

DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF DIRECTOR

ACTION REFERRAL

Change due date to 6-25-07 per Marga on 6/14/07

TO <i>Bowling/Kells</i>	DATE <i>6/11/07</i>
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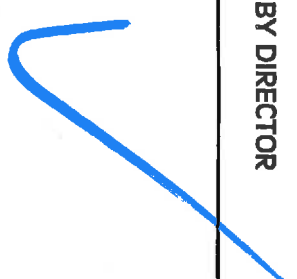
DIRECTOR'S USE ONLY	ACTION REQUESTED
1. LOG NUMBER <i>000764</i>	<input checked="" type="checkbox"/> Prepare reply for the Director's signature DATE DUE <i>6-25-07</i>
2. DATE SIGNED BY DIRECTOR <i>Cleared 7/31/07, letter attached.</i>	<input type="checkbox"/> Prepare reply for appropriate signature DATE DUE _____ <input type="checkbox"/> FOIA DATE DUE _____ <input type="checkbox"/> Necessary Action

APPROVALS (Only when prepared for director's signature)	APPROVE	* DISAPPROVE (Note reason for disapproval and return to preparer.)	COMMENT
1.			
2.			
3.			
4.			

**DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF DIRECTOR**

ACTION REFERRAL

TO <i>Bowling/Kells</i>	DATE <i>6/11/07</i>
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DIRECTOR'S USE ONLY		ACTION REQUESTED	
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2. DATE SIGNED BY DIRECTOR 			

APPROVALS (Only when prepared for director's signature)	APPROVE	* DISAPPROVE (Note reason for disapproval and return to preparer.)	COMMENT
1.			
2.			
3.			
4.			

Department of Health & Human Services
Centers for Medicare & Medicaid Services
61 Forsyth Street, S.W., Suite 4120
Atlanta, Georgia 30303-8909



June 7, 2007

RECEIVED

JUN 11 2007

Ms. Susan B. Bowling, Acting Director
South Carolina Department of Health & Human Services
Post Office Box 8206
Columbia, South Carolina 29202-8206

Dear Ms. Bowling:

Department of Health & Human Services
OFFICE OF THE DIRECTOR

We have completed our review of State Plan Amendment Transmittal (SPA) SC 07-001, which was submitted to amend audiology services and to adjust the rate for therapies including physical therapy, occupational therapy, and speech/language pathology. Also listed with these therapies on Page 2a of Attachment 4.19-B is Psychological Evaluation and Testing. We have issued questions and discussed the SPA with the State, however, we find it is not approvable as submitted.

At this point in time, CMS does not have sufficient information to determine whether this SPA is approvable. Federal regulations at 42 CFR 430.10 describe the State plan as:

[A] comprehensive written statement submitted by the agency describing the nature and scope of its Medicaid program and giving assurance that it will be administered in conformity with the specific requirements of title XIX, the regulations in this Chapter IV, and other applicable official issuances of the Department. The State plan contains all information necessary for CMS to determine whether the plan can be approved to serve as a basis for Federal financial participation (FFP) in the State program.

In order for CMS to better understand the services and reimbursement methodology proposed by the State in SC 07-001, we are submitting this Request for Additional Information (RAI). We are available to discuss any questions the State may have about the RAI.

Policy Questions

1. In the State's 5/21/07 response to the 4/20/07 CMS informal questions, the State alludes to "Psychological Evaluation and Testing" on page 2a of Attachment 4.19-B, yet we do not see corresponding services in the EPSDT services in Attachment 3.1-A.

- 1a. Please confirm that it is the State's intention to include these services in the EPSDT section of Attachment 3.1-A. If so, please submit revised SPA pages that include these services.
- 1b. Please identify the providers of the Psychological Evaluation and Testing and their provider qualifications. The provider qualifications should include the level of education/degree required, and any additional general information related to licensing, credentialing, or registration. The provider qualifications should also reference any required supervision. The State has the option of whether to reference their State codes in addition to this basic information.

2. However, the State does provide policy for "Psychological Evaluation and Testing Services" under Item No. 13 d. Rehabilitative Services, on page 6b of Attachment 3.1-A. If this is the policy that corresponds with the payment methodology on page 2a of Attachment 4.19-B, CMS is obligated to open the policy on page 6b of Attachment 3.1-A for review.

2a. Please confirm whether the policy on page 6b of Attachment 3.1-A corresponds with the payment methodology on page 2a of Attachment 4.19-B.

2b. Please identify the providers of the Psychological Services and their provider qualifications. The provider qualifications should include the level of education/degree required, and any additional general information related to licensing, credentialing, or registration. The provider qualifications should also reference any required supervision. The State has the option of whether to reference their State codes in addition to this basic information.

3. In the State's 5/21/07 response to the 4/20/07 CMS informal questions, the State has submitted a table entitled, "South Carolina Department of Health and Human Services, EPSDT Children Rehabilitative Services Rates -- Therapy for Private and Governmental Providers, Rates Effective January 1, 2007@ 100% of CY 2006 Medicare, Based on Submission of SC 07-001." We note that at the bottom of that table, the State alludes to "Psychological Services" and provides a code, a rate, a unit measure and frequency of the services.

3a. Please describe the psychological services that are included in the table and that relate to the listed code and how they are different or the same from the Psychological Evaluation and Testing services noted on page 2a of Attachment 4.19-B.

3b. Please identify the providers of the Psychological Services and their provider qualifications. The provider qualifications should include the level of education/degree required, and any additional general information related to licensing, credentialing, or registration. The provider qualifications should also reference any required supervision. The State has the option of whether to reference their State codes in addition to this basic information.

3c. Please confirm our understanding that these services may be provided and reimbursed for up to 6 hours per day.

4. The State's 5/21/07 response to the 4/20/07 Funding Question No. 2, states that "...the South Carolina Department of Juvenile Justice (SCDJJ) certifies (CPEs) their match requirement for the psychological services that they provide via submission of an annual cost report." Prior to the submission of this response, CMS did not understand that the South Carolina State Medicaid agency was reimbursing the SCDJJ for these services. Under 1902(a)(23) of the Social Security Act, the beneficiary's choice of provider cannot be limited to a state agency, its providers or employees. Furthermore, under 1902(a)(10)(B) of the Social Security Act, available services must be equal for individuals within an eligibility group.

4a. Please describe the Psychological Services that are provided by the SCDJJ and how they are different or the same from the Psychological Evaluation and Testing services noted on page 2a of Attachment 4.19-B and from the Psychological Services noted in the table alluded to in question 2 above.

- 4b. Please identify the providers of the Psychological Services, by provider types, and their provider qualifications. The provider qualifications should include the level of education/degree required, and any additional general information related to licensing, credentialing, or registration. The provider qualifications should also reference any required supervision. The State has the option of whether to reference their State codes in addition to this basic information.
- 4c. Are these Psychological Services provided exclusively through or by the SCDJJ?
- 4d. Do the children under the jurisdiction or control of the SCDJJ have free choice of providers for the services, or must they use the SCDJJ providers or employees?
- 4e. Are the Psychological Services provided through or by the SCDJJ available to the entire Medicaid population under the age of 21?
5. Please provide a copy of the Memorandum of Understanding or contract between the Medicaid Agency and the SCDJJ.
6. Please correct the provider qualifications of an Occupational Therapy Assistant on page 1.b.4 of Attachment 3.1-A to read as follows: "Occupational Therapy Assistant (OTA) is an individual who is currently licensed as a Certified Occupational Therapy Assistant (COT/AL or OTA) by the South Carolina Board of Occupational Therapy who works under the direction of a qualified occupational therapist pursuant to 42 CFR 440.110(b)(2)(i) or (ii)."
7. Please correct the introduction to the definition of Speech/Language Pathology Services on page 1.b.4 of Attachment 3.1-A to read as follows: "In accordance with 42 CFR 440.110(c)(1), Speech/Language Pathology Services include diagnostic, screening, preventive, or corrective services provided by or under the direction of a speech pathologist, for which a patient is referred by a physician or other licensed practitioner of the healing arts within the scope of his or her practice under State law. [The rest of the information included by the State can be retained.]
8. On page 1.b.4 of Attachment 3.1-A, under Speech Evaluation, the State alludes to a "Speech-Language Pathologist/Therapist." Please retain either the general term, "therapist" or modify to read as follows, "Speech-Language Pathologist/Pathology Assistant/Pathology Intern".
9. Please correct the provider qualifications of a Speech-Language Pathology Assistant on page 1.b.4a of Attachment 3.1-A to read as follows: "Speech-Language Pathology Assistant is an individual who is currently licensed by the South Carolina Board of Examiners in Speech-Language Pathology. The Speech-Language Pathology Assistant works under the direction of a qualified Speech-Language Pathologist pursuant to 42 CFR 440.110 (c)(2)(i) and (ii)."
10. Please correct the provider qualifications of a Speech-Language Pathology Intern on page 1.b.4a of Attachment 3.1-A to read as follows: "Speech-Language Pathology Intern is an individual who is currently licensed by the South Carolina Board of Examiners in Speech-Language Pathology and is seeking the academic and work experience requirements established by the American Speech and Hearing Association (ASHA) for the Certification of Clinical Competence in Speech-Language Pathology. The Speech-Language Pathology Intern works under the direction of a qualified Speech-Language Pathologist pursuant to 42 CFE 440.110 (c)(2)(i) and (ii)."

11. On page 1b.4a – 1b.4b of Attachment 3.1-A, the State includes the following sentence, “A referral occurs when the physician or other LPHA has asked another qualified health care provider to recommend, evaluate, or perform therapies, treatment, or other clinical activities to or on behalf of the beneficiary being referred.”

- 11a. Please specify who is included in the phrase, “another qualified health care provider.”
- 11b. Please explain what is meant by the phrase, “on the behalf of the beneficiary being referred.”

12. Please correct the introduction to the definition of Audiological Services on page 1.b.4 of Attachment 3.1-A to read as follows: “In accordance with 42 CFR 440.110(c)(1), Audiological services for individuals with hearing disorders means diagnostic, screening, preventive, or corrective services provided by or under the direction of an audiologist, for which a patient is referred by a physician or other licensed practitioner of the healing arts within the scope of his or her practice under State law. [The rest of the information included by the State can be retained.]

13. On page 1b.4.d, the State indicates that the only qualified provider of Audiology services is an Audiologist but then explains that “All Medicaid-qualified audiology providers operating in the State of South Carolina adhere to the provider qualifications found in 42 CFR 440.110(c).”

- 13a. Please identify all provider types that are included as “Medicaid-qualified audiology providers”.
- 13b. Please modify the citation to read, “42 CFR 440.110(c)(3).”

14. The definition of “medical assistance” in the text following section 1905(a)(28) of the Act excludes coverage of services for any individual who is a “patient in an institution for mental diseases” except for those services provided under the benefit for inpatient psychiatric services for individuals under age 21 referenced in section 1905(a)(16) of the Act. An Institution for Mental Diseases (IMD) is defined at 42 CFR 435.1009 as a hospital, nursing facility or other institution of more than 16 beds that is primarily engaged in providing diagnosis, treatment or care of persons with mental diseases, including medical attention, nursing care and related services. Accordingly, no FFP is available for rehabilitative services provided to address a child’s mental disease/behavioral disorder in a residential facility with more than 16 beds where over 50% of the residents are receiving services to address their mental disease/behavioral disorder.

- 14a. Does the State Medicaid Agency under the South Carolina Department of Health and Human Services (SCDHHS) or the SCDDJ provide mental health or other rehabilitative Medicaid services to children in an IMD that does not fall within the exception for inpatient psychiatric services for individuals under age 21?
- 14b. Does the State claim FFP for psychological or other rehabilitative Medicaid services to children in an IMD?

15. The definition of “medical assistance” in the text following Section 1905(a)(28) of the Act excludes payment for services for any individual who is an inmate of a public institution.

“Public institution”, under 42 CFR 435.1009, means an institution that is the responsibility of a governmental unit or over which a governmental unit exercises administrative control. An individual is an “inmate” when serving time for a criminal offense or confined involuntarily in State or Federal prisons, jails, detention facilities or other penal facilities. The State has indicated that the SCDJ provides mental health to children.

- 15a. Does the SCDJ or other governmental unit provide mental health or other rehabilitative Medicaid services to children who are inmates in public institutions?
- 15b. Does the State claim FFP for mental health or other rehabilitative Medicaid services provided to children who are inmates in public institutions?
- 15c. Does the SCDJ or other governmental unit provide mental health or other rehabilitative Medicaid services to children who are involuntarily confined in detention centers, or residing involuntarily in wilderness camps or half-way houses under governmental control?
- 15d. Does the State claim FFP for mental health or other rehabilitative Medicaid services provided to children who are involuntarily confined in detention centers, or residing involuntarily in wilderness camps or half-way houses under governmental control?

Reimbursement Questions

1. The changes made to attachment 4.19-B, page 2a of the proposed state plan are consistent with the guidance provided in the April 20, 2007 email and the reimbursement discussions from SPA SC-05-006. However, the response to funding question #2 included in the May 21, 2007 letter to Renard Murray indicates that the “SC Department of Juvenile Justice (SCDJ) certifies their match requirement for the psychological services that they provide via the submission of an annual cost report.” Due to the nature of this funding method, please be advised of the following:

Many public providers furnish services in addition to medical services and to populations other than Medicaid-eligible individuals. When states wish to reimburse providers at cost, they must demonstrate through the SPA that these providers participate in a statistically valid time study to identify the time spent providing medical services, and that a methodology exists for allocating costs to Medicaid. The SPA must identify the specific direct (e.g. salary/fringe benefits) and indirect costs eligible for reimbursement (Note that the approved cognizant agency indirect cost rate is used for this purpose). Since the non-Federal share will be provided by certifying the expenditure, the SPA must also describe the process for reconciling any interim rate paid to actual expenditures on an annual basis at the level of the provider certifying the expenditures. South Carolina does not provide in the current or proposed state plan a comprehensive methodology outlining the above items. Please revise the plan pages accordingly.

2. The State must provide for CMS review, the cost reporting forms (and their instructions) used to identify costs for each provider type.


Ms. Susan B. Bowling
June 7, 2007
Page 6

3. The State must provide for CMS review, the time studies used to allocate direct costs (salaries and fringe benefits) to Medicaid for each provider type.
4. The State must describe for CMS review, the certification process and provide a copy of the certification form(s) used by each provider type.
5. In addition, the State may wish to refer to the draft cost report and instructions published on the CMS website (http://www.cms.hhs.gov/MedicaidGenInfo/08_MedicaidRegulations.asp). This document may prove helpful at identifying the types of allowable Medicaid cost.
6. Please provide the line number on the CMS 64 Report on which the Medicaid agency claims FFP for the services provided through or by SCDJI.
7. How long has the State been claiming for these services?

Please note, that depending on the State's answers, there may be a need for additional clarification of the State's responses.

If you have any questions on this request for additional information please contact Elaine Elmore on programmatic issues or Jay Gavens on fiscal issues. Ms. Elmore, can be reached at (404) 562-7408, and Mr. Gavens at (404) 562-7430. This written request for additional information stops the 90-day clock for the approval process on this SPA, which would have expired on June 11, 2007. Further, in accordance with the CMS guidelines to All State Medicaid Directors dated January 2, 2001, we request that you provide a formal response to this request for additional information no later than 90 days from the date of this letter. If you do not provide us with a formal response by that date, we will conclude that the State has not established that the proposed SPA is consistent with all statutory and regulatory requirements. Accordingly, at that time, we will initiate disapproval action on the amendment. In addition, because this SPA was submitted after January 2, 2001, and is effective on or after January 1, 2001, please be advised that we will defer any FFP that you claim for payments made in accordance with this proposed SPA until it is approved. Upon CMS approval, FFP will be available for the period beginning with the effective date through the date of actual approval.

Sincerely,



for Renard L. Murray, D. M.
Associate Regional Administrator
Division of Medicaid and Children's Health Operations



State of South Carolina
Department of Health and Human Services

Log 0764

Mark Sanford
Governor

Susan B. Bowling
Acting Director

July 31, 2007

Mr. Renard L. Murray, D.M.
Associate Regional Administrator
Centers for Medicare and Medicaid Services
Atlanta Regional Office
61 Forsyth Street, S.W., Suite 4T20
Atlanta, Georgia 30303-8909

Re: South Carolina Title XIX State Plan Amendment SC 07-001

Dear Mr. Murray:

The South Carolina Department of Health and Human Services (SCDHHS) is submitting revised plan language applicable to Attachments 3.1-A and 4.19-B that relate to the subject plan amendment. This revised plan language addresses each of the questions raised by Centers for Medicare and Medicaid Services (CMS) via Ms. Elaine Elmore's June 7, 2007 email, and letter from you dated June 7, 2007.

The responses to the revised CMS policy questions are as follows:

1. In the State's 5/21/07 response to the 4/20/07 CMS informal questions, the State alludes to "Psychological Evaluation and Testing" on page 2a of Attachment 4.19-B, yet we do not see corresponding services in the EPSDT services in Attachment 3.1-A.
 - 1a. Please confirm that it is the State's intention to include these services in the EPSDT section of Attachment 3.1-A. If so, please submit revised SPA pages that include these services.

SCDHHS Response:

It is the State's intention to include these services in the EPSDT section of Attachment 3.1-A. Please see the attached revised SPA pages.

- 1b. Please identify the providers of the Psychological Evaluation and Testing and their provider qualifications. The provider qualifications should include the level of education/degree required, and any additional general information related to licensing, credentialing, or registration.

The provider qualifications should also reference any required supervision. The State has the option of whether to reference their State codes in addition to this information.

SCDHHS Response:

Psychological Evaluation and Testing when prescribed by an EPSDT screen and a prior authorization process are restricted to psychologists who hold a doctoral level diploma, and are currently licensed in South Carolina as a Ph.D. or Psy. D., with a specialty in Clinical, Counseling, or School Psychology as approved by the State Board of Examiners in Psychology. (The provider must be enrolled with SC Medicaid.)

In South Carolina, licensure is regulated by the SC Department of Labor, Licensing and Regulation. Psychologists are licensed by the State Board of Examiners in Psychology.

When Psychological Evaluation and Testing are rendered in a school setting, reimbursement is restricted to a School Psychologist who is currently certified by the State Department of Education as a School Psychologist I, II, or III. A School Psychologist II or III must supervise services rendered by a School Psychologist I. A licensed Psycho- Educational Specialist can also render Psychological Evaluation and Testing. Individuals employed and certified by the South Carolina Department of Education may be exempt from the requirement of licensure, SC Code R. 43-64.

Department of Education Credential:

School Psychologist I requires a Master's degree from a regionally or nationally accredited college/university with an advanced program for the preparation of school psychologists and a qualifying score on the State Board of Education required examination.

School Psychologist II requires a Specialist degree from a regionally or nationally accredited college/university with an advanced program for the preparation of school psychologists, and a qualifying score on the State Board of Education required examination.

School Psychologist III requires a doctoral degree from a regionally or nationally accredited college/university with an advanced program for the preparation of school psychologists, a qualifying score on the State Board of Education required examination, and completion of an advanced program approved for the training of school psychologists.

Licensed Psycho-Educational Specialist (LPES) requires a (60 hour) master's degree plus 30 hours, or doctoral degree in school psychology from a regionally accredited institution approved by the National Association of School Psychologists (NASP), the American Psychological Association (APA) or its equivalent, certification by the South Carolina Department of Education as a School Psychologist level II or III, two years experience as a certified school psychologist (at least one year of which is under the supervision of a licensed Psycho-Education Specialist), and satisfactory score on the PRAXIS Series II exam. The Board of Examiners for the Licensure of Professional Counselors, Marriage and Family Therapists licenses Psycho-Educational Specialists.

2. However, the State does provide policy for "Psychological Evaluation and Testing Services" under Item No. 13d. Rehabilitative Services, on page 6b of Attachment 3.1-A. If this is the policy that corresponds with the payment methodology on pages 2a of Attachment 4.19-B, CMS is obligated to open the policy on page 6b of Attachment 3.1-A for review.

- 2a. Please confirm whether the policy on page 6b of Attachment 3.1-A corresponds with the payment methodology on page 2a of Attachment 4.19-B.

SCDHHS Response:

The service referred to in Attachment 4.19-B, page 2a (Psychological Evaluation and Testing Services) coincides with the service description language on page 6b of Attachment 3.1-A as well as the language on page 1b.4.d. We ask that CMS not open page 6b at this time as it is the intent of the SCDHHS to file a future state plan amendment that will describe the services and payment methodology for all Rehabilitative Services (Behavioral Health Services) under the EPSDT benefit.

- 2b. Please identify the provider of Psychological Services and their provider qualifications. The provider qualifications should include the level of education/degree required, and any additional general information related to licensing, credentialing, or registration. The provider qualifications should also reference any required supervision. The State has the option of whether to reference their State codes in addition to this basic information.

SCDHHS Response:

The Division of Family Services within SCDHHS is in the process of submitting a State Plan Amendment (SPA) to include Behavioral Health Services. Psychological Services to be detailed in the SPA include psychological testing, evaluation and therapy. Reimbursable EPSDT Children's Rehabilitative Services include Psychological Evaluation and Testing Services and Therapy Services.

Psychological Services for Children under 21 are provided by qualified, enrolled Medicaid providers that include both public and private providers.

Private practitioners of Psychological Services for children under 21 must meet the following:

- Hold a Ph.D. or Psy.D. from an accredited college or university;
- Hold a valid and current license with a specialty in clinical, counseling or School Psychology as approved by the South Carolina Board of Examiners in Psychology;
- Be enrolled as a South Carolina Medicaid provider.

Services may be rendered under the supervision of a psychologist as long as the following criteria are met:

- The supervising psychologist must be enrolled with a Medicaid provider for participation in the program for Psychological Services for Children Under 21;
- Medicaid services must be provided in accordance with Medicaid standards and requirements as described in the Medicaid Provider Manual for Psychological Services for Children under 21;
- No more than three full-time supervisees may be in the employ of any one supervising licensed psychologist;
- Supervision must be provided in accordance with standards and requirements as established by the SC Board of Examiners in Psychology (SCBEP);
- A SCBEP report of supervisees must be completed by the supervising psychologist and submitted to SCBEP both prior to the initiation of the supervision and when the supervisor's license is renewed. A copy of this information must also be provided to the South Carolina Medicaid program (SCDHHS).

Public practitioners of Psychological Services for children under 21 must meet the following:

In a Local Education Agency (LEA) practitioners are restricted to a School Psychologist who is currently certified by the State Department of Education as a School Psychologist I, II, or III. A School Psychologist II or III must supervise services rendered by a School Psychologist I (see #1.b. for credentials.)

Other Public practitioners are restricted to the following:

- Licensed Psycho-Educational Specialist (See above credentials);
- Licensed Psychologist or Licensed Psy. D. (See above credentials);

- Doctor of Medicine who is currently licensed by the appropriate State Board of Medical Examiners;
- Board certified Pediatrician who is also subspecialty Board certified in Developmental Behavioral Pediatrics or Neurodevelopment Disabilities;
- Licensed Pediatric Nurse Practitioner with one-year experience under the direct supervision of a Developmental Pediatrician.

The following allied professionals may render services under the supervision of a physician:

- Ph.D. Psychologist
- Licensed Master Social Worker
- Psychiatric Nurse Practitioner
- Licensed Independent Social Worker
- Licensed Marital and Family Therapist
- Licensed Professional Counselor

All degrees must be from an accredited college or university. A physician is limited to supervising no more than three allied professionals who meet the above-referenced qualifications.

3. In the State's 5/21/07 response to the 04.20.07 CMS informal questions, the State has submitted a table entitled, "South Carolina Department of Health and Human Services, EPSDT Children Rehabilitative Services Rates-Therapy for Private and Government Providers, Rates Effective January 1, 2007 @ 100% of CY 2006 Medicare, Based on Submission of SC 07-001." We note that at the bottom of the table, the State alludes to "Psychological Services" and provides a code, a rate, a unite measure and frequency of the services.

3a. Please describe the Psychological Services that are included in the table and that relate to the listed code and how they are different or the same from the Psychological Evaluation and Testing Services noted on page 2a of Attachment 4.19-B.

SCDHHS response:

Psychological Testing and Evaluation listed on Page 2a of Attachment 4.19-B relates to the CPT code listed (96101) and includes Psychological Testing and Evaluation.

3b. Please identify the providers of the Psychological Services and their provider qualifications. The provider qualifications should include the level of education/degree required, and any additional general information related to licensing, credentialing, or registration. The provider qualifications should also reference any required supervision. The State has the option of whether to reference their State codes in addition to this basic information.

SCDHHS response:

Please see the response under 2.b.

- 3c. Please confirm our understanding that these services may be provided and reimbursed for up to 6 hours per day.

SCDHHS response:

It is the intent of the South Carolina Medicaid program to have a uniform fee schedule for Psychological Testing and Evaluation for both public and private providers that is reimbursed for up to six hours a day.

4. The State's 05/21/07 response to the 04/20/07 Funding Question No. 2, states that "...the South Carolina Department of Juvenile Justice (SCDJJ) certifies (CPes) their match requirement for the psychological services that they provide via submission of an annual cost report." Prior to the submission of this response, CMS did not understand that the South Carolina State Medicaid agency was reimbursing the SCDJJ for these services. Under 1902(a)(23) of the Social Security Act, the beneficiary's choice of provider cannot be limited to a state agency, its provider or employees. Furthermore, under 1902(a)(10)(B) of the Social Security Act, available services must be equal for individuals within an eligibility group.

- 4a. Please describe the Psychological Services that are provided by the SCDJJ and how they are different or the same from Psychological Evaluation and Testing Services noted on page 2a of Attachment 4.19-B and from the Psychological Services noted in the table alluded to in question 2 above.

SCDHHS response:

Psychological Services provided by the South Carolina Department of Juvenile Justice (SCDJJ) include the following services:

SCDJJ Psychological Testing and Evaluation is a face-to-face interaction between the psychologist and the child for the purpose of evaluating the child's intellectual, emotional, psychological and behavioral status. Testing may include measures of intellectual and cognitive abilities, neuropsychological status, attitudes, emotions, motivations and personality characteristics, as well as other non-experimental methods of evaluation. Evaluations may consist of diagnostic interview, testing and assessment. The evaluation process should conclude with a psychological report written by the psychologist outlining results of the evaluation and recommendations for treatment.

SCDJJ Individual Counseling is a face-to-face interaction between the psychologist and the child for the purpose of identifying and correcting the emotional conflicts, personality disturbances and other deficits underlying the

child's distress and/or dysfunction.

SCDJJ Family Counseling is a face-to-face interaction between the psychologist and members of the child's immediate family and/or significant others (with or without the child present) for the purpose of addressing the child's problems, educating the family as to the nature and source of those problems and incorporating the family into the treatment process.

SCDJJ Group Counseling is a face-to-face interaction between the psychologist and a group of children for the purpose of addressing the individual problems of each child through commonality of therapy exercise and mobilization of group support. Groups are limited to a maximum of five clients per session.

4b.

Please identify the providers of the Psychological Services, by provider types, and their provider qualification. The provider qualifications should include the level of education/degree required, and any additional general information related to licensing, credentialing, or registration. The provider qualifications should also reference any required supervision. The State has the option of whether to reference their State codes in addition to this basic information.

SCDHHS response:

SCDJJ providers of Psychological Services must meet the following:

Licensure by the State Board of Examiners in Psychology as a Psychologist or a Psy. D. (See the credentials above.).

4c.

Are these Psychological Services provided exclusively through or by the SCDJJ?

SCDHHS response:

No, Medicaid Psychological Services (similar to those listed above) are offered to eligible children under 21 by an array of private and public practitioners.

4d.

Do the children under the jurisdiction or control of the SCDJJ have free choice of providers for the services, or must they use the SCDJJ providers or employees?

SCDHHS response:

Clients under the jurisdiction or control of SCDJJ may be offered psychological services through the SCDJJ, the Department of Mental Health or other enrolled providers.

4e.

Are the Psychological Services provided through or by the SCDJJ available to the entire Medicaid population under the age of 21?

SCDHHS Response:

Revisions will be made as suggested.

Added Speech-Language Pathology Therapist and criteria

- Speech-Language Pathology Therapist is an individual who does not meet the credentials outlined in the 42 CFR 440.110(c)(2)(i)(iii) and (iii) that must work under the direction of a qualified Speech-Language Pathologist.

9. Please correct the provider qualifications of a Speech-Language Pathology Assistant on page 1.b.4a of Attachment 3.1-A to read as follows: "Speech-Language Pathology assistant is an individual who is currently licensed by the south Carolina Board of Examiners in Speech-Language Pathology. The Speech-Language Pathology Assistant works under the direction of a qualified Speech-Language Pathologist pursuant to 42 CFR 440.110(c)(2)(i) and (ii)."

SCDHHS response:

Revisions will be made as suggested.

10. Please correct the provider qualifications of a Speech-Language Pathology Intern on page 1.b.4a of Attachment 3.1-A to read as follows. "Speech-Language Pathology Intern is an individual who is currently licensed by the South Carolina Board of Examiners in Speech-Language Pathology and seeking the academic and work experience requirements established by the American Speech and Hearing Association (ASHA) for the Certification of Clinical Competence in Speech-Language Pathology. The Speech-Language Pathology Intern works under the direction of a qualified Speech-Language Pathologist pursuant to 42 CFR 440.110(c)(2)(i) and (ii)."

SCDHHS response:

Revisions will be made as suggested.

11. On page 1b.4a-1b.4b of Attachment 3.1-A, the State includes the following sentence, "A referral occurs when the physician or other LPHA has asked another qualified health care provider to recommend, evaluate, or perform therapies, treatment, or other clinical activities to or on behalf of the beneficiary being referred."

- 11a. Please specify who is included in the phrase, "another qualified health care provider."

SCDHHS response:

Licensed Audiologist

- 11b. Please explain what is meant by the phrase, "on the behalf of the beneficiary being referred."

SCDHHS response:

The State will remove that language. Please see the attached revision to Page 1b.4.b.

12. Please correct the introduction to the definition of Audiological Services on page 1.b.4 of Attachment 3.1-A to read as follows: "In accordance with 42 CFR 440.110(c)(1), Audiological services for individuals with hearing disorders means diagnostic, screening, preventive, or corrective services provided by or under the direction of an audiologist, for which a patient is referred by a physician or other licensed practitioner of the healing arts within scope of his or her practice under State law. [The rest of the information included by the State can be retained.]

SCDHHS response:

Revisions will be made as suggested.

13. On Page 1b.4.d. the State indicates that the only qualified provider of Audiology Services is an Audiologist but then explains that "All Medicaid-qualified Audiology providers operating in the State of South Carolina adhere to the provider qualifications found in 42 CFS 440.110 (c)."

13a. Please identify all provider types that are included as "Medicaid-qualified Audiology providers."

SCDHHS response:

Licensed Audiologist.

13b. Please modify the citation to read, "42 CFR 440110 (c)(3).

SCDHHS response:

Revisions will be made as suggested.

14. The definition of "medical assistance" in the text following section 1905 (a)(28) of the Act excludes coverage of services for any individual who is a "patient in an institution for mental diseases" except for those services provided under the benefit for inpatient psychiatric services for individuals under age 21 referenced in section 1905(a)(16) of the Act. An Institution for Mental Diseases (IMD) is defined at 42 CFR 435.1009 as a hospital, nursing facility or other institution of more than 16 beds that is primarily engaged in providing diagnosis, treatment or care of persons with mental diseases, including medical attention, nursing care and related services. Accordingly, no FFP is available for rehabilitative services provided to address a child's mental disease/behavioral disorder in a residential facility with more than 16 beds where over 50% of the residents are receiving services to address their mental disease/behavioral disorder.

- 14a. Does the State Medicaid Agency under the South Carolina Department of Health and Human Services (SCDHHS) or the SCDJ provide mental health or other rehabilitative Medicaid services to children in an IMD that does not fall within the exception for inpatient psychiatric services for individuals under age 21?

SCDHHS response:

As a result of a recent OIG audit, SCDHHS is presently reviewing all Behavioral Health Services and developing a transition plan as necessary.

- 14b. Does the State claim FFP for psychological or other rehabilitative Medicaid services to children in an IMD?

SCDHHS response:

As indicated above, as a result of a recent OIG audit, SCDHHS is presently reviewing all Behavioral Health Services and developing a transition plan as necessary.

15. The definition of "medical assistance" in the text following Section 1905(a)(28) of the Act excludes payment for services for any individual who is an inmate of a public institution. "Public institution", under 42 CFR 435.1009, means an institution that is the responsibility of a governmental unit or over which a governmental unit exercises administrative control. An individual is an "inmate" when serving time for a criminal offense or confined involuntarily in a State or Federal prisons, jails, detention facilities or other penal facilities. The State has indicated that the SCDJ provides mental health to children.

- 15a. Does the SCDJ or other governmental unit provide mental health or other rehabilitative Medicaid services to children who are inmates in public institutions?

SCDHHS response:

SCDJ or other governmental units do not provide mental health or other rehabilitative Medicaid services to children who are inmates in public institutions.

- 15b. Does the State claim FFP for mental health or other rehabilitative Medicaid services provided to children who are inmates in public institutions?

SCDHHS response:

South Carolina does not claim FFP for mental health or other rehabilitative Medicaid services to children who are inmates in public institutions.

- 15c. Does the SCDJJ or other governmental unit provide mental health or other rehabilitative Medicaid services to children who are involuntarily confined in detentions centers, or residing involuntarily in wilderness camps or half-way houses under governmental control?

SCDHHS response:

SCDJJ does not provide mental health or other rehabilitative Medicaid services to children who are involuntarily confined in detention centers, or residing involuntarily in half-way houses. Medicaid eligible clients who are on probation and parole status and in need of therapeutic intervention may receive Medicaid services in the community, including group home and residential settings such as wilderness camps.

- 15d. Does the State claim FFP for mental health or other rehabilitative Medicaid services provided to children who are involuntarily in wilderness camps or half-way houses under governmental control?

SCDHHS response:

SCDHHS does not provide mental health or other rehabilitative Medicaid services to children who are involuntarily confined in detention centers, or residing involuntarily in half-way houses. Medicaid eligible clients who are on probation and parole status and in need of therapeutic interventions may receive Medicaid services in the community, including group home and residential settings such as wilderness camps.

The responses to the revised CMS reimbursement question are as follows:

1. The changes made to attachment 4.19-B, page 2a of the proposed State Plan are consistent with the guidance provided in the April 20, 2007 email and reimbursement discussion from SPA SC-05-006. However, the response to funding question #2 included in the May 21, 2007 letter to Renard Murray indicates the "SC Department of Juvenile Justice (SCDJJ) certifies their match requirement for the psychological services that they provide via the submission of an annual cost report." Due to the nature of this method, please be advised of the following:

Many public providers furnish services in addition to medical services and to populations other than Medicaid-eligible individuals. When states wish to reimburse providers at cost, they must demonstrate through the SPA that these providers participate in a statistically valid time study to identify the time spent providing medical services, and that a methodology exists for allocating costs to Medicaid. The SPA must identify the specific direct (e.g. salary/fringe benefits) and indirect costs eligible for reimbursement (note that the approved cognizant agency indirect cost rate is used for this purpose.) Since the non-Federal share will be provided by certifying the expenditure, the SPA must also describe the process for reconciling any interim rate paid to actual expenditures on an annual basis at the level of the provider certifying the

expenditures. South Carolina does not provide in the current proposed state plan a comprehensive methodology outlining the above items. Please revise the plan pages accordingly.

SCDHHS response:

For therapy services to include SCDJJ for psychological services, all providers are paid the same industry-wide rates (i.e. Medicare rates or other market based methods described in Attachment 4.19-B, page 2a.) We have revised Attachment 4.19-B, pages 2a and 2a.1, to describe methods of comparing actual annual reimbursements to allowable annual reimbursements for those governmental entities who provide state matching funds through certified public expenditure and assuring certified public expenditure requirements have been met.

2. The State must provide for CMS review, the cost report forms (and their instructions) used to identify costs for each provider type.

SCDHHS response:

Cost report forms and instructions for governmental entities are enclosed (i.e. for those providers currently providing therapy service under CPE funding arrangements). There are no cost reporting requirements for private providers of therapy services as rates are market based and state funds are provided by SCDHHS.

3. The State must provide for CMS review, the time studies used to allocate direct costs (salaries and fringe benefits) to Medicaid for each provider type.

SCDHHS response:

Samples of times studies used by SCDJJ (SFY 6/30/06) to support personnel expenditures charged to the psychological service are enclosed. There are no cost reporting requirements for private providers of therapy services as rates are market based and state funds are provided by SCDHHS and therefore no time studies attached.

4. The State must describe for CMS review, the certification process and provide a copy of the certification form(s) used by each provider type.

SCDHHS response:

The annual cost report review process for governmental providers of therapy services is now described in Attachment 4.19-B, pages 2a and 2a.1. Governmental providers must sign a certification statement as to the accuracy and documentation for reported costs as well as attest that no other federal or state reimbursement is requested for these costs. This is followed up by a SCDHHS review of these reports for compliance with allowable cost definitions (OMB A-87) and other contractual requirements. A comparison of annual allowable costs incurred to actual reimbursements for services provided is completed to ensure governmental providers have met certified public expenditure requirements.

There are no cost reporting or certification requirements for private providers of service.

Mr. Renard L. Murray, D.M.
July 31, 2007
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5. In addition, the State may wish to refer to the draft cost report and instructions published on the CMS website:

(http://www.cms.hhs.gov/MedicaidGeninfo/08_MedicaidRegulations.asp)

This document may prove helpful at identifying the types of allowable Medicaid cost.

6. Please provide the line number on the CMS 64 Report on which the Medicaid agency claims FFP for the services provided through or by SCDJJ.

SCDHHS response:

Psychological services provided by SCDJJ are reported on line 29 (Other Services) on the CMS 64 report.

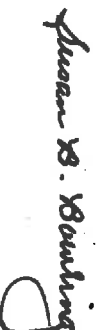
7. How long has the State been claiming for these services?

SCDHHS response:

Private providers of psychological services have been reimbursed for these services since November 1, 1990 and SCDJJ since January 1, 1992.

It is anticipated that the information provided will result in the approval of SPA: SC-07-007. If you or your staff should have any questions please contact Cynthia Higgins at (803) 898-2655, Jean McDaniel at (803) 898-2565, or Jeff Saxon at (803) 898-1023.

Sincerely,



Susan B. Bowling
Acting Director

SBB/mmsc

Enclosures