

SEMI Accountability Regulations N.J.A.C. 6A:23A-5.3 Posting Date 5/1/17

6A:23A-5.3 Failure to maximize Special Education Medicaid Initiative (SEMI)

- (a) Every school district and CVSD, with the exception of any school district that obtains a waiver of the requirements of this section pursuant to (b) below, shall take appropriate steps to maximize its revenue from the Special Education Medicaid Initiative (SEMI) program by following the policies and procedures to maximize participation in the program as set forth in (d) below and to comply with all program requirements as set forth in (e) below.
- (b) School districts and CVSDs may seek, in the prebudget year, a waiver of the requirements of this section upon demonstration that for the subsequent school year: the school district projects, based on reliable evidence, that it will have 40 or fewer Medicaid-eligible classified students.
 - 1. The application for a waiver of the requirements of this section shall be made to the executive county superintendent no less than 45 days prior to the submission of the school district's proposed budget for the school year to which the waiver request applies. The executive county superintendent shall notify the school district of the decision on the waiver application within 20 days of receipt of the waiver request. If the waiver is not granted, the school district shall submit to the executive county superintendent a SEMI action plan as required by (f) below as part of its annual school district budget submission, or shall demonstrate to the

executive county superintendent that the school district has achieved maximum participation in the SEMI program in the prebudget year.

- (c) As part of the annual budget information, the Department shall provide each school district and CVSD with a projection of available SEMI reimbursement for the budget year, as determined by the New Jersey Department of the Treasury's third-party administrator for SEMI.
1. The school district shall recognize as revenue in its annual school district budget no less than 90 percent of said projection.
 2. A school district or CVSD may seek approval from the executive county superintendent to use its own projection of SEMI reimbursement upon demonstration the numbers it used in calculating the projection are more accurate than the projection provided.
- (d) Each school district or CVSD shall strive to achieve maximum participation in the SEMI program. For purposes of this section, "maximum participation" means obtaining a 90 percent return rate of parental consent forms for all SEMI eligible students. School districts shall enter all students following their evaluations into the third-party system as determined by the New Jersey Department of the Treasury to identify the school district's universe of eligible students. This may be done without parental consent.
- (e) School districts participating in the SEMI reimbursement program shall comply with program requirements as follows:
1. Each district board of education or CVSD board of education shall implement a policy concerning the effective and efficient administration of the SEMI reimbursement program consistent with the requirements of this section. A complete listing of requirements and information are available at the SEMI/MAC website <http://www.state.nj.us/treasury/administration/semi-mac/semi-mac.htm>.
 2. Any service submitted to Medicaid for reimbursement shall be rendered by a

Medicaid qualified practitioner, or rendered by a provider under the supervision of a Medicaid qualified practitioner. The following outlines the required documentation for each related service provider:

- i. Nurses – copy of license (Department certification is not required for SEMI);
- ii. Occupational Therapist – copy of license and Department certification;
- iii. Physical Therapist - copy of license and Department certification;
- iv. Psychologist – copy of Department certification;
- v. Social Worker - copy of Department certification;
- vi. Speech-language specialist:
 - (1) Qualification and documentation for provision of evaluation services shall include:
 - (A) Copy of licensed physician’s orders, which shall be maintained with the student’s IEP; or
 - (B) Copy of New Jersey license as a speech-language pathologist and Department certification as a speech-language specialist (N.J.A.C. 6A:9B-14.6) for the individual whose signature appears on the IEP; or
 - (C) Copy of documentation that identifies the referral of speech services included in or with the student’s IEP.
 - (2) Qualification for provision of related services shall include:
 - (A) Copy of Department certification or endorsement issued and an American Speech-Language-Hearing Association (ASHA) Certificate of Clinical Competence; or
 - (B) Copy of Department certification or endorsement and a valid license authorized by the State Audiology and

Speech-Language Pathology Advisory Committee in
accordance with N.J.S.A. 45:3B-1 et seq.

- vii. Audiologist – copy of license issued by the State Audiology and Speech-Language Pathology Advisory Committee in accordance with N.J.S.A. 45:3B-1 et seq.
3. Practitioners who are not Medicaid qualified can deliver services under the direction of Medicaid qualified practitioners. These include only certified occupational therapist assistants (COTAs), physical therapist assistants (PTAs), speech-language specialists who do not meet the qualifications at (e)2vi(2)(A) or (B) above, and licensed practical nurses (LPNs).
4. Any direct therapy or other related service shall be prescribed in the related services section of the student's IEP prior to submitting a claim to Medicaid for reimbursement. Delivery of nursing services and dispensing of medication shall be referenced in the IEP and supported by physicians' orders or prescriptions, which shall be maintained on file. Supporting documentation to be maintained by the school district shall be the cover/signature page, related services section of the IEP, therapy logs, and the evaluations and assessments conducted by the Medicaid-qualified practitioners.
5. Entities where the school district has placed SEMI-eligible students shall take steps to enable school districts to maximize participation, including either logging the eligible services provided directly through the third-party system as determined by the New Jersey Department of the Treasury or the sending school district, as mutually agreed upon with the school district, and obtaining SEMI provider qualification certifications. Every out-of-district placement shall provide copies of SEMI provider qualifications, certifications and licenses. This paragraph applies to the following out-of-district placement options:

- i. Approved private schools for students with disabilities;
 - ii. Educational services commissions;
 - iii. Jointure commissions;
 - iv. Vocational half-time programs;
 - v. Department regional day schools; and
 - vi. Special services school districts.
6. Each school district that does not have an approved waiver pursuant to (b) above shall comply with the program requirements to assure the year-end cost settlement of SEMI claims is properly calculated with the standardized submission of quarterly and annual cost data, as well as staff pool lists transmitted directly through the third-party system as determined by the New Jersey Department of the Treasury.
 7. To retain reimbursement, each school district that does not have an approved waiver pursuant to (b) above shall ensure compliance with the necessary components of the cost settlement requirements, which include completion of the online questionnaire -- Random Moment Time Study (RMTS) -- by staff provided directly through the third-party system as determined by the New Jersey Department of the Treasury.
 8. All supporting documentation for a Medicaid claim shall be maintained on file and available for audit or State review for at least seven years from the date of service. Supporting documentation shall include provider certification (current and historical for each provider), provider service logs, licenses and certifications, physician authorizations for nursing services, parental consent forms, attendance records, and copies of the student's IEP.
- (f) Each school district that has less than 90 percent participation of SEMI eligible students in the prebudget year or that has failed to comply with all program requirements set forth

in (e) above shall submit a SEMI action plan to the executive county superintendent for review and approval as part of the school district's proposed budget submission.

(g) The SEMI action plan shall include the following components:

1. Procedures for obtaining parental consent forms, such as the parental consent best practices that are available from the Department.
2. Establishment of a benchmark for the year of implementation or for the first year the school district does not have an approved waiver pursuant to (b) above, whichever is applicable, for obtaining maximum participation of all SEMI eligible students by the start of the subsequent school year.
 - i. The benchmarks for the first year of implementation or for the first year the school district does not have an approved waiver pursuant to (b) above, whichever is applicable, for achieving maximum participation shall close, at a minimum, the gap between current participation and maximum participation by 50 percent by the beginning of the subsequent school year; and
 - ii. The benchmarks shall be based on the percentage of parental consent forms collected from eligible students. The number of parental consent forms shall reflect one parental consent form or one document noting parental refusal for each eligible student;
3. Procedures to ensure all IEP meetings are documented in the third-party administrator's system. IEPs are claimable only if a Medicaid qualified practitioner is present and it is documented that a health-related service is discussed;
4. Procedures to ensure all SEMI eligible services, including services provided by entities where the school district has placed SEMI eligible students, are documented in the third-party administrator's system;

5. Procedures to ensure a valid IEP is on file and the IEP date is on file in the third-party administrator's system for each SEMI eligible student for whom parental consent has been obtained; and
 6. Procedures to ensure service providers used by the school district and entities where the school district has placed SEMI eligible students have valid licenses and certifications documenting SEMI provider qualifications on file in the third-party administrator's system.
- (h) School districts that did not achieve 90 percent participation or achieve their approved benchmarks in the SEMI program for a given budget year and cannot demonstrate they fully implemented their Department-approved SEMI action plan required under (f) and (g) above shall be subject to review for the withholding of State aid by the Commissioner pursuant to N.J.S.A. 18A:55-3 in an amount equal to the SEMI revenue projection based on their approved benchmark for the budget year, if applicable, less actual SEMI reimbursements for the budget year. The State aid deduction shall be made in the second subsequent year after the budget year.