pathology and Audiology and is working under the supervision of a qualified speech pathologist. [29])

Q: Is the District aware of the requirements of "under the supervision of" in the context of the delivery of Speech Therapy and Audiology? Y___N___

- (A Supervising Speech-Language Pathologist is required to inform patients/clients when services are to be provided by Speech-Language Pathology Assistants, before such services commence. A Supervising Audiologist is required to inform patients/clients when services are to be provided by Audiology Assistants, before such services commence.

[24] School-Based Medicaid Program User Guide, p. 4; MassHealth School-Based Medicaid Bulletin 17
[25] 130 C.M.R. 426.402
[26] 130 CMR 426.404; Provider Contract, p. 4, 1.6..A.1.; School-Based Medicaid Program User Guide, Appendix 3
[27] School-Based Medicaid Program User Guide, p. 4; MassHealth School-Based Medicaid Bulletin 17
[28] 130 C.M.R. 432.402
[29] School-Based Medicaid Program User Guide, Appendix 3; 130 C.M.R. 432.404(C)

- The supervisor is responsible for the services provided by assistants.
- A supervisor must verify that an assistant holds a current, valid license from the Board prior to the commencement of services.
- The supervisor must not delegate services requiring licensure to anyone not licensed by the Board.
- The amount and type of supervision should be based on the skills and experience of the Speech-Language Pathology Assistant or Audiology Assistant, the needs of patients/clients being served, the service setting, and the tasks assigned.
    - At least 10% of services rendered by Assistants each month must be provided under Direct Supervision. An additional 10% of services must be supervised, either directly or indirectly.
    - Additional direct and indirect supervision, beyond the minimum 20% required may be necessary depending on the skills of the assistant and the needs of the patient/client. The supervisor will review each plan of care as needed for timely implementation of modifications.
    - The amount and type of supervision must be documented. Documentation must include hours of employment per month, and the date, type, and duration of supervision. The name, signature, and license number of the supervisor must appear on the form.
    - It is the responsibility of the assistant to maintain a record of such supervision and provide a copy of this record to the Board upon request, or for audit or license renewal purposes.
- A supervisor may not supervise more than three assistants at any given time.[30])

Q: Is the District aware that Speech needs to be "referred?" Y___N___
(Speech must be referred by a physician or other licensed practitioner of the healing arts within the scope of his or her practice under State law.[31])

Q: Is the District aware that the service delivery logs of a speech language assistant be co-signed by the supervising speech pathologist? Y___N___
(See footnote[32])

Q: Is the District aware of Private Duty Nursing Services that are reimbursable? Y___N___
(Private duty nursing services (nursing services for recipients who require more individual and continuous care than is available from a visiting nurse or routinely provided by the nursing staff of the hospital or skilled nursing facility) are reimbursable when: these services are provided by a registered nurse or a licensed practical nurse; under the direction of the recipient's physician; and to a recipient in one or more of the following locations at the option of the state-- his or her own home; a hospital; or a skilled nursing facility, or any medical or remedial care or services, other than physicians' services, provided by licensed practitioners within the scope of practice as defined under State law.[33])

Q: Is the District aware that Private Duty Nursing Services have to be "ordered?" Y___N___
(the services must be ordered by a licensed physician.[34])

Q: Is the District aware of other Nursing Services that are reimbursable? Y___N___
(Other nursing services are reimbursable when they are medical or remedial care or services, other than physicians' services, provided by licensed practitioners within the scope of practice as defined under State law;

[30] 260 CMR 10.01
[31] School-Based Medicaid Program User Guide, p. 4; MassHealth School-Based Medicaid Bulletin 17
[32] 260 CMR 10.01(5)(c)
[33] Provider Contract, p. 4, 1.6.A.1.; 42 CFR §440.80; 42 CFR §440.60
[34] Provider Contract, p. 4, 1.6.A.1.

or when they are rehabilitative services, which includes any medical or remedial services recommended by a physician or other licensed practitioner of the healing arts, within the scope of his practice under State law, for maximum reduction of physical or mental disability and restoration of a recipient to his best possible functional level.[35])

Q: Is the District aware that these "other" Nursing Services have to be ordered by a physician and that a plan of care must be developed with prescribed elements? Y___N___
(See footnote[36] In addition, a plan of care must be developed with required elements.[37])

Q: Is the District aware of who is qualified to deliver "other" reimbursable Nursing Services? Y___N___
(A registered nurse, a licensed practical nurse, or in the case of "rehabilitative services" nursing, a delegated person who has received appropriate teaching, direction and supervision from a registered nurse or licensed practical nurse.[38])

Q: Is the District aware of **what "rehabilitative services" nursing activities typically can be delegated? Y___N___**
(Nursing activities which do not require nursing assessment and judgment during implementation; collecting, reporting and documentation of simple data; activities which meet or assist the child in meeting basic human needs, including, but not limited to: nutrition, hydration, mobility, comfort, elimination, socialization, rest and hygiene.[39])

Q: Is the District aware of **what are "Personal Care" Services? Y___N___**
(Services furnished to a child who is not an inpatient or resident of a hospital, nursing facility, intermediate care facility for the mentally retarded, or institution for mental disease that are authorized for the individual by a physician in accordance with a plan of treatment, and are provided by an individual who is qualified to provide such services and who is not a member of the individual's family; and furnished in a home. [40])

Q: Is the District aware of how the School-Based Medicaid Claiming Program specifically identifies the activities that are considered "personal care" services reimbursable activities? Y___N___
(Mass Health School-Based Medicaid Bulletin 17, issued in April 2009 lists the activities that make up personal care assistance. The Medical Assistance Program also addresses the issue of reimbursable activities and provides guidance to schools as to what personal care services activities are considered reimbursable. 130 C.M.R. 422.402 indicates that "activity time" is defined as "the actual amount of time spent by a PCA [personal care attendant] physically assisting the member [in this case, child with an IEP] with ADLs (Activities of Daily Living) and Instrumental Activities of Daily Living (IADLs)…." 130 C.M.R. 422.410(A) defines ADLs as those

[35] 42 CFR §440.130(d)
[36] Id. Under the contract, Paragraph 1 "Definitions" section, it indicates under the definition of "School- Based Services" that such services are "…MassHealth covered services, as delineated in the Medicaid State Plan." As such, school based services have to be understood in their context of MassHealth covered services, which may define those services with more particularity and with greater requirements than the federal regulation. MassHealth covered services are defined at 130 CMR 401.000 et seq through 130 CMR 485.000 et seq. Nursing, as a MassHealth covered service, is defined at 130 CMR 414.000 et seq. Under "Plan of Care" requirements at 130 CMR 414. 412, a doctor must authorize services. Recall that the User Guide also references 130 CMR 414.404(A) (Appendix 3) as the relevant regulation on qualifications. The definition of "School Based services" in the contract also indicates that the covered services definitions and requirements would also be found in this section of the CMR in regards to nursing.
[37] 130 CMR 414.412(B)
[38] Provider Contract, p. 4, 1.6.A.1.
[39] 244 CMR 3.05(4)
[40] 42 CFR §440.167; Provider Contract, p. 4, 1.6.A.1. The federal regulation also allows for, at the option of the state, a service plan, approved by the state that presumably would not need to be developed by a physician. We can find no such option for this alternative service plan in the MA regulations. The federal regulations also indicate that the setting for personal care can be outside of the home, but this is also at the State's option. We find no support in the MA regulations that personal care may be delivered outside of the home.

activities that "…include the following: (1) Mobility: physically assisting a member who has a mobility impairment that prevents unassisted transferring, walking, or use of prescribed durable medical equipment; (2) Assistance with Medications or other Health-related Needs: physically assisting a member to take medications prescribed by a physician that otherwise would be self-administered; (3) Bathing/Grooming: physically assisting a member with basic care such as bathing, personal hygiene, and grooming skills; (4) Dressing or Undressing: physically assisting a member to dress or undress; (5) Passive Range-of-motion Exercises: physically assisting a member to perform range-of-motion exercises; (6) Eating: physically assisting a member to eat;…[including} assisting with tube-feeding and special nutritional and dietary needs; and (7) Toileting: physically assisting a member with bowel and bladder needs." 130 C.M.R. 422.410(B) defines IADLs as including "… the following: (1) Household Services: physically assisting with household management tasks that are incidental to the care of the member, including laundry, shopping, and housekeeping; (2) Meal Preparation and Clean-up: physically assisting a member to prepare meals; (3) Transportation: accompanying the member to medical providers; and (4) Special Needs: assisting the member with: (a) the care and maintenance of wheelchairs and adaptive devices; (b) completing the paperwork required for receiving personal care services; and (c) other special needs approved by the MassHealth agency as being instrumental to the health care of the member. ")

Q: Is the District aware of how eligibility for personal care is determined for purposes of Medicaid claiming? Y___N___

- (Evaluation[41]- An evaluation team consisting of a registered nurse and an occupational therapist must conduct an initial evaluation, under the supervision of a registered nurse. The evaluation must accurately represent the child's need for physical assistance with ADLs and IADLs. The evaluation team must consider the child's physical and cognitive condition and resulting functional limitations to determine the child's ability to benefit from personal care services.[42]
    - The evaluation must take place in the child's presence and in the child's actual or proposed place of residence in the community, or in other locations as defined by regulation.[43]
    - All evaluations must be completed on the MassHealth evaluation form by either the registered nurse or the occupational therapist who conducted the evaluation.[44]
    - The completed evaluation must be reviewed, approved, and signed by the child, the child's legal guardian, the child's prescribing physician or nurse practitioner (who is responsible for the oversight of the child's health care[45]), and the child's surrogate, if appropriate.[46]
    - The child's disability is permanent or chronic in nature and impairs the child's functional ability to perform ADLs and IADLs without physical assistance.[47]
    - The child, as determined by the personal care agency, requires physical assistance with two or more of the following ADLs[48]
        - Mobility, including transfers;
        - Medications;
        - Bathing/grooming;
        - Dressing or undressing;
        - Range of motion exercises;

[41] 130 CMR 422.411; 130 CMR 422.422(C) and (D). The activity time must be specified in the evaluation as described in the regulation.
[42] 130 CMR 422.422(C)(1)
[43] 130 CMR 422.422(C)(2)
[44] 130 CMR 422.422(C)(3) http://www.mass.gov/eohhs/docs/masshealth/provider-services/forms/pca-evaluation.pdf (last checked 2/1/16)
[45] 130 CMR 422.403(C)(1)
[46] 130 CMR 422.422(C)(3)(a)
[47] 130 CMR 422.403(C)(2)
[48] 130 CMR 422.403(C)(3)

        - Eating; and
        - toileting
    - The completed evaluation must be sent to the MassHealth agency, with documentation to justify the issuance of a prior authorization by the agency.[49]
- The personal care services must be ordered in the child's IEP.[50])

Q: Is the District aware that Personal Care Services have to be authorized by a physician or nurse practitioner? Y___N___
(See footnote[51])
Q: Is the District aware that Personal Care Services have to be prior authorized by Mass Health? Y___N___
(See footnote[52])

Q: Is the District aware of the appropriate setting for personal care services? Y___N___
(The home.[53])

Q: Is the District aware of reimbursable Behavioral Health Therapy activities? Y___N___

- (Clinical Social Work Services- the application of social work theory and specialized clinical knowledge and methods to assess, diagnose, prevent and treat mental, emotional or behavioral disorders, conditions or addictions through the provision of individual, marital, couples, family or group counseling and psychotherapy of a non-medical nature for the purpose of improving, restoring or enhancing the social and/or psychosocial functioning of such individuals, couples, families or groups. Such services include, but are not necessarily limited to, the provision of individual, marital, couples, family or group counseling and psychotherapy services and the performance of related collateral contacts and record-keeping. Clinical social work services expressly excludes the diagnosis of any organic illness or the treatment of any illness by medical or organic therapies.[54]
- Non-Clinical Social Work Services - the application of social work theory, knowledge and methods to improve, restore or enhance the social and/or psychosocial functioning of individuals, couples, families, or groups through the provision of services other than counseling or psychotherapy. Non-clinical social work services include, but are not necessarily limited to, community organization; program planning and development; administration of community services or programs; assessment of client needs for non-clinical community programs or services; formulation of plans for the delivery of community services based on client needs; coordination and/or evaluation of service delivery; advocacy on behalf of persons or groups with unmet service needs; and provision of training about community needs and problems.[55]
- Psychiatric Services-

[49] 130 CMR 422.422(C)(3)(b); 130 CMR 422.403(C) (4)
[50] MassHealth School-Based Medicaid Bulletin 17, p. 5
[51] School-Based Medicaid Program User Guide, p. 3, 4; MassHealth School-Based Medicaid Bulletin 17;130 CMR 422.422(c)(4)(e)
[52] 130 CMR 422.403(C)(4)
[53] 130 CMR 422.403(C). Under the contract, Paragraph 1 "Definitions" section, it indicates under the definition of "School- Based Services" that such services are "…MassHealth covered services, as delineated in the Medicaid State Plan." As such, school based services have to be understood in their context of MassHealth covered services, which may define those services with more particularity and with greater requirements than the federal regulation. MassHealth covered services are defined at 130 CMR 401.000 et seq through 130 CMR 485.000 et seq. Personal Care, as a MassHealth covered service, is defined at 130 CMR 422.000 et seq. 130 CMR 422.403(C) indicates that the services must be provided in the home.
[54] 258 C.M.R. 8.05
[55] Id.

- The examination and determination of a patient's physical, psychological, social, economic, educational, and vocational assets and disabilities for the purpose of designing a treatment plan. This service includes an initial medication evaluation.[56]
- A combination of diagnostics; individual, couple, family, and group therapy; consultation.[57]
- Prescription, review, and monitoring of medication. [58]
- Immediate mental health evaluation, diagnosis, hospital prescreening, treatment, and arrangements for further care and assistance as required, provided during all hours to members showing sudden, incapacitating emotional stress.[59]

- Psychological Services)

Q: Is the District aware of who is qualified to provide services for individuals with behavioral health (mental health and substance abuse) disorders? Y___N___

(

- Counselors- All counselors and unlicensed staff must be under the direct and continuous supervision of a fully qualified professional Psychiatrist, Psychologist, Social Worker or Psychiatric Nurse. All counselors must hold a master's degree in counseling education, counseling psychology, or rehabilitation counseling from an accredited educational institution and must have had two years of full-time supervised clinical experience in a multidisciplinary mental health setting subsequent to obtaining the master's degree. (One year of supervised clinical work in an organized graduate internship program may be substituted for each year of full-time experience) Any Counselor who provides individual, group or family therapy to children under the age of 21 must be certified every two years to administer the CANS, according to the process established by the Executive Office of Health and Human Services [60]

- Psychiatrists- At least one staff psychiatrist must either currently be certified by the American Board of Psychiatry and Neurology, or the American Osteopathic Board of Neurology and Psychiatry, or be eligible and applying for such certification. Any additional psychiatrists must be, at the minimum, licensed physicians in their second year of a psychiatric residency program accredited by the Council on Medical Education of the American Medical Association. Such physicians must be under the direct supervision of a fully qualified psychiatrist. Any Psychiatrist who provides individual, group or family therapy to children under the age of 21 must be certified every two years to administer the CANS, according to the process established by the Executive Office of Health and Human Services. [61]
- Psychologists- At least one staff psychologist must be licensed by the Massachusetts Board of Registration of Psychologists with a specialization listed in clinical or counseling psychology or a closely related specialty. Additional staff members trained in the field of clinical or counseling psychology or a closely related specialty must:
  - have a minimum of a master's degree or the equivalent graduate study in clinical or counseling psychology or a closely related specialty from an accredited educational institution;
  - be currently enrolled in or have completed a doctoral program in clinical or counseling psychology or a closely related specialty; and

[56] 130 C.M.R. 433.429(D)
[57] 130 C.M.R. 433.429(F), (G)
[58] 130 C.M.R. 433.429(H)
[59] 130 C.M.R. 433.429(K)
[60] 130 C.M.R. 429.424(F)(1), (2), (3) Bulletin 19 indicates that the certification to administer the CANS is not required. This seems to be in conflict with the published regulation.
[61] 130 C.M.R. 429.424(A)(1), (2), (3) Bulletin 19 indicates that the certification to administer the CANS is not required. This seems to be in conflict with the published regulation.

- have had two years of full-time supervised clinical experience subsequent to obtaining a master's degree in a multidisciplinary mental health setting. (One year of supervised clinical work in an organized graduate internship program may be substituted for each year of experience.) All services provided by such additional staff members must be under the direct and continuing supervision of a psychologist meeting the requirements set forth above. Any Psychologist who provides individual, group or family therapy to children under the age of 21 must be certified every two years to administer the CANS, according to the process established by the Executive Office of Health and Human Services. [62]

- Social Workers- At least one staff social worker must have received a master's degree in social work from an accredited educational institution and must have had at least two years of full-time supervised clinical experience subsequent to obtaining a master's degree. This social worker must also be licensed or have applied for and have a license pending as an independent clinical social worker by the Massachusetts Board of Registration of Social Workers. Any additional social workers on the staff must provide services under the direct and continuous supervision of an independent clinical social worker. Such additional social workers must be licensed or applying for licensure as certified social workers by the Massachusetts Board of Registration of Social Workers and have received a master's degree in social work and completed two years of full-time supervised clinical work in an organized graduate internship program. Any Social Worker who provides individual, group or family therapy to children under the age of 21 must be certified every two years to administer the CANS, according to the process established by the Executive Office of Health and Human Services. [63])

Q: Is the District aware of the definition of the "CANS?" Y___N___

(Child and Adolescent Needs and Strengths [CANS]) - a tool that provides a standardized way to organize information gathered during behavioral-health clinical assessments. A Massachusetts version of the tool has been developed and is intended to be used as a treatment decision support tool for behavioral-health providers serving MassHealth children under the age of 21.[64] While the regulations seem to require the CANS certification requirement, MassHealth School-Based Medicaid Bulletin 19 of October 2010 indicates that the CANS certification is not required for individuals providing services through the School-Based Medicaid Program. It is likely that in the event of a federal audit, the published regulations would control in this area of potential conflict.)

Q: Is the District aware of, when ordered in a child's IEP, reimbursable Autism Services? Y___N___

(The design, implementation and evaluation of systematic instructional and environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvements in human behavior, including the direct observation and measurement of behavior and the environment, the empirical identification of functional relations between behavior and environmental factors, known as functional assessment and analysis, and the introduction of interventions based on scientific research and which utilize contextual factors, antecedent stimuli, positive reinforcement and other consequences to develop new behaviors, increase or decrease existing behaviors and elicit behaviors under specific environmental conditions that are delivered to individuals and groups of individuals; provided, however that the "practice of applied behavioral analysis" shall

[62] 130 C.M.R. 429.424(B)(1), (2), (3) Bulletin 19 indicates that the certification to administer the CANS is not required. This seems to be in conflict with the published regulation.
[63] 130 C.M.R. 429.424(C)(1), (2), (3) Bulletin 19 indicates that the certification to administer the CANS is not required. This seems to be in conflict with the published regulation.
[64] 130 CMR 429.402 CANS forms: http://www.mass.gov/eohhs/docs/masshealth/cbhi/cans-sed-determination-birth-through-4.pdf ; http://www.mass.gov/eohhs/docs/masshealth/cbhi/cans-sed-determination-5-through-20.pdf; last viewed 1/21/16

not include psychological testing, neuropsychology, diagnosis of mental health or developmental conditions, psychotherapy, cognitive therapy, sex therapy, psychoanalysis, psychopharmacological recommendations, hypnotherapy or academic teaching by college or university faculty.[65] Specific covered services are:

- Discreet Trial Training/Teaching (DTT)
- Early Intensive Behavioral Intervention (EIBI)
- Pivotal Response Training/Treatment (PRT)
- Verbal Behavior Intervention/Therapy (VB or VBI)
- Functional Behavioral Assessment (FBA)
- Early Start Denver Model (ESDM)[66])

Q: Is the District aware of who is qualified to deliver Autism Services? Y___N___

(For autism services, the practitioner is required to be licensed by the Board of Registration of Allied Mental Health and Human Services Professions as an Applied Behavior Analyst(ABA), or if prior to January 6, 2016, may be a Board Certified Behavior Analyst (BCBA). In addition, services may be reimbursed if provided by a licensed physician, psychologist, or psychiatrist providing ABA within the scope of his or her licensure; or an Assistant Applied Behavior Analyst (AABA) or other paraprofessional working under the supervision of a licensed ABA. If prior to January 6, 2016, AABA or paraprofessionals may be working under the supervision of a BCBA.[67] **For services delivered prior to January 16, 2016,** A Board Certified Behavior Analyst (BCBA) must be certified by the Behavioral Analyst Certification Board (BACB) based in Littleton, CO, or a Board Certified Assistant Behavior Analyst (BCaBA) certified by the BACB. [68] As set forth above, services provided by practitioners holding an AABA license and other non-licensed ABA providers must be supervised by a licensed ABA or other licensed professional providing ABA services within the scope of their licensure, or, if prior to January 6, 2016, may be supervised by a BCBA, in order for the service to be reimbursable.[69])

Q: Is the District aware that Autism Services need to be "referred?" Y___N___

(While Bulletin 29 does not specifically address this issue, we think it is prudent to obtain a referral signed by a licensed practitioner of the healing arts operating within scope of practice for Autism Services)

Q: **Is the District aware of other documentation is required for Autism Services? Y___N___**

- (Autism Services qualified providers must prescribe such services in the student's Service Delivery Needs section in the IEP
- If the ABA Therapy is not yet specified in the IEP but the student has a diagnosis of autism in the IEP, claims may be submitted **provided, however,** that by January 6, 2016, the ABA therapy must be included in the Service Delivery Needs section of the IEP. In this situation, supplementary documentation sources specifying the ABA services being provided is required to include:

[65] E-mail from UMASS to school districts, August 12, 2015; Bulletin 29, September, 2015
[66] Bulletin 29, September, 2015
[67] Id.
[68] E-mail from UMASS to school districts, August 12, 2015
[69] Bulletin 29, September, 2015

- type of personnel providing the ABA therapy and
- the duration/frequency of such therapy. The documentation should match the ABA services that will be included with the IEP amendment.

- Relative to service delivery logs, consistent with Bulletin 9, providers must maintain documentation of service delivery like any other covered service, but must also ensure that the log contains the child's name, **the type of ABA therapy**, the date of service and the length of time that the ABA therapy was provided.[70])

Q: When ordered in a child's IEP, is the District aware of what are reimbursable diagnostic, screening, preventative and rehabilitative services? Y___N___

(**"**Diagnostic services" include any medical procedures or supplies recommended by a physician or other licensed practitioner of the healing arts, within the scope of his practice under State law, to enable him to identify the existence, nature, or extent of illness, injury, or other health deviation in a beneficiary.[71]

"Screening services" means the use of standardized tests given under medical direction in the mass examination of a designated population to detect the existence of one or more particular diseases or health deviations or to identify for more definitive studies individuals suspected of having certain diseases.[72]

"Preventive services" means services provided by a physician or other licensed practitioner of the healing arts within the scope of his practice under State law to prevent disease, disability, and other health conditions or their progression; prolong life; and promote physical and mental health and efficiency.[73]

"Rehabilitative services" include any medical or remedial services recommended by a physician or other licensed practitioner of the healing arts, within the scope of his practice under State law, for maximum reduction of physical or mental disability and restoration of a beneficiary to his best possible functional level. [74]**)**

Q: Is the District aware of what are reimbursable Assessments? Y___N___

(Assessments, ordered in a child's IEP, as necessary to assess or reassess the need for medical services in a child's treatment plan (IEP) and performed by licensed practitioners of the healing arts within the scope of practice who are qualified to deliver other covered direct services.[75])

Q: Is the District aware of **the Administrative Activities that may be eligible for Medicaid reimbursement when provided by school personnel? Y___N___**

(Medicaid outreach; facilitating/assisting in the MassHealth application process; provider networking/program planning/interagency coordination; individual care planning, monitoring, coordination and referral; arrangement of transportation and translation related to Medicaid services.[76])

[70] Id.
[71] 42 CFR §440.130(a)
[72] 42 CFR §440.130(b)
[73] 42 CFR §440.130(c)
[74] 42 CFR §440.130(d)
[75] Provider Contract, p. 4, 1.6.A.1.
[76] Provider Contract, p. 4, 1.6.B.

Q: In the context of administrative claiming, does the District understand what is "Medicaid outreach"? Y___N___

(Informing eligible or potentially eligible individuals about MassHealth and how to access it. This may include brining potentially eligible individuals into the MassHealth system for the purpose of determining eligibility and arranging for the provision of MassHealth services. It may also include coordinating, conducting, or participating in training events and seminars for outreach staff regarding the benefit of the MassHealth program, and how to assist families in how to access MassHealth services, and how to more effectively refer students for services.[77])

Q: In the context of administrative claiming, does the District understand what is "provider networking/program planning/ interagency coordination?" Y___N___

(Assisting in developing strategies to improve the coordination and delivery of MassHealth covered services to school-age children, including collaborative activities with other agencies. [78])

Q: Does the District understand that **reimbursement for direct services is based on actual incurred costs of the school district? Y___N___**

(See footnote).[79]

Q: Does the District understand what it must do to receive payment for direct services? Y___N___

- (unless otherwise directed by EOHHS, submit all interim claims for direct per-unit-services provided to Medicaid-eligible students with an IEP;
- submit actual costs using the Massachusetts School-Based Direct Services Cost Report on an annual basis and in accordance with timelines issued by MassHealth;
- submit actual costs using the Massachusetts School-Based Direct Services Cost Report in accordance with the Instruction Guide for the Massachusetts School-Based Direct Services Cost Report, issued by MassHealth; and
- participate in the Massachusetts Statewide Random Moment Time Study (RMTS), including:
    - designating a single RMTS contact by providing the name, phone number, fax number and email address for this RMTS contact to EOHHS or its designee;
    - providing information as requested to EOHHS or its designee related to potential RMTS participants;
    - ensuring that RMTS participants who are engaged in Direct Services Claiming activities on behalf of the Provider have completed the online RMTS training; and
    - ensuring an RMTS response rate of participants who are engaged in Direct Service Claiming activities on behalf of the Provider at a minimum of 85%[80].)

Q: Does the District understand that there will there be an annual reconciliation between the direct services interim rates as the certified costs on the school district's cost report? Y___N___

(If EOHHS determines that an underpayment has been made, the difference between the value of the Interim Rate and the value of the certified costs on the Massachusetts School-Based Direct Services Cost Report will be

[77] Provider Contract, p. 5, 1.6.B.1.
[78] Provider Contract, p. 5, 1.6.B.3.
[79] Provider Contract, p. 5, 1.7.A.1.
[80] Provider Contract, p. 5, 6 1.7.A.1.

paid to the school district. If EOHHS determines that an overpayment has been made, EOHHS will recoup the amount of the overpayment from the provider.[81])

Q: Does the District understand that there is there a minimum participation rate for RMTS? Y___N___

(Participation is crucial to the accuracy of the RMTS results. A statewide compliance rate of 85% per RMTS pool per quarter has been set by CMS. If the statewide participation rate is not met, a statewide penalty will be applied. The penalty is that non-reimbursable time will be added to the time-study results for all non-responses. This will negatively impact federal reimbursement for both Administrative Activity Claiming (AAC) and Direct Service Claiming (DSC) statewide. Throughout the quarter, UMMS will monitor compliance across the state. However, the RMTS manager designee for each provider is also required to monitor compliance for his/her time-study participants.

Every provider whose response rate is lower than 85% in either RMTS pool in a given quarter will receive a notification letter. If the statewide response rate for either RMTS pool does not reach 85% in a given quarter, providers who received a notification letter within the last two years and whose response rate was lower than 85% in that quarter will be unable to claim reimbursement for that quarter. The Executive Office of Health and Human Services reserves the right to grant exceptions to this rule on claiming prohibitions for individual providers in instances of extreme unforeseen circumstances, such as a natural disaster, on a case-by-case basis.[82])

Q: Does the District understand that **reimbursement for Administrative Activities based on actual incurred costs of the school district? Y___N___**

(Actual incurred costs will be captured annually on the "Massachusetts School-Based Administrative Activities Cost Report" in accordance with the "Instruction Guide for the Massachusetts School-Based Administrative Activities Cost Report," issued by Mass Health.[83])

Q: Is the District aware that **for Administrative Activities Claiming, the practitioners who are providing administrative activities have to participate in the Massachusetts Statewide Random Moment Time Study (RMTS)? Y___N___**

(The school district must ensure a RMTS response rate of practitioners who are engaged in administrative activities claiming activities on behalf of the district at a minimum of 85%.[84])

Q: Has the District appointed a single RMTS contact and provide to EOHHS that person's name, phone number, fax number and email address to coordinate RMTS participation in both the direct services and administrative activities claiming context? Y___N___

(See footnote[85])

Q: Is the District aware of **when the cost reports for Direct Services are due to EOHHS? Y___N___**

(By December 31 of each year.[86])

Q: Is the District Aware of **when are AAC cost reports due? Y___N___**

[81] Provider Contract, p. 6, 1.7.A.2.b.3
[82] Instruction Guide for Statewide Random Moment Time Study, July 2015, p. 24
[83] Provider Contract, p. 6, 1.7.B.
[84] Provider Contract, p. 7, 1.7.B.3.d
[85] Provider Contract, p. 5, 1.7A.1.d.1; p. 7, 1.7.B.3.a
[86] Provider Contract, p. 8, 1.8.A.1.

(By October 15 following the end of the previous fiscal year (June 30).[87])

Q: Is the District aware that the costs reported in the Direct Services Cost Report and the Administrative Activities Cost Report must comply with OMB Circular A-87 as codified at 2 CFR §225? Y___N___

(See footnote[88])

Q: Is the District aware that it has to notify EOHHS in writing within 14 days of any changes to information contained in the provider applications, its disclosure statement, the provider contract and any attachments to those documents as well as identification of persons convicted of crimes pursuant to 42 CFR §455, Subpart B? Y___N___

(See footnote[89])

Q: Is the District aware that it has to comply with all billing and claims requirements set forth in the contract as well as all provider bulletins, billing instructions, other MassHealth publications and issuances as well as with all applicable laws? Y___N___

(See footnote[90])

Q: Is the District aware that it has to accurately represent to EOHHS that none of its agents or managing employees have been convicted of any criminal offense as defined in the contract? Y___N___

(See footnote[91])

Q: Is the District aware that it is prohibited from having an employment, consulting or other agreement for the provision of items and services that are significant and material to the school district's obligations under the Contract with any person, or affiliate of such person, who is debarred, suspended or otherwise excluded under federal law, regulation, executive order or guidelines? Y___N___

(See footnote[92] In addition, any person who is an employee, consultant, or has a contract with the Provider shall not have any direct or indirect financial interest with such entity; and not have been directly excluded from participation in the program under Titles XVIII or XIX of the Social Security Act, or debarred by any federal agency, or subject to a civil monetary penalty under the Social Security Act.[93])

Q: Is the District aware of its disclosure obligations under the contract? Y___N___

- **(The school district shall immediately disclose to EOHHS any non-compliance by the school district with any provision of this Contract, or any state or federal law or regulation governing the Contract.[94] The Provider shall make the following federally required disclosures in the form and format and in the timeframes specified in Appendix A of the Contract and as requested by EOHHS:[95]**
  - **42 CFR § 455.100-106**
  - **42 CFR 455.436**

[87] Provider Contract, p. 8, 1.8.B.1.
[88] Provider Contract, p. 8, 1.8.A.2.; 1.8.B.2.
[89] Provider Contract, p. 9, 10 1.10.A.
[90] Provider Contract, p. 10, 1.10.B.
[91] Provider Contract, p. 10, 1.10.F.
[92] Provider Contract, p. 11, 1.10.H.
[93] Id.
[94] Provider Contract, p. 11, 1.10.I.1.
[95] Provider Contract, p. 11, 1.10.I.2.

- **42 CFR § 1002.3**
- **42 U.S.C. §1396b (m)(4)(A)[96])**

Q: Is the District aware that it must search the U.S. Department of Health and Human Services Office of the Inspector General's List of Excluded Individuals/Entities (LEIE) and the General Services Administration's Excluded Persons List System (EPLS) for the names of practitioners or managing employees of the school district at least monthly to ensure that EOHHS does not pay for services provided by excluded persons or entities? Y___N___

(See footnote[97])

[96] These required disclosures seem to be addressed in Appendix A to the contract as discussed at Provider Contract p. 11, 1.10.I.4.
[97] Provider Contract, p. 11, 12, 1.10.I.5.