DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF DIRECTOR

ACTION REFERRAL

TO	DATE
Bowling	4-17-07

DIRECTOR'S USE ONLY	ACTION REQUESTED
1. LOG NUMBER 000650	[ ] Prepare reply for the Director's signature DATE DUE _____
2. DATE SIGNED BY DIRECTOR Cleared 6/4/07, letter attached. ✓	[X] Prepare reply for appropriate signature DATE DUE 4-26-07
	[ ] FOIA DATE DUE _____
	[ ] 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.			

Dr. O. Marion Burton
Medical Director
State of South Carolina
Department of Health and Human Services
P.O. Box 8206
Columbia, SC 29202

Log - Bowling
"Approp. Sign"

Re: Visual Evoked (CPT 95930)
Provider #: GP1184

Dear Dr. Burton,

We received your letter dated February 6, 2007 regarding non-coverage of Visual Evoked Potential (VEP) testing, CPT 95930. Your explanation indicated VEP testing is outside the scope of EPSDT. However, based on the following information, we believe that VEP testing should be covered.

1) 42CFR441.56 - Federally mandated minimum guidelines state additional testing during the EPSDT visit is eligible. Federal Code states "In addition to any diagnostic and treatment services included in the plan, the agency must provide to eligible EPSDT recipients, the following services, the need for which is indicated by screening, even if the services are not included in the plan-.... (1) Diagnosis of and treatment for defects in vision and hearing".

2) "'Under EPSDT, State Medicaid programs must cover "necessary health care, diagnostic services, treatment and other measures...to correct or ameliorate defects and physical and mental illnesses and conditions." 42 U.S.C. § 1396d(r)(5) Services must be covered if they correct, compensate for, or improve a condition, or prevent a condition from worsening-even if the condition cannot be prevented or cured.'" http://www.nls.org/conf/epsdt.htm

3) "'The determination that a service is medically necessary lies primarily with the child's treating physician or other health care provider. The state may review the physician's determination as to medical necessity. However, the state must defer to the recommendation of the treating physician. S.Rep. No. 404, 89th Cong., 1St Sess., reprinted in 1965 U.S.C.C.A.N. 1943, 1986 ("the physician is to be the key figure in determining utilization of health services...it is the physician who is to decide upon admission to a hospital, order tests, drugs , and treatments[.]").'"
Weaver v. Reagen, 886 F.2d 194 (8th Cir. 1989). State must defer to treating physician.
Hilburn by *Hilburn v. Maher*, 795 F.2d 252 (2d Cir. 1986). State must defer to treating physician.
http://www.nls.org/conf/epsdt.htm

South Carolina's Medicaid State Plan does not acknowledge the federally mandated minimum guidelines for EPSDT, the medical need to evaluate non-verbal children for visual defects, or the use of a modality accepted by the Centers for Medicare and Medicaid Services (CMS) and approved by the FDA for physician use. By copy of this letter, I request that the State of South Carolina Medicaid Program cover VEP testing for the non-verbal children in a primary care/pediatric environment. It is far less expensive to permit a pediatrician to provide a user friendly, electrodiagnostic testing method like VEP than it is to refer all non-verbal children to a specialist.

We would be happy to provide you with additional references should you require. These include federal recommendations, further scientific evidence, professional association support, and legislative initiatives for vision care.

Thank you in advance for recognizing the need to make the right diagnostic tests accessible to the children of South Carolina. If you have any questions or need clarification, please do not hesitate to call me.

Sincerely,

Carol Kl...

RECEIVED
APR 17 2007
Department of Health & Human Services
OFFICE OF THE DIRECTOR

Cc: Jim Demint, Senator
340 Russell Senate Office Building
Washington, DC 20510
Lindsay Graham, Senator
290 Russell Senate Office Building
Washington, DC 20510
Kit Bond, Senator
274 Russell Senate Office Bldg
Washington, DC 20510
Eleanor Kitzman, Director of Insurance
300 Arbor Lake Dr.
Columbia, SC 29223

1 **FDA 510(k) K043491**
www.fda.gov/cdrh/pdf4/K043491.pdf Approved VEP for use by physicians to provide information about the visual pathway function and about optical or neural abnormalities related to vision.

2 **Journal of AAPOS December2004**
http://www.ncbi.nlm.nih.gov/entrez/query.fcgi?cmd=Retrieve&db=PubMed&list_uids=15616502&dopt=Abstract
New Visual Evoked Potential System for Vision Screening in Infants and Young Children; JohnW. Simon, MD, John B. Siegfried, PhD, Monte D. Mills, MD, Joseph H. Calhoun, MD and Judith E. Gurland, MD.

3 **American Optometric Association Clinical Guidelines**
http://www.aoa.org/x815.xml "Clinical use of preferential looking acuity is generally very successful. Teller acuity cards can be used with infants and young children until they are ready for more subjective testing. 33,57-59 However, underestimation of visual acuity loss in patients with strabismic amblyopia on the basis of grating acuity (preferential looking acuity) limits the usefulness of this test.60- 65 When in doubt, the optometrist can refer the child for electrodiagnostic testing, such as visual evoked potentials, which has been shown to be an important method for direct assessment of visual acuity in infants.66-68"

4 **42 CFR Sec. 441.56 - Required activities**
http://a257.g.akamaitech.net/7/257/2422/13nov20061500/edocket.access.gpo.gov/cfr_2006/octqtr/42cfr441.56.htm
" (a) Informing. The agency must--(b) Screening .As a minimum, these screenings must include, but are not limited to: (iii) Appropriate vision testing. " and "(c) Diagnosis and treatment. In addition to any diagnostic and treatment services included in the plan, the agency must provide to eligible EPSDT recipients, the following services, the need for which is indicated by screening, even if the services are not included in the plan-- (1) Diagnosis of and treatment for defects in vision and hearing, including eyeglasses and hearing aids;"

5 **Centers of Medicare and Medicaid Services (CMS)** http://www.cms.hhs.gov/apps/pfslookup/display.asp
www.cms.hhs.gov/manuals/downloads/ncd103_xref_ncd_to_cim.pdf Medicare National coverage Determination Manual 160.10 Evoked Response Tests

6 **Transactions of American Ophthalmological Society**
http://www.pubmedcentral.nih.gov/pagerender.fcgi?artid=1298674&pageindex=26#page Electrophysiologic testing and its specific application in unsedated children. "...VER (VEP) may be of great help in diagnosing visual problems in children". "The most important question may be, Can this child see?" "If there is no obvious cause for visual loss, the question has usually been unanswered until the child is old enough to give a subjective response. In some cases, this has led to several years of missed diagnoses, with the resultant frustration of both parent and physician over the proper course of action and, the prognosis for the child". "Any abnormality of macula, optic nerve, or CNS visual system that affects central vision will result in a chance ...in the VEP". P. 425 "(VEP) development in children has been studied with the use of flash or a patterned stimulus. The latter has been used extensively to study the development of visual acuity and to follow patients with amblyopia". P. 426 "The studies would seem to confirm our opinion that (VEP) can be recorded from normal children as early as the first day of life and can be expected to be a useful test of integrity of the visual system at even this early age".

7 **U.S. Preventative Services Task Force**
http://www.ahcpr.gov/clinic/uspstf/uspsvsch.htm - "The USPSTF recommends screening to detect amblyopia, strabismus, and defects in visual acuity in children younger than age 5 years."

8 **U.S. Preventative Services Task Force Ratings**
http://prevent.org/index2.php?option=com_content&task=view&id=49&_itemid=99&pop=1&page=0
The total for most health benefits received and most cost effective services is the same for Vision Screening for Children and Breast Cancer Screening.

9 **American Academy of Opthalmology**
http://www.aao.org/education/library/ppp/amblyopia/prevention.cfm "Because effective treatment for amblyopia exists, it is important to identify factors that may predispose to amblyopia early in a child's life in order to improve treatment outcomes. The actual cost of the child's amblyopia diagnosis and treatment is reasonable and the cost-benefit ratio is very low because the vision improvement lasts for a lifetime.[64] Thus, prevention and/or minimization of amblyopia by screening and prompt referrals for children with any abnormalities is worthwhile. Screening for amblyopia and strabismus, including esotropia, is usually conducted by the **primary care physicians**, nurses, other health professionals, or school nurses.

10 **Aetna**
http://www.aetna.com/cpb/data/CPBA0181.html - Clinical Policy Bulletins Number: 0181, "To evaluate signs and symptoms of visual loss in persons who are unable to communicate (e.g., unresponsive persons, etc.)."

11 **American Academy of Pediatrics**
http://pediatrics.aappublications.org/cgi/content/full/107/5/1155 - "The mission of the American Academy of Pediatrics is to attain optimal physical, mental, and social health and well-being for **all** infants, children, adolescents and young adults" per the American Academy of Pediatrics. Committee on Children With Disabilities Role of the pediatrician in family-centered early intervention services. Pediatrics 2001;107:1155-1157.

12 **42 CFR 440.40 EPSDT (b)**
http://a257.g.akamaitech.net/7/257/2422/13nov20061500/edocket.access.gpo.gov/cfr_2006/octqtr/42cfr440.40.htm - ``Early and periodic screening and diagnosis and treatment'' means-- (1) Screening and diagnostic services to determine physical or mental defects in recipients under age 21; and (2) Health care, treatment, and other measures to correct or ameliorate any defects and chronic conditions discovered. (See subpart B of part 441 of this chapter.)"

13 **42 CFR 441.55 - State plan requirements**
http://a257.g.akamaitech.net/7/257/2422/13nov20061500/edocket.access.gpo.gov/cfr_2006/octqtr/42cfr441.55.htm
" A State plan must provide that the **Medicaid** agency meets the requirements of Sec. Sec. 441.56-441.62, with respect to EPSDT services, as defined in Sec. 440.40(b) of this subchapter."

14 **42 CFR 440. GENERAL PROVISIONS**
http://a257.g.akamaitech.net/7/257/2422/13nov20061500/edocket.access.gpo.gov/cfr_2006/octqtr/42cfr440.130.htm
"Diagnostic, screening, preventive, and rehabilitative services. (a) ``Diagnostic services,'' except as otherwise provided under this subpart, includes any medical procedures or supplies recommended by a physician or other licensed practitioner of the healing arts, within the scope of his practice under State law, to enable him to identify the existence, nature, or extent of illness, injury, or other health deviation in a recipient. (b) ``Screening services'' means the use of standardized tests given under medical direction in the mass examination of a designated population to detect the existence of one or more particular diseases or health deviations or to identify for more definitive studies individuals suspected of having certain diseases. (c) ``Preventive services'' means services provided by a physician or other licensed practitioner of the healing arts within the scope of his practice under State law to-(1) Prevent disease, disability, and other health conditions or their progression; (2) Prolong life; and (3) Promote physical and mental health and efficiency."

Diagnostic and CPT Codes for VEP Testing

Refer questions to the Director of Insurance/Medical Coding and Billing (973)244-0622 x 322

Fax EOB denials to (973)244-0670 for review.

Observations

- ***Diagnostic/Screening code coverage varies by insurance.***
- ***V20.2 is accepted by Aetna policy 0181***
- ***V80.2 is the most commonly used code***
- ***Blue Cross/Blue Shield contract benefits vary, may require medical necessity.***
- ***Medical reasons for testing may be related to physical, neurological, developmental, congenital or situations related to birth.***
- ***Coding conditions, signs or symptoms support medical necessity***
- ***Examples listed below are not a guarantee of payment.***

CPT Codes

95930	Visual Evoked Potential

Supplies (coverage varies by insurance)

A6411	Patch
A4558	Conductive Paste
A4556	Electrodes (pair)

Modifiers

25	Significant, separately identifiable E & M service by the same physician on the same day of the procedure or other service. Varies by insurance.
Others	Some insurance companies may use unique modifiers for global billing (i.e. Medicaid).
Note:	Payments below $30 may be for prof. component only.

ICD-9-CMs

Primary V Codes

V20.2*	Routine infant or child health check
V80.2	Special screening for other eye conditions (Used by carriers that don't require medical necessity)

Alternate V Codes

V19.1	Family History of Eye Disorders
V19.0	Family History of Blindness or vision loss

Pediatric Ophthalmologists Codes

V71.89	Observation for Other Specified, Suspected Conditions

Examples of Medical Reasons for Testing

796.1	Abnormal reflex
794.13	Abnormal visual evoked potential
781.2	Abnormality of gait, lack of coordination, & transient paralysis
369.00-369.9	Blindness and low vision
779.2	Cerebral depression, coma & other abnormal cerebral signs
300.11	Conversion Disorder
918.1	Corneal Abrasion
783.42	Delayed milestones, late talker or walker
377.00-377.9	Disorders of optic nerve
780.4*	Dizziness & giddiness
368.2	Double Vision
378.00	Esotropia
378.10	Exotropia
765.00	Extreme immaturity unspecified
763.0-763.9	Fetus or newborn affected by complications of labor & delivery
763.4	Cesarean delivery
784.0	Headache
307.81	Headaches-tension
343.0-343.9	Infantile cerebral palsy
950.0-950.9	Injury to optic nerve & visual pathways
870.1	Laceration, eyelid
781.3	Lack of Coordination
783.40	Lack of normal physiological development
315.2	Learning Disorder
088.81	Lyme disease
794.10-794.19	Nonspecific abnormal results of function
378.9	Strabismus
368.9	Visual disturbance
368.00-368.9	Visual field defects
Note:	*ICD-9 in Aetna policy

Lowcountry
Medical Associates
Family Practice Internal Medicine Pediatrics

CHARLES TOWNE PEDIATRICS
3800 Faber Place Drive
North Charleston, South Carolina 29405

Dr. O. Mariona Burton
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#650

State of South Carolina
Department of Health and Human Services

Mark Sanford
Governor

Susan B. Bowling
Acting Director

June 4, 2007

Carol K. Klauber, M.D.
Low Country Medical Associates
Charles Towne Pediatrics
3800 Faber Place Drive
North Charleston, South Carolina 29405

RE: Visual Evoked Potential Testing

Dear Dr. Klauber:

Thank you for your letter regarding coverage of Visual Evoked Potential (VEP) testing, CPT code 95930, when performed during a routine Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) exam. We welcome the opportunity to be of assistance.

The South Carolina Department of Health and Human Services (SCDHHS) State Plan follows the federal requirements for the EPSDT program. Also, our policy is in line with both North Carolina and Georgia Medicaid programs as it relates to vision screening. Our policy is fully outlined in the Physician Services manual should you need additional information. A thorough review of clinical data does not indicate that VEP testing should be utilized as a screening tool for the general pediatric population. CPT code 95930 is a covered procedure in the South Carolina Medicaid program. However, reimbursement for any visual screening performed as part of an EPSDT visit must be included in the EPSDT global payment.

The intent of the EPSDT program is to correct or ameliorate any physical, mental or other condition identified during an EPSDT screening. Physicians can either address those issues within the scope of their practice or refer patients to an appropriate provider for those services that are medically necessary and are not within the scope of their practice.

Thank you for contacting us as we appreciate your continued efforts on behalf of our Medicaid beneficiaries. If you have any additional questions, please contact Ms. Valeria Williams, Division Director for Physician Services, at (803) 898-2660.

Sincerely,

Marion Burton

O. Marion Burton, MD
Medical Director

OMB/lj

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