



Bureau of TennCare

Policy Manual

Policy No: CON 07-003 (rev. 1)

Subject: MCCs' Responsibilities to Provide Services to TennCare Children Receiving Special Education Services

Approved by:

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Date: 7/22/2009

PURPOSE:

The purpose of this policy is to clarify the responsibilities of the MCCs when TennCare children who have been identified under the Individuals with Disabilities Education Act (IDEA) have service needs that are identified as "related services" in their Individual Education Plans (IEPs). This policy supersedes TSOP #019.

POLICY:

There are certain circumstances in which MCCs may have an obligation to cover "related services" identified in the IEPs of TennCare children whose educational services fall under the IDEA. These services must be otherwise coverable under TennCare (including meeting medical necessity criteria), and they must be delivered by appropriately qualified and enrolled providers. The MCC may require that the usual managed care principles be followed.

DISCUSSION:

The IDEA (Individuals with Disabilities Education Act) requires that school systems identify children with handicapping conditions and provide services to them through Individual Education Plans (IEPs). IEPs include statements of both the educational services to be provided to the child and any "related services" to be provided, meaning services necessary to assist the child in benefiting from his educational services. Examples of "related services" may include such things as physical therapy to help the child maintain mobility during the school day; eyeglasses to help his vision; and psychological services to address behavior problems that are interfering with his ability to learn.

“Medical services” other than diagnostic and evaluation services, however, are specifically **excluded** as related services, since “medical services” are defined by IDEA as services that must be provided by a physician.

Two court cases have clarified what is and what is not a “related service.” *Irving Independent School District v. Tatro (1984)* established three “bright lines” for use in determining whether a service could be considered a “related service” under IDEA or not. These “bright lines” are as follows:

- The child with a disability must qualify under IDEA for special education,
- The service must be necessary to aid the child with a disability to benefit from special education, and
- The service must be able to be provided by a qualified person other than a physician.

Cedar Rapids Community School District v. Garret F. (1999) affirmed this finding, stating that supportive services that can be provided by a nurse or a qualified layperson cannot be excluded from the definition of “related services” if they are needed in order for an IDEA child to attend school.

Related services are reimbursed by school systems under the IDEA. However, Medicaid may have some responsibilities when an IDEA child is enrolled in Medicaid, or in Tennessee’s case, TennCare. When a “related service” is a service that is otherwise coverable by TennCare (i.e., it is a covered service and it is medically necessary), then the MCCs have an obligation to cover these services upon request, subject to the usual requirements.

The MCCs are not required to pay school systems as providers, although they may do so if they choose and if the school system meets provider qualifications. Additionally, the MCC may require that children use MCC providers for provision of services. “Related services” do not have to be delivered on-site at the school.

As an example, a child’s IEP could indicate that he needs psychological counseling, which would ordinarily be covered by the MCC. If the psychological counseling services are found to be medically necessary, the MCC can arrange to have the services delivered at and by a Community Mental Health Agency; the MCC would also be responsible for furnishing transportation to and from the Community Mental Health Agency if the child lacked transportation resources. In addition, the MCC would assure coordination of care for the behavioral health services the child is receiving.

John B. provisions

There are special provisions in *John B.* regarding the provision of Medicaid-covered services for IDEA children. Paragraph 81 requires that there be a process to provide information to MCOs when children have been identified as needing to receive related services in a school setting, with the purpose of this process being to facilitate coordination by the MCO of EPSDT services. (Services are typically coordinated by the Primary Care Provider, or PCP, in the MCO, rather than by a provider in another MCC.)

Since parents are not obligated to provide information to school systems about their child’s TennCare coverage, the state has developed a release form that LEAs may consider using with parents at the IEP meeting. A copy of that form is provided with this

policy. MCOs shall accept the IEP indication of a medical problem or shall have the child appropriately tested. Coordination by the MCO should be calculated to reduce gaps and overlaps in services.

DEFINITIONS

1. IDEA. Individuals with Disabilities Education Act. The federal law that outlines the provisions for providing special education services to children who have been identified as having handicapping conditions. See US Code Title 20, Chapter 33.
2. IEP. Individual Education Plan. The plan of services that the child is to receive under IDEA.
3. LEA. Local Education Agency or the school system.
4. Related services. Services which are needed to assist a child in benefiting from his special education services and which can be delivered by a professional other than a physician. See 20 USC § 1401(26).

OFFICES OF PRIMARY RESPONSIBILITY

TennCare Office of Managed Care Networks
TennCare Medical Director's Office
TennCare Member Services Office
TennCare Policy Office

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Reviewed: No revisions required: 07/29/08: SB
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Reviewed: No revisions required: 07/28/10: SB
Reviewed: Definitions updated. 07/22/11: SB

TennCare

RELEASE OF INFORMATION FOR INDIVIDUALIZED EDUCATION PROGRAM (IEP)

Please be advised that permission is given for
to release information concerning:

_____ Name of School

_____ Full Name of Child

_____ Social Security Number

I know that the information shared will be this child's IEP. The IEP will be shared with the child's TennCare plan and his/her doctor. I know that this form also lets the TennCare plan share information with the school. This information is private and will be given only to people who work with this child.

_____ Parent / Guardian Signature

_____ Date

_____ Witness Signature

_____ Date