

# **Pennsylvania School Based ACCESS Program (SBAP) Regional Training: Building Blocks to a Successful Program Medicaid Service Delivery and Claim Submission**

## **Presentation Developed for Fall Regional Trainings by:**

Pennsylvania Department of Public Welfare (DPW), Bureau of Program Integrity (BPI)

## **INTRODUCTION**

This training is presented as a collaborative effort between the Pennsylvania Department of Education (PDE), Leader Services, and the DPW Office of Medical Assistance (MA) Programs' Bureau of Policy, Budget, and Planning (BPBP) and BPI.

The purpose of BPI's presentation is to:

- Identify some Medicaid regulatory requirements regarding SBAP services;
- Share some frequently found violations of Medicaid requirements;
- Provide some helpful hints regarding compliance.

Many violations, problems, and issues are preventable through:

- An understanding of the regulatory requirements;
- An internal compliance program;
- A healthy approach to compliance and self monitoring activities.

## **I. BUILDING BLOCK: UNDERSTAND SOME BASIC MEDICAID TERMINOLOGY**

**Medicaid:** Federal program administered by the Centers for Medicare & Medicaid Services (CMS) that pays certain medical costs for persons with disabilities and/or limited income and resources. Each State's Medicaid program is administered in accordance with a State plan approved by CMS. The Federal Government and States share the cost of the program.

**Pennsylvania Medical Assistance (MA) Program:** State Medicaid program for low-income families, elderly persons and persons with disabilities administered by DPW under a State plan approved by CMS.

**Enroll:** Become eligible to participate in the MA Program by completing the application, entering into a provider agreement with DPW.

**Provider:** Individual or facility that signs an agreement with DPW to participate in the MA program. ***Schools are MA providers (type 35, specialty 350).***

**Provider Agreement:** Contract with DPW; provider agrees to comply with all federal and state laws governing participation in the MA Program and submit accurate claims. ***Schools sign provider agreements.***

**Submit a Claim:** Claims for SBAP services are paid for by ***federal Medicaid*** money. Leader Services submits claims in behalf of schools but ***schools are responsible and held accountable for the accuracy of claims.***

**Abuse:** Claims for services that aren't consistent with Medicaid and MA regulations, requirements, and other instructions; or are medically unnecessary; or are inappropriate to recipients' health needs; or are not within customary standards of practice.

**Fraud:** Claims for prohibited acts found in MA regulations 55 Pa. Code § 1101.75. Considered criminal acts associated with knowingly or intentionally submitting false claims for payment. A provider or person who commits a prohibited act is referred to the Office of the Attorney General (**OAG**), Medicaid Fraud Control Section (**MFCS**) and subject to criminal penalties.

## II. BUILDING BLOCK: UNDERSTAND SOME ROLES OF MEDICAID OVERSIGHT AGENCIES

**BPI**: State Bureau within DPW federally mandated to: prevent, identify, and combat fraud, waste, and abuse within the MA Program; monitor providers' compliance with Medicaid regulations and requirements; ensure that MA recipients receive quality care and do not abuse their benefits; impose administrative sanctions. BPI takes **administrative** actions: recovers improperly paid funds; requests self audits, corrective action plans, and internal compliance programs; refers to MFCS, federal agencies, and licensing agencies; and terminates a provider's agreement and precludes their participation in the MA Program.

**MFCS**: State **criminal** investigatory agency in the OAG that: investigates and prosecutes fraud by providers and persons and files felony and misdemeanor charges. Examples of Medicaid fraud include but are not limited to billing for: services that were not rendered; individual services when group services were provided; individual services for each group member; giving or accepting something of value in return for providing services.

**Office of the Inspector General (OIG)**: Federal agency whose statutory mission is to protect the integrity of the Department of Health and Human Services (HHS) programs, as well as the health and welfare of beneficiaries served by those programs. This mission is implemented through nationwide audits, investigations, and inspections.

### III. BUILDING BLOCK: IDENTIFY MEDICAID REGULATIONS AND SBAP REQUIREMENTS

There are many regulations, rules, and requirements from various agencies. Everyone must understand and correctly implement all of them. Oversight agencies conduct compliance reviews for their specific regulatory standards; Medicaid regulations differ from Education regulations. ***Compliance with one set of regulations does not necessarily constitute compliance with another.*** The following are applicable to the SBAP:

#### MA Regulations: 55 Pa. Code §1101 (General Provisions)

- Applies to all enrolled providers;
- Based on state and federal law;
- ***SBAP providers are responsible for compliance with 55 Pa. Code §1101***
- Available in the SBAP manual and through DPW on line @ <http://www.pacode.com/secure/data/055/chapter1101/chap1101toc.html>

#### MA Bulletins: Some bulletins are potentially applicable to SBAP providers:

- DPW issues bulletins to provide information and/or set forth requirements;
- Bulletins identify the provider type in the first 2 digits of the bulletin's number;
- DPW has not issued any bulletins with SBAP provider type "35" to date;
- Bulletins applicable to all providers have "99" as the first 2 digits;
- ***Some "99" bulletins are potentially applicable to SBAP providers;***
- Leader services receives bulletins in behalf of SBAP providers;
- ***SBAP providers are responsible for compliance with applicable bulletins;***
- Bulletins are available through DPW on line @ <http://www.dpw.state.pa.us/PubsFormsReports/NewslettersBulletins/003673169.aspx>

#### SBAP Manual: The manual is a reference for SPAP providers:

- Provides requirements, instructions, and other information;
- Contains some requirements found in 55 Pa. Code §1101 but is not all inclusive;
- ***SBAP providers are responsible for compliance with the SBAP manual;***
- Manual is available through Leader Services on line @ <http://www.leaderservices.com/services/pa/manual.aspx>

#### **IV. BUILDING BLOCK: BECOME FAMILIAR WITH SOME KEY MA PROGRAM REGULATIONS**

##### **Prohibited Acts: 55 Pa. Code §1101.75**

- Violations of these regulations are generally the most serious;
- Considered criminal acts;
- Subject MFCS investigation and penalties;
- Also subject to enforcement actions by DPW and restitution.

##### **Record Keeping Requirements: 55 Pa. Code §1101. 51(e), (e)(1)(i-x):**

- Records must comply with **§ 1101.51(e)** including but not limited to:
  - Must be maintained for 4 years;
  - Must **fully disclose** the nature and extent of the services rendered;
  - Must be readily available for review or copying by state/federal officials;
  - Readily available means that records must be available at the provider's place of business or, upon written request, forwarded without charge to DPW
- Records must comply with **§ 1101.51(e)(1)(i-x)** including but not limited to:
  - Must be legible; (anyone can read them without difficulty);
  - Notes by ancillary personnel must be countersigned; (**example, PCA**)
  - Alterations of the record must be signed and dated;
  - Treatments and the treatment plans must be in the record; (**example, IEP**)
  - Must document the progress at each visit, change in diagnosis, change in treatment and response to treatment;
  - Must contain results/interpretations/reports of tests and consultations (**example psychological testing, other reports**);
  - Must contain documentation of the medical necessity of a rendered, ordered or prescribed service

## **V. BUILDING BLOCK: IDENTIFY AND PREVENT SOME FREQUENTLY NOTED MEDICAID VIOLATIONS**

The following are some examples of frequently noted violations of Medicaid/MA regulations identified through BPI reviews and self disclosures; the violation examples are not all inclusive. Although it is a composite, these findings have been identified in many reviews. These violations are subject to restitution and other BPI administrative actions; some violations may also prompt referrals to other agencies. Included with the violations are a few suggestions to assist SBAP providers to proactively prevent these violations from occurring.

### **1. Violation: Services not rendered**

#### **Examples:**

- Claims for students that are absent;
- Claims for dates when school is not in session;
- Claims for special transport when it was not provided on the dates billed;
- Claims for other services not provided on the dates billed;
- Claims that included more units of service than provided.

#### **Pro Active Compliance Hints:**

- Check absentee/transportation logs before claim submission;
- Compare documentation with billing forms before claim submission;
- Confirm that the amount and duration of service in IEPs and practitioner's authorizations/prescriptions correlates with services/hours claimed by employees;
- If employee works with multiple students, compare employee's students' records with hours submitted to determine overlapping times, and/or an excessive # of hours claimed in one day;
- Spot check that employees are where they are scheduled to be;
- Don't offer employees something of value for service delivery;
- Ensure that staff are informed not to create documentation or billing logs in anticipation of rendering a service on a certain date;
- Reconcile transportation reports from Leader with services billed.

### **2. Violation: More expensive service billed than rendered**

#### **Example:**

- Claims for individual services; group services rendered.

#### **Pro Active Compliance Hints:**

- Require submission of documentation with billing forms before claim submission;
- Compare documentation with billing forms;
- Confirm that the service to be billed is the service that is documented as rendered.

### 3. **Violation: Unqualified staff**

#### **Examples:**

- Claims for PCA services when staff did not possess the required CPR and/or first aid certification for the dates billed (for example, CPR certification lapsed 3/1 – 5/31; services attributed to the PCA billed 3/1-5/31);
- Claims for services provided by staff whose licenses were invalid (for example, speech therapist license expired effective 3/1; speech therapy attributed to the therapist billed 3/1-6/30);
- Claims for services authorized by practitioner's with invalid licenses (for example; physician's license expired effective 3/1 but physician continued to authorize/prescribe SBAP services; claims attributed to physician's authorizations/prescriptions billed 3/1-6/30);
- Claims for social work services provided by non-licensed individual contrary to the requirement that either a Licensed Social Worker or a Licensed Professional Counselor provide the services.

#### **Pro Active Compliance Hints:**

- Develop a process to ensure that all staff (including contracted and interim staff) have certifications/licenses, etc that are current and cover the service dates;
- Require proof of certifications/licenses, etc prior to hire;
- Validate license status through the Department of State @ [www.mylicense.state.pa.us](http://www.mylicense.state.pa.us)
- Check the status of certifications/licenses, etc periodically throughout the year as the status can change

### 4. **Violation: Unsupervised services**

#### **Examples:**

- Claims for services documented as provided by personnel requiring supervision; the documentation/professional services logs did not include the required supervisory signature;
- PCA services billed; no supervisory signature on documentation

#### **Pro Active Compliance Hints:**

- Require submission of documentation with billing forms before claim submission;
- Compare documentation with billing forms;
- Confirm that there is a supervisory signature on all PCA documentation and on other therapies as required before submitting a claim.

**5. Violation: Service not identified in the IEP**

**Examples:**

- Transportation services not identified/recommended in the IEP
- PCA services not identified/recommended in the IEP

**Pro Active Compliance Hints:**

- Health related services billed to Medicaid must be specifically identified in the IEP;
- Before submitting a claim confirm that the service is identified in the IEP as a health related service;
- If the student's health related needs change, do not submit a claim for a new health related service, or for a previously identified health related service for which something has changed, (for example speech changed from group to individual or from 30 minutes/week to 60 minutes) until an updated IEP reflecting the change is completed.

**6. Violation: Dates of service not covered by IEP**

**Examples:** Previous IEP covers period 9/1/06-6/15/07; new IEP dated 9/9/07; claims submitted for dates 9/2/07 - 9/8/07 aren't covered

**Pro Active Compliance Hints:**

- The IEP must cover all the dates billed;
- Before submitting a claim confirm that the dates are covered by an IEP;
- If there is a lapse between the IEP period covered, claims should not be submitted for the lapsed dates.

**7. Violation: Service not identified on practitioner's authorization or prescription**

**Examples:**

- Claims for transportation services that were not identified on a practitioner's authorization or on a practitioner's prescription;
- Claims for PCA services that were not identified on a practitioner's authorization or on a practitioner's prescription.

**Pro Active Compliance Hints:**

- Health related services billed to Medicaid must be prescribed by a practitioner within their scope of practice, either by a prescription or the SBAP Medical Practitioner Authorization Form;
- Before submitting a claim, confirm that the service is identified on the practitioner's authorization or a prescription and that it covers the dates to be billed;
- If the student's health related needs change, do not submit a claim for a new service, or for a previously identified service for which something has changed, (for example speech changed from group to individual or from 30 minutes/week to 60 minutes) until an updated practitioner authorization or prescription reflecting the change is completed.

**8. Violation: Service frequency or amount exceeds IEP recommendations and/or practitioner's authorization**

**Example:** IEP and practitioner's authorization identify individual speech therapy for 30 minutes/week; 60 minutes/week is billed

**Pro Active Compliance Hints:**

- Before submitting a claim, confirm that the amount and frequency to be billed is the same as identified in the IEP and practitioner's authorization or prescription;
- If the student's needs change, do not submit a claim for a greater amount or frequency of service until an updated IEP and practitioner's authorization or prescription reflecting the change is obtained.

**9. Violation: No documentation for the service and date billed**

**Examples:**

- No service log, or daily progress note, or monthly summary in the record for the services and dates billed;
- No transportation logs in the record for service and dates billed

**Pro Active Compliance Hints:**

- Require submission of documentation with billing forms for review before services are billed;
- Compare documentation with billing forms before submitting a claim.

**10. Violation: Monthly summary fails to fully describe treatment rendered and response to treatment.**

**Examples:**

- PCA services billed 5 days a week for 5 consecutive months. The monthly documentation for each month billed states: Student has shown some improvement in staying on task for the month;
- Occupational Therapy services are billed 2 times a week for month of January. Monthly documentation states, student has demonstrated slight improvement with his coordination skills;
- Daily PCA note for 6 months states "refer to class schedule" as the only documentation.

**Pro Active Compliance Hints:**

- Documentation must give a full picture of the services provided;
- A person who does not know the student should be able to read the notes and understand what treatment was provided, what goals were addressed, what activities occurred, what progress was made;
- At a minimum, daily and/or monthly notes must document:
  - Treatment services performed
  - Activities performed during each treatment episode
  - Description of student's participation and interactions during treatment
  - Staff's interaction and activities with the student

- Student's responses during each treatment or activity
- Student's progress or lack of progress to treatment rendered
- Transportation documentation must include the date of service;
- Supporting documentation for collateral time must be in the records. If collateral time (such as writing a report) is identified on the service log then the record must also contain the report for the date billed.

**11. Violation: Failure to maintain records that were readily available**

**Example:** BPI sends letters to SBAP providers requesting copies of records for review. The letter requests that copies of the complete records for specified recipients for a specified period be submitted to BPI within 30 days. The letter gives examples of what the complete record includes. There have been some issues with timely record submission, incomplete records submitted, and failure to locate any records. These are Medicaid violations subject to restitution and other sanctions.

**Pro Active Compliance Hints:**

- Providers must retain records for 4 years and make them readily available for review by State and Federal officials or their authorized agents;
- Readily available means that records are made available at the provider's place of business or, upon written request, are forwarded in the specified time.
- Records should be filed and maintained so that schools can easily locate them and if requested, provide them to State and Federal officials in the time frame requested.

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## **VI. BUILDING BLOCK: CONSIDER A COMPLIANCE PROGRAM**

A Compliance Program (CP) is an ***ongoing, good faith effort*** to:

- Prevent and detect violations of law or regulations;
- Identify under and over payments;
- Report findings to the applicable sources for resolution

BPI strongly encourages providers to adopt a CP. Benefits include:

- Prevention of violations and their recurrence;
- Avoidance of penalties via proactive audits and disclosures to BPI;
- Prevention and management of errors and system break downs;
- Improvement of operations and quality treatment;
- Presence of a CP can be relevant factor to DPW when considering sanctions.

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### **VII. BUILDING BLOCK: PERFORM PERIODIC SELF AUDITS /SELF MONITORING ACTIVITIES**

Through self monitoring activities, schools can identify instances when Medicaid billing might be inappropriate and hold the billing until their review is completed. If the review reveals that billing would be inappropriate schools have prevented non-compliance. Self audits can also reveal when claims were inappropriately submitted.

Self audit activities include:

- Periodic self - auditing of service delivery and billing;
- Comparison of what was billed with MA recipient (student) records;
- Review of regulations and requirements to ensure that services were rendered and billed correctly.

Some benefits of self audit activities are:

- Identification of overpayments and underpayments;
- Identification of individuals that might be implementing services inappropriately;
- Identification of individuals that might be submitting time inappropriately;
- Schools, not DPW, conduct the review;
- DPW will not seek double damages for self reported inappropriate payments

A few examples of self audit areas are: A school discovers that:

- It billed for services that were not in the IEP and/or not prescribed;
- It billed for undocumented services;
- It billed for services by an employee who was not qualified.

Consider the following prevention and self audit activities:

- At the time of hire, and periodically throughout each year, validate employees' license status through the Department of State @ [www.mylicense.state.pa.us](http://www.mylicense.state.pa.us)
- At the time of hire, and periodically throughout each year, check precluded and excluded status of employees using the State's Medichex list and the Excluded Individuals & Entities (LEIE) list. Lists are found at <http://www.dpw.state.pa.us/PartnersProviders/MedicalAssistance/DoingBusiness/FraudAbuse/003673510.aspx>

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### **VII. BUILDING BLOCK:**

#### **PERFORM PERIODIC SELF AUDITS /SELF MONITORING ACTIVITIES CON'T**

Consider the following prevention and self audit activities:

- Require documentation with billing forms and review before services are billed;
- When an issue is alleged, hold related billing until a self audit is completed;
- Initiate appropriate corrective action if needed;
- Initiate corrective action procedures;
- Audit records previously found to be out of compliance to monitor improvement;
- Report findings of overpayments, fraud or abuse to BPI by:
  - **MA Provider Compliance Hotline: 1-866-DPW-TIPS** (1-866-379-8477)
  - **E Mail:** [omaptips@state.pa.us](mailto:omaptips@state.pa.us)
  - **Fax:** (717) 772-4655 - Attention: MA Provider Compliance Hotline
  - **Electronic Submission:** [MA Provider Compliance Hotline Response Form](#)
  - **Mail:** DPW, BPI, MA Provider Compliance Hotline, P.O. Box 2675; Harrisburg, PA 17105-2675
  - **Phone:** (717) 772-4606

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### **VIII. BUILDING BLOCK:**

#### **UTILIZE PENNSYLVANIA'S MA PROVIDER SELF AUDIT PROTOCOL:**

Pennsylvania's MA Provider Self Audit Protocol can be assessed at:

<http://www.dpw.state.pa.us/PartnersProviders/MedicalAssistance/DoingBusiness/FraudAbuse/003670226.htm>. The Protocol provides a formal mechanism for providers to voluntarily disclose overpayments or improper MA payments:

- Providers have an ethical and legal duty to return inappropriate payments;
- The Protocol provides guidance on the preferred methodology;
- The Protocol encourages all MA providers to implement compliance programs;
- The Protocol encourages all MA providers to conduct periodic self audits;
- The Protocol encourages all MA providers to self disclose

There are benefits to utilizing the Protocol:

- Partnership between DPW and MA providers;
- Serves our common interest to protect the financial integrity of the MA Program;
- DPW will accept reimbursement for inappropriate payments without penalty;
- The provider, not DPW, conducts the review of their records;
- Providers have several options for conducting the self audits

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### **IX. BUILDING BLOCK: IMPLEMENT CORRECTIVE ACTION PLANS (CAP)**

CAPs are:

- Written plans developed to promote and implement improvement goals identified to ensure compliance with regulations governing MA services;
- Requested by BPI as a component of its review when violations are identified (BPI will either accept a provider's CAP, or request revisions).

CAPs should include at a minimum:

- Specific policies and procedures developed to address the issue;
- Specific measures taken or to be taken to ensure compliance;
- Timeline for the measures;
- Date (s) of implementation;
- Responsible person/persons

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### **X. BUILDING BLOCK:**

#### **BE RESPONSIVE TO REQUESTS FROM FEDERAL AUDITORS**

Federal audits are currently underway in Pennsylvania. Two such audits are the Medicaid Payment Error Rate Measurement (PERM) & the Medicaid Integrity Contractor (MIC).

#### **PERM:** CMS developed the PERM program:

- PERM is an ongoing federal audit to measure improper payments;
- All 50 states are measured once every three years;
- CMS contracts with Federal contractors to administer the PERM program;
- SBAP claims have been selected;
- An error will be cited for failure to respond to record requests in the allotted time;
- States must reimburse CMS for errors identified;
- States collect reimbursement from Providers;
- PERM regulations are published at 42 CFR Parts [§431](#) and [§457](#).

**MEDICAID INTEGRITY CONTRACTOR (MIC):** Deficit Reduction Act of 2005 directed CMS to audit Medicaid providers to identify payments for services that were not appropriately provided, documented, or billed:

- MICs are CMS contractors who perform audits in behalf of CMS;
- MICs select the providers to review;
- Schools can be included in MIC audits;
- MICs review records, interview staff, and conduct site visits;
- MICs request records and other documents from providers;
- Failure to respond to record requests in the allotted time is a violation;
- Providers will have an opportunity to respond to audit findings;
- CMS will make the final decision and specify the overpayment;
- States will recover the overpayments from providers.

