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State Name: Virginia

State Plan Amendment (SPA) #: 09-20

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) CMS-179
- 3) Approved SPA Pages

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
150 S. Independence Mall West
Suite 216, The Public Ledger Building
Philadelphia, Pennsylvania 19106-3499



Region III/Division of Medicaid and Children's Health Operations

AUG 19 2010

Gregg A. Pane, MD, MPA
Director
Department of Medical Assistance Services
600 East Broad Street, Suite 1300
Richmond, Virginia 23219

Dear Dr. Pane:

We have reviewed State Plan Amendment (SPA) 09-20, in which you propose to add coverage of early intervention service to children. This SPA, as modified by your email notes dated July 7, 2010, and August 3, 2010, is acceptable. Therefore, we are approving SPA 09-20 with an effective date of October 1, 2009. Enclosed are the approved SPA pages and signed CMS-179 form.

If you have further questions about this SPA, please contact Jake Hubik at (215) 861-4181.

Sincerely,

Ted Gallagher
Associate Regional Administrator

Enclosures

**TRANSMITTAL AND NOTICE OF APPROVAL OF
STATE PLAN MATERIAL
FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES**

1. TRANSMITTAL NUMBER
09 - 20

2. STATE
Virginia

3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)

TO: REGIONAL ADMINISTRATOR
CENTERS FOR MEDICARE & MEDICAID SERVICES
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE
October 1, 2009

5. TYPE OF PLAN MATERIAL (Check One)

- NEW STATE PLAN AMENDMENT TO BE CONSIDERED AS NEW PLAN AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate transmittal for each amendment)

6. FEDERAL STATUTE/REGULATION CITATION

42 CFR Part 431, et seq.

7. FEDERAL BUDGET IMPACT

a. FFY 2010 \$ 2,300,000.00
b. FFY 2011 \$ 2,300,000.00

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

Attach. 3.1-A&B, page ~~4.5-4.5~~^{6.5-6.8} of 41;
Attach. 4.19-B, pages 4.1 and 9 of 15, and
Suppl. 5 to Attach. 4.19-B, page 1 of 1

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)

Same pages

10. SUBJECT OF AMENDMENT

Part C Early Intervention Services

11. GOVERNOR'S REVIEW (Check One)

- GOVERNOR'S OFFICE REPORTED NO COMMENT²⁰¹⁰
 COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
 NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

OTHER, AS SPECIFIED

Secretary of Health and Human Resources

12. SIGNATURE OF STATE AGENCY OFFICIAL

13. TYPED NAME
Patrick W. Finnerty

14. TITLE
Director

15. DATE SUBMITTED
12.29.09

16. RETURN TO

Dept. of Medical Assistance Services
600 East Broad Street, #1300
Richmond VA 23219

Attn: Regulatory Coordinator

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED

18. DATE APPROVED
AUG 19 2010

PLAN APPROVED - ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL

9

20. SIGNATURE OF REGIONAL OFFICIAL

21. TYPED NAME
Ted Gallagher

22. TITLE
Associate Regional Administrator

23. REMARKS

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State of VIRGINIA

**NARRATIVE FOR THE AMOUNT, DURATION,
AND SCOPE OF SERVICES**

12 VAC 30-50-131. Services provided by certified Early Intervention practitioners under EPSDT.

A. Definitions. The following words and terms when used in these regulations shall have the following meanings unless the context clearly indicates otherwise:

"DBHDS" means the Department of Behavioral Health and Developmental Services, the lead State agency for Early Intervention services appointed by the Governor in accordance with Chapter 53 of Title 2.2 (§ 2.2-5304) of the Code of Virginia.

"Early Intervention services" means services provided through Part C of the Individuals with Disabilities Education Act (20 U.S.C. § 1431 et seq.), as amended. Early Intervention services are specialized rehabilitative services covered in accordance with 42 CFR 440.130(d), which are designed to meet the developmental needs of each child and the needs of the family related to enhancing the child's development, and are provided to children from birth to age three who have (i) a 25 percent developmental delay in one or more areas of development, (ii) atypical development, or (iii) a diagnosed physical or mental condition that has a high probability of resulting in a developmental delay.

"Individualized family service plan" or "IFSP" means a comprehensive and regularly updated statement specific to the child being treated containing, but not necessarily limited to, treatment or training needs, measurable outcomes expected to be achieved, services to be provided with the recommended frequency to achieve the outcomes, and estimated timetable for achieving the outcomes. The IFSP is developed by a multidisciplinary team which includes the family, under the auspices of the local lead agency.

"Local lead agency" means an agency under contract with the Department of Behavioral Health and Developmental Services to facilitate implementation of a local Early Intervention system as described in Chapter 53 of Title 2.2 (§ 2.2-5304.1) of the Code of Virginia.

"Primary care provider" means a practitioner who provides preventive and primary health care and is responsible for providing routine Early and Periodic Screening, Diagnosis and Treatment (EPSDT) screening and referral and coordination of other medical services needed by the child.

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**NARRATIVE FOR THE AMOUNT, DURATION,
AND SCOPE OF SERVICES**

B. Coverage for Early Intervention services.

1. Early Intervention services shall be reimbursed for individuals younger than 21 years of age who meet criteria for Early Intervention services established by DBHDS in accordance with Chapter 53 of Title 2.2 (§ 2.2-5304) of the Code of Virginia.

2. Early Intervention services shall be recommended by the child's primary care provider or other qualified EPSDT screening provider as necessary to correct or ameliorate a physical or mental condition.

3. Early Intervention services shall be provided in settings that are natural or normal for an infant or toddler without a disability, such as the home, unless there is justification for an atypical location.

4. Except for the initial and periodic assessments, Early Intervention services shall be described in an IFSP developed by the local lead agency and designed to prevent or ameliorate developmental delay within the context of the Early Intervention services system defined by Chapter 53 of Title 2.2 of the Code of Virginia.

5. Medical necessity for Early Intervention shall be defined by the IFSP. The IFSP shall describe service needs in terms of amount, duration, and scope. The IFSP shall be approved by the child's primary care provider.

6. Covered Early Intervention services include the following functions provided with the infant or toddler and the child's parent or other authorized caregiver by a certified Early Intervention professional:

a. Assessment, including consultation with the child's family and other service providers, to evaluate:

(1) the child's level of functioning in the following developmental areas: cognitive development; physical development, including vision and hearing; communication development; social or emotional development; and adaptive development;

(2) the family's capacity to meet the developmental needs of the child; and

(3) services needed to correct or ameliorate developmental conditions during the infant and toddler years.

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State of VIRGINIA

**NARRATIVE FOR THE AMOUNT, DURATION,
AND SCOPE OF SERVICES**

b. Participation in a multidisciplinary team review of assessments to develop integrated, measurable outcomes for the IFSP.

c. The planning and design of activities, environments, and experiences to promote the normal development of an infant or toddler with a disability, consistent with the outcomes in the IFSP.

7. Covered Early Intervention services include the following functions when included in the IFSP and provided to an infant or toddler with a disability and the child's parent or other authorized caregiver by a certified Early Intervention professional or by a certified Early Intervention specialist under the supervision of a certified Early Intervention professional:

a. Providing families with information and training to enhance the development of the child.

b. Working with the child with a disability to promote normal development in one or more developmental domains.

c. Consulting with the child's family and other service providers to assess service needs, plan, coordinate, and evaluate services to ensure that services reflect the unique needs of the child in all developmental domains.

C. The following functions shall not be covered under this section:

1. Screening to determine if the child is suspected of having a disability. Screening is covered as an EPSDT service provided by the primary care provider and is not covered as an Early Intervention service under this section.

2. Administration and coordination activities related to the development, review, and evaluation of the IFSP and procedural safeguards required by Part C of the Individuals with Disabilities Education Act (20 U.S.C. § 1431 et seq.).

3. Services other than the initial and periodic assessments that are provided but are not documented in the child's IFSP or linked to a service in the IFSP.

4. Sessions that are conducted for family support, education, recreational, or custodial purposes, including respite or child care.

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**NARRATIVE FOR THE AMOUNT, DURATION,
AND SCOPE OF SERVICES**

5. Services provided by a relative who is legally responsible for the child's care.
6. Services rendered in a clinic or provider's office without justification for the location.
7. Services provided in the absence of the child and a parent or other authorized caregiver identified in the IFSP with the exception of multidisciplinary team meetings, which need not include the child.

D. Qualifications of providers:

1. Individual practitioners of Early Intervention must be certified by DBHDS as a qualified Early Intervention professional or Early Intervention specialist and hold a valid Medicaid Early Intervention provider agreement.
2. Certified individuals or service agencies or groups who employ or contract with certified individuals may enroll with DMAS as Early Intervention providers. In accordance with 42 CFR 431.51, recipients may obtain Early Intervention services from any willing and qualified Medicaid provider who participates in this service, or for individuals enrolled with a Managed Care Organization (MCO), from such providers available in their MCO network.
3. Certified EI practitioners are qualified to provide a specialized rehabilitative service for young children with developmental delays. Certified individuals and agencies will enroll with DMAS and bill for this specialized rehabilitative service as an EPSDT Early Intervention provider rather than as a speech therapist, rehabilitation facility, or other designation. EI providers are certified or licensed to provide services within the scope of their practice as defined under state law. All licensed physical therapy and occupational therapy providers, and those providing services for individuals with speech, hearing, and language disorders shall comply with requirements of 42 CFR 440.110.

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STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State of VIRGINIA

**METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATE-
OTHER TYPES OF CARE**

- e. Payment for direct medical education costs of nursing schools, paramedical programs, and graduate medical education for interns and residents:
- (1) Direct medical education costs of nursing schools and paramedical programs shall continue to be paid on an allowable cost basis.
 - (2) Effective with cost reporting periods beginning on or after July 1, 2002, direct Graduate Medical Education (GME) costs for interns and residents shall be reimbursed on a per-resident prospective basis. See 12 VAC 30-70-281 for prospective payment methodology for graduate medical education for interns and residents.
3. Rehabilitation agencies operated by state agencies. For the reimbursement methodology applicable to other rehabilitation agencies, see Attachment 4.19-B, Supplement 5 (12 VAC 30-80-200).
4. Rehabilitation hospital outpatient services.

(The next page is 4.3 of 15)

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TN No. 09-18

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STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State of VIRGINIA

**METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATE-
OTHER TYPES OF CARE**

12 VAC 30-80-96. Fee-for-service: Early Intervention (under EPSDT).

A. Payment for Early Intervention (EI) services pursuant to Part C of the Individuals with Disabilities Education Act (IDEA) of 2004, as set forth in Supplement 1 to Attachment 3.1-A&B, Page 6.1 of 41, for individuals younger than 21 years of age shall be the lower of the state agency fee schedule or actual charge (charge to the general public). All private and governmental fee-for-service providers are reimbursed according to the same methodology. The agency's rates were set as of October 1, 2009, and are effective for services on or after that date. Rates are published on the agency's website at www.dmas.virginia.gov.

B. There shall be separate fees for:

1. certified Early Intervention professionals who are also licensed as either a physical therapist, occupational therapist, speech pathologist, or registered nurse and certified Early Intervention specialists who are also licensed as either a physical therapy assistant or occupational therapy assistant and
2. all other certified Early Intervention professionals and certified Early Intervention specialists.

C. Provider travel time shall not be included in billable time for reimbursement.

D. Local Education Agency (LEA) providers provide Medicaid-covered school health services for which they are reimbursed on a cost basis pursuant to Attachment 4.19-B, pages 9a through 9f of 15. LEAs may also be certified as, and enrolled to provide, Early Intervention services. LEAs providing such services shall be reimbursed for EI services on a fee-for-service basis in the same manner as other EI providers. The fee-for-service rate is the same regardless of the setting in which LEAs provide EI services.

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**METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATE-
OTHER TYPES OF CARE**

12 VAC 30-80-200. Prospective reimbursement for rehabilitation agencies.

A. Effective for dates of service on and after July 1, 2009, rehabilitation agencies, including comprehensive outpatient rehabilitation facilities and excluding those operated by state agencies, shall be reimbursed a prospective rate equal to the lesser of the agency's fee schedule amount or billed charges per procedure. The agency shall develop a statewide fee schedule based on CPT codes to reimburse providers what the agency estimates they would have been paid in FY 2010 minus \$371,800.

B. Payments for the fiscal year ending or in progress on June 30, 2009, shall be settled based on the previous prospective rate methodology and the ceilings in effect for that fiscal year as of June 30, 2009.

C. Rehabilitation services furnished by community service boards or state agencies shall be reimbursed costs based on annual cost reporting methodology and procedures.

D. Beginning with state fiscal years beginning on and after July 1, 2009, rates shall be adjusted using the Virginia-specific nursing home input price index contracted for by the agency. The agency shall use the percent moving average for the quarter ending at the midpoint of the rate year from the most recently available index prior to the beginning of the rate year.

E. Reimbursement for physical therapy, occupational therapy, and speech-language therapy services shall not be provided for any sums that the rehabilitation provider collects, or is entitled to collect, from the NF or any other available source, and provided further, that this amendment shall in no way diminish any obligation of the NF to DMAS to provide its residents such services, as set forth in any applicable provider agreement.

F. Except as otherwise noted in the plan, state developed fee schedule rates are the same for both governmental and private providers of rehab services, and the fee schedule and any annual/periodic adjustments to the fee schedule as described in the State Plan are published on the agency's website at www.dmas.virginia.gov.

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