



Office of Audit Services
Region I
John F. Kennedy Federal Building
Room 2425
Boston, MA 02203

January 19, 2012

Report Number: A-01-10-00014

Mr. Nicholas A. Toumpas
Commissioner
Department of Health and Human Services
129 Pleasant Street
Concord, NH 03301

Dear Mr. Toumpas:

Enclosed is the U.S. Department of Health and Human Services (HHS), Office of Inspector General (OIG), final report entitled *Review of Medicaid Payments for School-Based Health Services Made to Manchester, New Hampshire*. We will forward a copy of this report to the HHS action official noted on the following page for review and any action deemed necessary.

The HHS action official will make final determination as to actions taken on all matters reported. We request that you respond to this official within 30 days from the date of this letter. Your response should present any comments or additional information that you believe may have a bearing on the final determination.

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If you have any questions or comments about this report, please do not hesitate to call me, or contact Curtis Roy, Audit Manager, at (617) 565-9281 or through email at Curtis.Roy@oig.hhs.gov. Please refer to report number A-01-10-00014 in all correspondence.

Sincerely,

/Michael J. Armstrong/
Regional Inspector General
for Audit Services

Enclosure

Direct Reply to HHS Action Official:

Ms. Jackie Garner
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Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**REVIEW OF MEDICAID
PAYMENTS FOR SCHOOL-BASED
HEALTH SERVICES MADE TO
MANCHESTER, NEW HAMPSHIRE**



Daniel R. Levinson
Inspector General

January 2012
A-01-10-00014

Office of Inspector General

<http://oig.hhs.gov>

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OFFICE OF AUDIT SERVICES FINDINGS AND OPINIONS

The designation of financial or management practices as questionable, a recommendation for the disallowance of costs incurred or claimed, and any other conclusions and recommendations in this report represent the findings and opinions of OAS. Authorized officials of the HHS operating divisions will make final determination on these matters.

EXECUTIVE SUMMARY

BACKGROUND

Pursuant to Title XIX of the Social Security Act (the Act), the Medicaid program provides medical assistance to certain low-income individuals and individuals with disabilities. The Federal and State Governments jointly fund and administer the Medicaid program. At the Federal level, the Centers for Medicare & Medicaid Services (CMS) administers the program. Each State administers its Medicaid program in accordance with a CMS-approved State plan. Although the State has considerable flexibility in designing and operating its Medicaid program, it must comply with applicable Federal requirements. In New Hampshire, the Department of Health and Human Services, Office of Medicaid Business and Policy (State agency), administers the Medicaid program.

Section 411(k)(13) of the Medicare Catastrophic Coverage Act of 1988 (P. L. No. 100-360) amended section 1903(c) of the Act to permit Medicaid payment for medical services provided to children under the Individuals with Disabilities Education Act through a child's individualized education plan (IEP). Pursuant to Federal and State requirements, such services require a referral or prescription from a properly credentialed physician or licensed practitioner. These services must be documented fully and provided by an individual who meets Federal qualification requirements. In addition, these services must be documented in the child's IEP.

During calendar years 2006 through 2008, the State agency claimed \$8,650,981 (\$4,338,637 Federal share) for Medicaid payments made to Manchester, New Hampshire, for school-based health services.

We reviewed a random sample of 100 student months, which included 1,240 Medicaid school-based health services totaling \$110,440 (\$55,370 Federal share). A student month represented all paid Medicaid school-based health services provided to an individual student for a calendar month.

OBJECTIVE

Our objective was to determine whether the State agency claimed Federal Medicaid reimbursement for school-based health services submitted by the Manchester School Administrative Unit (SAU) in accordance with Federal and State requirements.

SUMMARY OF FINDINGS

The State agency did not always claim Federal Medicaid reimbursement for school-based health services submitted by the Manchester SAU in accordance with Federal and State requirements. Of the 100 student months in our random sample, 34 student months met Federal and State requirements. However, the remaining 66 student months had one or more school-based health services, totaling \$11,443 (\$5,741 Federal share), that were not reimbursable. Based on our results, we estimated that the State agency improperly claimed \$984,017 (\$494,738 Federal share) for Medicaid payments made to the Manchester SAU.

RECOMMENDATIONS

We recommend that the State agency:

- refund \$494,738 to the Federal government,
- work with CMS to review Medicaid payments made to the Manchester SAU after our audit period and refund any overpayments, and
- strengthen its oversight of the New Hampshire Medicaid to Schools program to ensure that claims for school-based health services comply with Federal and State requirements.

MANCHESTER SCHOOL ADMINISTRATIVE UNIT COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

In written comments on our draft report, the Manchester SAU disagreed with our findings for 42 of the 66 student months that we identified as having one or more school-based health services that were not reimbursable. The Manchester SAU stated that the claims submitted for transportation services provided during 34 student months and for school-based services provided during 8 student months met Federal and State requirements.

We maintain that the State agency did not always claim Federal reimbursement for school-based services submitted by the Manchester SAU in accordance with Federal and State requirements. However, in response to the Manchester SAU's comments, we modified our finding for 1 student month and adjusted our monetary recommendation accordingly.

The Manchester SAU's comments, excluding 7 attachments totaling 34 pages, are at Appendix C. We have provided the comments in their entirety to the State agency.

STATE AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

In written comments on our draft report, the State agency concurred in part and disagreed in part with our findings and recommendations. Specifically, the State agency agreed in general with our recommendation to strengthen its oversight of the New Hampshire Medicaid to Schools program and disagreed with our findings for 23 of 66 student months that we identified as having one or more school-based health services that were not reimbursable. The State agency did not comment on the remaining 43 student months, but stated that it reserves the right to provide additional documentation in the future.

We maintain that the State agency did not always claim Federal reimbursement for school-based services submitted by the Manchester SAU in accordance with Federal and State requirements. However, in response to the State agency's comments, we modified our findings for 9 student months and adjusted our monetary recommendation accordingly.

The State agency's comments are included in their entirety as Appendix D.

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INTRODUCTION

BACKGROUND

Medicaid Program

Pursuant to Title XIX of the Social Security Act (the Act), the Medicaid program provides medical assistance to certain low-income individuals and individuals with disabilities. The Federal and State Governments jointly fund and administer the Medicaid program. At the Federal level, the Centers for Medicare & Medicaid Services (CMS) administers the program. Each State administers its Medicaid program in accordance with a CMS-approved State plan. Although the State has considerable flexibility in designing and operating its Medicaid program, it must comply with applicable Federal requirements.

Medicaid Coverage of School-Based Health Services

Section 411(k)(13) of the Medicare Catastrophic Coverage Act of 1988 (P.L. No. 100-360) amended section 1903(c) of the Act to permit Medicaid payment for medical services provided to children under the Individuals with Disabilities Education Act (IDEA) (originally enacted as P.L. No. 91-230 in 1970) through a child's individualized education plan (IEP).

Federal and State rules require that school-based health services be (1) referred or prescribed by a physician or another appropriate professional, (2) provided by an individual who meets Federal qualification requirements, (3) fully documented, (4) actually furnished in order to be billed, and (5) documented in the child's IEP.

In August 1997, CMS issued a guide entitled *Medicaid and School Health: A Technical Assistance Guide* (technical guide). According to the technical guide, school-based health services included in a child's IEP may be covered if all relevant statutory and regulatory requirements are met. In addition, the technical guide provides that a State may cover services included in a child's IEP as long as (1) the services are listed in section 1905(a) of the Act and are medically necessary; (2) all Federal and State regulations are followed, including those specifying provider qualifications; and (3) the services are included in the State plan or available under the Early and Periodic Screening, Diagnostic, and Treatment Medicaid benefit. Covered services may include, but are not limited to, physical therapy, occupational therapy, speech pathology/therapy services, psychological counseling, nursing, and transportation services.

New Hampshire Medicaid to Schools Program

In New Hampshire, the Department of Health and Human Services, Office of Medicaid Business and Policy (State agency) administers the Medicaid program. New Hampshire's Medicaid to Schools Program allows school administrative units (SAU)¹ to receive Federal reimbursement through the State agency for medically related services provided pursuant to a child's IEP.

¹ An SAU is a legally organized administrative body responsible for one or more school districts.

The primary State guidance for administering and operating the school-based health program is the *New Hampshire Medicaid to Schools Program Manual* (State Manual). In order to be eligible for this program, a student must be (1) identified as having an educational disability in his or her IEP, (2) younger than 22 years of age, (3) eligible for Medicaid, and (4) served by an SAU that is enrolled as a Medicaid provider. Covered services under the Medicaid to Schools program include:

- medical evaluation;
- nursing services;
- occupational and physical therapy;
- psychiatric, psychological, and mental-health services;
- speech, language, and hearing services;
- rehabilitative assistance;
- vision services; and
- transportation services.

The State agency reimbursed SAUs for the Federal share of Medicaid expenditures only; the SAUs were responsible for the State share.² In addition, SAUs were reimbursed for the lesser of the actual cost or the rate established by the State agency for the covered services. The Federal Government pays its share, including claims for school-based health services, according to a formula established in section 1905(b) of the Act. That share is known as the Federal medical assistance percentage (FMAP). The FMAP in New Hampshire ranged from 50 percent to approximately 56 percent during our audit period.

Manchester School Administrative Unit

The Manchester SAU is a public school district located in Manchester, New Hampshire. It operates 23 schools, including a preschool, 14 elementary schools, 4 middle schools, 3 high schools, and a vocational/technical school. It is the largest school system in the State, serving more than 16,000 students per school year. The Manchester SAU received more than \$4.3 million in Federal Medicaid reimbursement during our audit period.

² The State's share of the Medicaid payments consisted of certified public expenditures. These expenditures represented funds that Manchester had provided for school-based services.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

Our objective was to determine whether the State agency claimed Federal Medicaid reimbursement for school-based health services submitted by the Manchester SAU in accordance with Federal and State requirements.

Scope

We reviewed Medicaid school-based health services that were submitted by the Manchester SAU and claimed by the State agency for Federal reimbursement on Form CMS-64, Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program. The State agency claimed \$8,650,981 (\$4,338,637 Federal share) for Medicaid payments made to the Manchester SAU during calendar years 2006 through 2008.

Our objective did not require an understanding or assessment of the complete internal control structures at the State agency or the Manchester SAU. Rather, we limited our review to those controls that were significant to the objective of our audit.

We performed our fieldwork at the State agency in Concord, New Hampshire, and at the Manchester SAU from July 2010 through May 2011.

Methodology

To accomplish our audit objective, we:

- reviewed applicable Federal laws, regulations, and guidance and the CMS-approved State plan;
- interviewed officials from CMS, the State agency, and the Manchester SAU;
- obtained a computer-generated file identifying all Medicaid school-based health claims submitted by New Hampshire with paid dates from January 2006 through December 2008;
- identified 14,477 student months attributed to the Manchester SAU, totaling \$8,390,372 (\$4,207,688 Federal share), as described in Appendix A;
- selected a stratified random sample of 100 of the 14,477 student months (Appendix A);
- reviewed medical records and other documentation in order to determine whether each of the services provided in the 100 sampled student months was allowable and accurate in accordance with Federal and State requirements; and

- estimated the total overpayments and the Federal share of these overpayments based on our results (Appendix B).

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

FINDING AND RECOMMENDATIONS

The State agency did not always claim Federal Medicaid reimbursement for school-based health services submitted by the Manchester SAU in accordance with Federal and State requirements. Of the 100 student months in our random sample, 34 student months met Federal and State requirements. However, the remaining 66 student months had one or more school-based health services, totaling \$11,443 (\$5,741 Federal share), that were not reimbursable.

Specifically, we found student months with the following deficiencies:³

- For 44 student months, the State agency claimed Federal reimbursement for transportation services that did not meet Federal and State requirements.
- For 39 student months, the State agency claimed Federal reimbursement for services provided by the Manchester SAU that were overbilled, not supported, or unallowable.

Based on our results, we estimated that the State agency improperly claimed \$984,017 (\$494,738 Federal share) for Medicaid payments made to the Manchester SAU.

The deficiencies occurred because the State agency did not adequately monitor the claims for school-based health services submitted by the Manchester SAU. Further, the State agency issued incorrect guidance to the SAUs on Federal requirements pertaining to Medicaid transportation claims.

TRANSPORTATION REQUIREMENTS NOT MET

Pursuant to the New Hampshire State plan (Attachment 3.1-A, page 9-a), “transportation to obtain necessary medical care is provided to both the categorically needy and the medically needy.” In addition, Federal regulations (42 CFR 440.170) define transportation as expenses for transportation that the State agency deems necessary to secure medical examinations and treatment for Medicaid beneficiaries.

CMS’s technical guide states that Medicaid will reimburse for transportation to school-based services for children under IDEA when (1) the child receives transportation to obtain a Medicaid-covered service (other than transportation) and (2) both the Medicaid-covered service

³ The total exceeds 66 because 17 of the student months contained more than 1 deficiency.

and the need for transportation are included in the child's IEP. Moreover, a CMS letter to State Medicaid Directors, dated May 21, 1999 (CMS letter), requires that transportation be billed only for days that an allowable or billable Medicaid service other than transportation is provided. The CMS letter also states that documentation for each service must be maintained, usually in the form of a trip log maintained by the provider of the specialized transportation service. Furthermore, Office of Management and Budget Circular A-87, Att. A, § C.1.j, states that costs must be documented adequately to be allowable under Federal awards.

For 44 of the 71 student months that had transportation services in our sample, the State agency claimed Federal reimbursement for transportation services that did not meet Federal and State requirements.⁴ Specifically:

- For 22 student months, the State agency claimed Federal reimbursement for transportation services that were provided on days that allowable or billable Medicaid services, other than transportation services, were not provided. For example, the Manchester SAU requested reimbursement from the State agency for a full week of bus rides provided to a student. However, the service logs provided by the Manchester SAU indicated that the student received only an allowable or billable Medicaid service on 2 of those days.
- For 28 student months, the State agency claimed Federal reimbursement for transportation services that did not meet Federal documentation requirements. For example, the Manchester SAU requested reimbursement from the State agency for bus rides provided to a student based on the student's attendance records. However, the attendance records and the bus provider logs did not document that the student rode the bus.

MEDICAL SERVICES OVERBILLED, NOT SUPPORTED, OR UNALLOWABLE

Pursuant to section 1902(a)(27) of the Act, States claiming Federal Medicaid funding must document services provided. This requirement is reiterated in CMS's technical guide and the State Manual; both state that school-based health providers must maintain records documenting that a related service or evaluation service was provided. Moreover, pursuant to 42 CFR § 455.1(a)(2), States are required to have a method for verifying whether services reimbursed by Medicaid were furnished.

In addition, section 1903(c) of the Act requires that medical services provided to children under IDEA be included in IEPs. The State Manual also requires that medical services be included in IEPs. New Hampshire Administrative Rule He-M 1301.04 requires a physician's referral or a recommendation from a licensed practitioner of the healing arts practicing within his or her scope of practice as defined in State law for rehabilitative assistance services.

Further, 42 CFR § 440.60 requires that medical care or any other type of remedial care be provided by licensed practitioners within the scope of their practice as defined under State law. New Hampshire Administrative Rule He-M 1301.05(b) requires a provider of school-based

⁴ The total for the specific examples exceeds 44 because 6 student months contained more than 1 type of deficiency.

mental health services to be certified as a guidance and counseling director, a school guidance counselor, or a social worker by the State or a community mental health program.

For 39 of the 100 student months in our sample, the State agency claimed Federal reimbursement for services provided by the Manchester SAU that were overbilled, not supported, or unallowable.⁵ Specifically:

- For 29 student months, the State agency claimed Federal reimbursement for services provided for which the billed units exceeded the quantity documented in the service log, the incorrect rate was billed, or the incorrect procedure code was billed. For example, the Manchester SAU requested reimbursement from the State agency for two units of occupational therapy services, while the service log showed that only one unit had been provided.
- For 9 student months, the State agency claimed Federal reimbursement for services when the students were absent from school or the school was not in session. For example, the Manchester SAU requested reimbursement from the State agency for rehabilitative assistance services, while the school calendar indicated that the school was closed due to a “snow day.”
- For 2 student months, the State agency claimed Federal reimbursement for services that were not included in IEPs. For example, the Manchester SAU requested reimbursement from the State agency for transportation services in 2 student months despite the fact that these services were not included in IEPs.
- For 2 student months, the State agency claimed Federal reimbursement for mental health services rendered by providers who did not meet State certification requirements. For example, the provider for 1 student month had master’s degrees in a related field, but was not certified by the State or a community mental health program.
- For 1 student month, the State agency claimed Federal reimbursement for rehabilitative assistance services that did not meet State referral requirements. For example, the referral was not signed by a physician or a licensed practitioner.

IMPROPERLY CLAIMED FEDERAL MEDICAID REIMBURSEMENT

The State agency did not always claim Federal Medicaid reimbursement for school-based health services submitted by the Manchester SAU in accordance with Federal and State requirements. Of the 100 student months in our random sample, 34 student months met Federal and State requirements. However, the remaining 66 student months had one or more school-based health services, totaling \$11,443 (\$5,741 Federal share), that were not reimbursable. Based on our results, we estimated that the State agency improperly claimed \$984,017 (\$494,738 Federal share) for Medicaid payments made to the Manchester SAU.

⁵ The total for the specific examples exceeds 39 because 3 student months contained more than 1 type of deficiency.

INADEQUATE OVERSIGHT AND INCORRECT GUIDANCE

The deficiencies occurred because the State agency did not adequately monitor the claims for school-based health services submitted by the Manchester SAU. Further, the State agency issued policy memos to the SAUs that included incorrect guidance on Federal requirements pertaining to Medicaid transportation claims.

RECOMMENDATIONS

We recommend that the State agency:

- refund \$494,738 to the Federal government,
- work with CMS to review Medicaid payments made to the Manchester SAU after our audit period and refund any overpayments, and
- strengthen its oversight of the New Hampshire Medicaid to Schools program to ensure that claims for school-based health services comply with Federal and State requirements.

MANCHESTER SCHOOL ADMINISTRATIVE UNIT COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

In written comments on our draft report, the Manchester SAU disagreed with our findings for 42 of 66 student months that we identified as having one or more school-based health services that were not reimbursable. In response to the Manchester SAU's comments, we adjusted our results and monetary recommendation accordingly. We maintain that the State agency did not always claim Federal reimbursement for school-based services submitted by the Manchester SAU in accordance with Federal and State requirements as reflected in our modified recommendations.

The Manchester SAU's comments, excluding 7 attachments totaling 34 pages, are at Appendix C. We have provided the comments in their entirety to the State agency.

The following is a summary of the Manchester SAU's comments regarding specific findings of our report and our responses to the Manchester SAU's comments.

Transportation Requirements Not Met

Manchester SAU Comments

The Manchester SAU stated that the reimbursements claimed for transportation services provided during 34 student months met Federal and State requirements for the following reasons:

- For 13 student months, the Manchester SAU stated that the State agency provided guidance via email that attendance reports were sufficient to document the receipt of specialized transportation. In addition, it provided affidavits from the parents of two

students that state that the students are wheelchair bound and were transported on a specially adapted school bus on the days they attended school.

- For 22 student months, the Manchester SAU disagreed with the finding that it improperly submitted claims for transportation services on days when other allowable or billable Medicaid services, other than transportation services, were not provided. Specifically:
 - For 4 student months, the Manchester SAU stated that the students received coverable but not billed rehabilitative assistance services on the days that transportation services were provided.
 - For 18 student months, the Manchester SAU stated that specialized transportation is a “stand alone” covered services that does not require other covered services to be delivered on the same day that transportation is billed to Medicaid.
- The Manchester SAU stated that the reimbursements claimed for transportation services for 22 student months met Federal and State requirements because it billed transportation in accordance with State-issued rules and guidelines. Specifically:
 - The New Hampshire State plan, Attachment 3.1-A, page 6-a, states that rehabilitative services to be reimbursed by Medicaid include services provided by public school systems and that transportation constituted a rehabilitative service reimbursed by Medicaid.
 - The CMS letter supports the position that specialized transportation is a “stand alone” covered service that does not require other covered services to be delivered on the same day that transportation was billed to Medicaid. It added that this guidance specifically states: “If a child requires transportation in a vehicle adapted to serve the needs of the disabled, including a specially adapted school bus, that transportation may be billed to Medicaid if the need for that specialized transportation is identified in the IEP.”
 - The State agency issued guidance on August 15, 2000, which quoted the language set forth above from the CMS letter. The State agency guidance specifically states that “specialized transportation as described above is covered regardless of whether the student received another covered service on that day.” The Manchester SAU submitted claims in accordance with this guidance from the State agency.
 - The CMS technical guide issued in 1997 misinterpreted the law, and CMS sought to issue a new rule, which was subsequently rescinded. In regards to the new rule, the Manchester SAU referenced the Federal Register (72 Fed. Reg. 51397, 51399 (September 7, 2007)), which proposed that Medicaid payments would no longer be available for the costs of transportation from home to school and back for school-age children with IEPs or Individualized Family Service Plans established pursuant to the IDEA. In addition, the CMS letter clarified the 1997 CMS

technical guide and supports the position that specialized transportation is covered regardless of whether a student received another covered service on that day.

Office of Inspector General Response

We disagree with the assertion that the reimbursements claimed for transportation services met Federal and State requirements for the following reasons:

- Attendance reports did not document adequately that students actually received transportation services. Attendance logs demonstrate only that the students attended school and do not verify the method of transportation. Even if the State agency provided guidance to the contrary, we maintain that attendance reports alone would not verify that a student rode the bus on a particular day. In addition, we do not agree that the affidavits support that the students received transportation services, since the statements were dated more than 5 years after the dates of service.
- We maintain that the Manchester SAU improperly submitted claims for transportation services for the days that allowable or billable Medicaid services, other than transportation services, were not provided. Specifically:
 - The rehabilitative assistance services provided during 4 student months were not Medicaid covered or reimbursable because they did not meet all Federal and State documentation and referral requirements. Therefore, the related transportation services were not allowable.
 - We disagree that specialized transportation is a “stand alone” covered service. Pursuant to 42 CFR § 440.170(a), the CMS technical guide, the CMS letter, and the New Hampshire State plan, specialized transportation services are allowable only if used by the student to obtain a Medicaid-covered service.
- We disagree that the reimbursements claimed for transportation services for 21 student months met Federal and State requirements. We noted that we previously adjusted our finding for 1 of the 22 student months. Specifically:
 - We maintain that transportation does not constitute a rehabilitative service reimbursed by Medicaid under the State plan. Federal regulations (42 CFR 440.130(d)) define rehabilitative services as “... any medical or remedial services recommended by a physician or other licensed practitioner of the healing arts, within the scope of his practice under State law, for maximum reduction of physical or mental disability and restoration of a recipient to his best possible functional level.” Transportation does not meet the definition of a rehabilitative service because it is not primarily focused on the reduction of a disability or restoration of functionality. Moreover, transportation services are defined separately under 42 CFR § 440.170(a).

- We maintain that the CMS letter does not support the position that specialized transportation is a “stand alone” covered service. The CMS letter states that “[the CMS technical guide] indicates that transportation to and from school may be claimed as a Medicaid service when the child receives a medical service in school on a particular day and when transportation is specifically listed in the IEP as a required service.” The CMS letter further clarifies that only specialized transportation services should be billed to Medicaid and that the costs for students who ride a regular school bus should not be billed to Medicaid.
- We do not dispute that the State agency issued guidance to the Manchester SAU stating that all specialized transportation services may be claimed, regardless of whether another Medicaid-covered service was provided. However, the guidance on Federal regulations issued by the State agency was incorrect. Specifically, in its guidance, the State agency quoted the language set forth in the CMS letter regarding specialized transportation. However, it omitted the language from the CMS letter regarding the requirement that the child receive another medical service on the same day.
- We disagree that the CMS technical guide misinterpreted the law and that the CMS letter supports the position that specialized transportation is covered regardless of whether a student received another covered service on that day. The CMS technical guide states that Medicaid will reimburse for transportation when the child receives transportation to a Medicaid-covered service. The CMS letter further clarifies that, in addition to another Medicaid-covered service, the transportation must be considered a specialized service and not a regular bus service. This position on the CMS letter is supported by the Federal Register (72 Fed. Reg. 51397, 51398 (September 7, 2007)), which was cited by the Manchester SAU, and states that “... in guidance contained in a May 21, 1999, letter to State Medicaid Directors ... CMS expressed the policy that Medicaid payment for transporting Medicaid eligible children to and from school was extremely limited, including only specialized transportation that is required under an IEP for children with disabilities, on a day when that child receives a covered medical service from a qualified provider at the school.”

We also noted that the September 7, 2007, Federal Register proposed to eliminate all reimbursement for transportation from home to school and back, regardless of whether another Medicaid covered service was provided. We determined that the proposed rule and its rescission had no bearing on the results of our review.

Medical Services Overbilled, Not Supported, or Unallowable

Manchester SAU Comments

The Manchester SAU stated that the reimbursements claimed for services provided during 8 student months met Federal and State requirements for the following reasons:

- For 1 student month, the Manchester SAU disagreed that a service was not supported because the student received services even though the student was absent from school on the date of service.
- For 3 student months, the Manchester SAU disagreed that the reimbursement is unallowable for transportation services that were not included in the child’s IEP. Specifically, it stated that transportation services were omitted from the IEP due to a clerical error and that transportation services were included in the prior and subsequent IEPs.
- For 2 student months, the Manchester SAU stated that it did not overbill for services provided by a contractor in a group setting because State rules require school districts to claim the actual cost of the service provided and billed to the school district.
- For 1 student month, the Manchester SAU disagreed that the providers and referrers of mental health services did not meet State certification requirements and that waivers of these requirements were not required from the State agency.
- For 1 student month, the Manchester SAU disagreed that it claimed more than the maximum allowable billable units per day.

Office of Inspector General Response

We agree that the reimbursements claimed for services provided during 1 student month met Federal and State requirements, but we disagree that the remaining 7 student months met the requirements. Specifically:

- The Manchester SAU submitted documentation to support that a service was provided at a student’s home on the date that the student was absent from school. The documentation included an email from a guidance counselor sent more than 4 years after the service was provided that stated that, as part of the role of a counselor of the deaf and hard of hearing, the counselor provides home visits; the email stated: “I believe that is why I documented it that day.” This email does not verify that the service was furnished, as required by 42 CFR 455.1(a)(2).
- Federal and State regulations require services to be included in a student’s current IEP in order to be billed to Medicaid. This requirement was not met for 3 student months.
- The State Manual requires that the cost of a covered service must be allocated to all students in a group. The Manchester SAU submitted claims for occupational services that were not prorated based on group size. As a result, the Federal Medicaid program was billed more than the cost of providing the services for 2 student months.
- New Hampshire Administrative Rule He-M 1301.05(b) requires providers of school-based mental health services to be certified as a guidance and counseling director, a school guidance counselor, or a social worker by the State or by a community mental

health program. The Manchester SAU stated that the two providers in question met the qualification requirements to be certified as a guidance counselor and licensed as a social worker by the State, respectively, and thus were qualified automatically as providers under the Medicaid to School program. Even if all the qualification requirements were met, being qualified to be certified or licensed is not the equivalent to an actual certification or licensure granted by the State or a community mental health program. Although State regulations allow for a waiver of this requirement, neither the Manchester SAU nor the State agency provided such waivers.

- Based on the Manchester SAU's comments, we determined that it did not claim more than the maximum allowable billable units per day for 1 student month. We modified our report and adjusted our results to reflect this change.

Extrapolation Methodology

Manchester SAU Comments

The Manchester SAU stated that it does not concede that the extrapolation methodology used was valid because of the unique characteristics of the population in question.

Office of Inspector General Response

The Manchester SAU reserved this issue for further proceedings. Therefore, we have not responded on this matter.

STATE AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

In written comments on our draft report, the State agency concurred in part and disagreed in part with our findings and recommendations. Specifically, the State agency agreed in general with our recommendation to strengthen its oversight of the New Hampshire Medicaid to Schools program and disagreed with our findings for 23 of 66 student months that we identified as having one or more school-based health services that were not reimbursable.⁶ The State agency did not comment on the remaining 43 student months, but stated that it reserves the right to provide additional documentation in the future.

The State agency stated that it is currently reviewing and revising its rules and procedures. The State agency stated that although it was compliant during the audit period based on its understanding of CMS guidance, our review has brought to its attention the need for improvement in certain areas. For example, it plans to require that a specialized transportation service billed to Medicaid must include another Medicaid-covered service provided on the transportation date. In addition, the State agency stated that it will work to improve efforts for billing training and implement an improved IT billing system to decrease errors.

⁶ The total for the specific examples exceeds 23 because the State agency commented on more than 1 type of deficiency for 2 student months.

In response to the State agency comments, we modified our findings for 9 student months and adjusted our monetary recommendation accordingly. We maintain that the State agency did not always claim Federal reimbursement for school-based services submitted by the Manchester SAU in accordance with Federal and State requirements as reflected in our modified recommendations.

We disagree that the State agency was compliant during the audit period based on its understanding of CMS guidance. In regard to specialized transportation, the CMS letter states that “[the CMS technical guide] indicates that transportation to and from school may be claimed as a Medicaid service when the child receives a medical service in school on a particular day and when transportation is specifically listed in the IEP as a required service.” For this reason, we commend the State agency for taking corrective action to revise its guidance provided to SAUs for specialized transportation and for increasing its training efforts and implementing a new billing system.

The State agency’s comments are included in their entirety as Appendix D.

The following is a summary of the State agency’s comments regarding specific findings of our report and our responses to the State agency’s comments.

Transportation Requirements Not Met

State Agency Comments

The State agency stated that the reimbursements claimed for transportation services provided during 18 student months met Federal and State requirements for the following reasons:

- For 12 student months, the State agency disagreed with the findings that it improperly submitted claims for transportation services on days when other allowable or billable Medicaid services, other than transportation services, were not provided. Specifically:
 - For 6 student months, the State agency maintained that the students received Medicaid covered services on the days that transportation services were provided as part of out-of-district placements in specialized schools or summer programs that provide services to children with disabilities. Examples of the provided medical services included therapeutic services, mental health services, rehabilitative assistance, and occupational therapy. Furthermore, the State agency stated that these services were included in each student’s IEP.
 - For 4 student months, the State agency submitted documentation to support that the student received Medicaid covered services on all or some of the dates of transportation. Examples of the provided medical services included nursing services, counseling services, and occupational and speech therapy.
 - For 1 student month, the State agency stated that the student attended a vocational exploration program during part of each school day and that the program is

reflected in the IEP goals. In addition, the State agency asserted that this is a covered service under New Hampshire Administrative Rule He-M 1301.04(v)(7).

- For 1 student month, the State agency contended that the student received a consultation for speech therapy on the date of transportation. It added that we initially disallowed the service, because the speech provider was not certified by the American Speech Language Hearing Association (ASHA). Moreover, we informed the State agency that we determined that the service on December 16, 2011, was Medicaid covered based on U.S. Department of Health and Human Services Departmental Appeals Board Decision No. 2415.
- For 3 student months, the State agency concurred that the Manchester SAU improperly submitted claims for transportation services. However, the State agency asserted that the causes of the billing errors were that the students were absent from school or that school was not in session and not that another Medicaid covered services was not provided on the same day.
- For 2 student months, the State agency states that signed affidavits from the parents provided by the Manchester SAU were sufficient to document that the students were transported on a specially adapted school bus on the days that they attended school. For 1 of the student months, the State agency provided a second affidavit with additional details.
- For 1 student month, the State agency submitted bus provider logs to document that the students received transportation services on a particular day. The State agency stated that the logs indicate that the student was picked up for transport to school in the morning and for transport to home in the afternoon.

Office of Inspector General Response

We agree in part with the State agency's comments for 6 student months, and we noted that we previously adjusted our finding for 1 student month. However, we disagree with the assertion that the reimbursements claimed for transportation services provided during 11 student months met Federal and State requirements for the following reasons:

- Federal and State regulations require that school-based health services be properly referred, adequately documented, and provided by qualified individuals. Although the students may or may not have received services as part of out-of-district placement, the services for 6 student months were not fully documented. Therefore, we could not verify that the services were furnished and that they met all of the requirements to be considered Medicaid covered. For example, for 1 student month the State agency provided a weekly schedule of the student's summer camp activities, which included occupational therapy services. However, a schedule only supports that the services were planned and does not verify that they were provided to the student.

- We agree that documentation submitted by the State agency for 2 student months supports that the students received Medicaid covered services on all or some of the dates of transportation. We agree in part that the submitted documentation for 1 student month supports that the students received Medicaid covered services on some of the dates of transportation. Specifically, we verified that the occupational therapy services provided to a student on one date of transportation were Medicaid covered. However, the State agency submitted supporting documentation for transportation services that were not claimed by the Manchester SAU. In addition, speech therapy services provided on 5 days did not meet Federal and State referral requirements. We modified our report and adjusted our results to reflect this change. We disagree that the submitted documentation for 1 student month supports that the student received Medicaid covered services on the dates of transportation. For example, the State agency submitted an email from the provider stating that “my records would indicate that I saw the identified student ... on the following dates” However, the State agency did not submit credentials confirming that the provider met State certification requirements.
- New Hampshire Administrative Rule He-M 1301.04(v)(7) states that rehabilitative assistance is a covered service and includes assistance to supported employment for students with vocational IEP goals. Vocational training by itself does not constitute a service covered by Medicaid. Moreover, the only documentation submitted by the State agency to support the services were the student’s IEP and attendance report. Neither the State agency nor the Manchester SAU submitted a referral for rehabilitative assistance from a licensed practitioner of the healing arts or service logs to document adequately that rehabilitative assistance was furnished to the student. We also noted that the State regulation cited by the State agency was not effective on the dates of the transportation services.
- We agree with the State agency’s assertion that the service provided by a speech therapist not certified by ASHA was Medicaid covered. However, we did not reverse our decision after informing the State agency that we were making this change. The confusion resulted from the fact that the Manchester SAU forwarded a prior email from us to the State agency.
- Based on the State agency’s comments, we determined that the cause of the billing error for 2 student months was that the students were absent from school or school was not in session. We modified our report to reflect this change, but the adjustment did not have an impact on our monetary recommendation. In addition, we noted that we previously adjusted our finding for 1 student month.
- We disagree that the signed affidavits submitted for 2 student months support that the students received transportation services, since the statements were dated more than 5 years after the dates of service.
- We disagree that the bus provider logs submitted by the State agency indicate that the student received transportation from school to home. Although the log details the scheduled pickup time, the drop-off time was not filled out on the log, and a box checked

by the provider clearly indicates that the student was a “no show.” We did not have a finding related to the transportation to school.

Medical Services Overbilled, Not Supported, or Unallowable

State Agency Comments

The State agency stated that the reimbursements claimed for services provided during 7 student months met Federal and State requirements for the following reasons:

- For 2 student months, the State agency disagreed that the Manchester SAU overbilled for rehabilitative assistance services. For both student months, the State agency submitted additional service logs to support that the Manchester SAU actually underbilled for services, since the students received more units of service than the amounts billed. For 1 of the student months, the State agency also provided documentation to support that the Manchester SAU billed for services using the correct provider rate.
- For 1 student month, the State agency concurred that the Manchester SAU overbilled for speech therapy provided in a group setting but disagreed with our calculated finding amount. Specifically, the State agency stated that the rate billed by the provider did not have to be divided by the number of students in the group because the service was billed using a procedure code for group services.
- For 1 student month, the State agency disagreed that the providers of counseling services did not meet State certification requirements.
- For 1 student month, the State agency submitted documentation to support that the rehabilitative assistance services provided to the student met State referral requirements.
- For 1 student month, the State agency disagreed that a service was not supported because the student received services even though the student was absent from school on the date of service. In addition, the State agency stated that it has located additional services that were not billed in error and that a credit should be provided for these services against the questioned costs.
- For 1 student month, the State agency disagreed that the reimbursement is unallowable for transportation services that were not included in the child’s IEP. Specifically, it stated that transportation services were omitted from the IEP due to a clerical error and that transportation services were added to the IEP in subsequent years.

Office of Inspector General Response

We agree in part that the reimbursements claimed for services provided during 3 student months met Federal and State requirements, but we disagree that the remaining 4 student months met the requirements. Specifically:

- We maintain that the Manchester SAU overbilled for rehabilitative assistance services for 2 student months. First, the Manchester SAU had already billed for the units of service detailed on the additional service logs submitted by the State agency. Furthermore, we verified that the incorrect provider rate was used to bill for rehabilitative assistance services.
- The State Manual states that SAUs will be reimbursed for the lesser of the actual cost of providing services or the rate established by the State agency for the services. In addition, the State Manual requires that the cost of a covered service must be allocated to all students in a group. For 1 student month, speech therapy services were provided in 20-minute sessions to a group of four students. The Manchester SAU determined the cost of the service by prorating the provider's hourly rate. However, instead of then allocating the prorated rate to all of the students, it allocated the full amount to one student. Even though the payment was limited to the maximum established rate, the Manchester SAU was reimbursed more than the cost of providing the services to the student.
- New Hampshire Administrative Rule He-M 1301.05(b) requires providers of school-based mental health services to be certified as a guidance and counseling director, a school guidance counselor, or a social worker by the State or by a community mental health program. The State agency stated that the two providers in question met the qualification requirements to be certified as a guidance counselor and licensed as a social worker by the State, respectively, and thus were qualified as providers under the Medicaid to School program. Even if all the qualification requirements were met, being qualified to be certified or licensed is not the equivalent to an actual certification or licensure granted by the State or a community mental health program. Although State regulations allow for a waiver of this requirement, neither the State agency nor the Manchester SAU provided such waivers.
- We agree that documentation submitted by the State agency supports that the rehabilitative assistance services provided to the student meet State referral requirements. We modified our report and adjusted our results to reflect this change.
- We agree that the documentation submitted by the State agency supports that the student received services even though the student was absent from school on the date of service. We modified our report and adjusted our results to reflect this change. However, we disagree that a credit should be provided against the questioned costs for additional services that were not billed in error. The services did not pertain to the student month selected in our random sample, as they were provided in the prior school year.
- We agree that the documentation submitted by the State agency supports that it was the intent of the Manchester SAU to include transportation services in the student's IEP and that the need for such services were omitted from the IEP due to a clerical error. We modified our report and adjusted our results to reflect this change.

Bus Logs

State Agency Comments

In response to our findings that the State agency claimed Federal reimbursement for transportation services that did not meet Federal documentation requirements, the State agency stated that the bus provider logs from one bus company experienced water damage and that additional time is required to locate the alternative records.

Office of Inspector General Response

We acknowledge the State agency's right to provide additional documentation to CMS after we have issued the final report to the State agency.

APPENDIXES

APPENDIX A: SAMPLE DESIGN AND METHODOLOGY

POPULATION

The population consisted of Medicaid paid claims for school-based health services that were claimed by the New Hampshire Department of Health and Human Services, Office of Medicaid Business and Policy (State agency) for Federal reimbursement. The population was limited to those claims that were paid during calendar years (CY) 2006 through 2008.

SAMPLING FRAME

The sampling frame consisted of 14,477 student months representing claims for school-based health services paid to Manchester, New Hampshire, during CYs 2006 through 2008 for which the State agency claimed a total of \$8,390,372 (\$4,207,688 Federal share). We excluded 6,286 student months that had a monthly net paid amount of less than \$100.

SAMPLE UNIT

The sample unit was an individual student month. Each sample unit represented all paid Medicaid school-based health services rendered to an individual student in a calendar month.

SAMPLE DESIGN

We used a stratified random sample. We stratified the sampling frame into two strata: (1) student months with a monthly net paid amount of \$1,000 or more and (2) student-months with a monthly net paid amount of \$100 to \$999.99.

Stratum	Monthly Paid Amount	Number of Student Months	Total Amounts	Federal Share
1	\$1,000 or more	2,101	\$3,689,085	\$1,850,496
2	\$100 to \$999.99	12,376	4,701,287	2,357,192
Total		14,477	\$8,390,372	\$4,207,688

SAMPLE SIZE

We selected a sample of 50 student months from each stratum, resulting in a total sample of 100 student months.

SAMPLED SERVICES

Our random sample of 100 student months included 1,240 Medicaid school based health services totaling \$110,440 (\$55,370 Federal share). The 1,240 services consisted of 378 occupational, physical, and speech therapy services; 314 transportation services; 287 rehabilitative assistance aide services; 112 mental health and psychological treatment services; 84 nursing services; 48 preschool services; and 17 vision services.

SOURCE OF THE RANDOM NUMBERS

We used the Office of Inspector General, Office of Audit Services (OAS), statistical software to generate 50 random numbers for each stratum.

METHOD OF SELECTING SAMPLE ITEMS

We consecutively numbered the sample items in each stratum. After generating 50 numbers for each stratum, we selected the corresponding frame items.

ESTIMATION METHODOLOGY

We used the OAS statistical software to estimate the total amount and the Federal share of this amount that the State agency improperly claimed for Medicaid payments for school-based health services made to the Manchester School Administrative Unit.

APPENDIX B: SAMPLE RESULTS AND ESTIMATES

Sample Results: Total Amounts

Stratum	Frame Size	Value of Frame	Sample Size	Value of Sample	No. of Student Months With Unallowable Services	Value of Unallowable Services in Student Months
1	2,101	\$3,689,085	50	\$92,690	35	\$7,097
2	12,376	4,701,287	50	17,750	31	4,346
Total	14,477	\$8,390,372	100	\$110,440	66	\$11,443

Sample Results: Federal Share Amounts

Stratum	Frame Size	Value of Frame (Federal Share)	Sample Size	Value of Sample (Federal Share)	No. of Student Months With Unallowable Services	Value of Unallowable Services in Student Months (Federal Share)
1	2,101	\$1,850,496	50	\$46,448	35	\$3,557
2	12,376	2,357,192	50	8,922	31	2,184
Total	14,477	\$4,207,688	100	\$55,370	66	\$5,741

Estimated Value of Improperly Claimed Federal Medicaid Reimbursement
(Limits Calculated for a 90-Percent Confidence Interval)

	<u>Total Amounts</u>	<u>Federal Share</u>
Point Estimate	\$1,373,885	\$690,073
Lower Limit	984,017	494,738
Upper Limit	1,763,753	885,408



MANCHESTER SCHOOL DISTRICT
SCHOOL ADMINISTRATIVE UNIT NO. 37
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Thomas J. Brennan, Jr., Ed.D.
Superintendent of Schools

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Assistant Superintendent

Karen DeFrancis
Business Administrator

The Honorable Michael J. Armstrong
Regional Inspector General for Audit Services
Department of Health and Human Services
Office of Audit Services – Region 1
John F. Kennedy Federal Building
Room 245
Boston, MA 02204

Re: Report Number: A-01-10-00014

Dear Mr. Armstrong:

Enclosed is the Manchester School District's response to the U.S. Department of Health & Human Services, Office of Inspector General (OIG), draft report dated June 20, 2011 and entitled *Review of Medicaid Payments for School-Based Health Services Made to Manchester, New Hampshire*.

The supporting documentation set forth in the appendix has been provided in accordance with 34 C.F.R. 99.35 and consistent with prior procedures, it has not been redacted, contains personally identifiable student information, and therefore cannot be further disclosed or made public.

If you have any questions about the enclosed document, please do not hesitate to contact my office at (603) 624-6300 and ask for me or [redacted], Medicaid Coordinator for the Manchester School District.

Sincerely,

Thomas J. Brennan
Superintendent
SAU #37
Manchester School District
195 McGregor Street, Suite 201
Manchester, NH 03102

MANCHESTER SCHOOL DISTRICT/MEDICAID AUDIT REPORT
(No. A-01-10-00014)

This document is in response to the U.S. Department of Health & Human Services, Office of Inspector General (OIG), draft report dated June 20, 2011 and entitled *Review of Medicaid Payments for School-Based Health Services Made to Manchester, New Hampshire*.

The supporting data for the comments is set forth in an appendix, with the data for each student month behind a tab correlated for the student month.

Below please find the Manchester School District's (School District) response to the OIG's allegations relative to: (I) reimbursement for transportation services pursuant to CMS letter to State Medicaid Directors, dated May 21, 1999 as well as the Office of Management and Budget Circular 1-87, Att. A, § C.a.j; (II) overbilled, not supported, or unallowable medical services pursuant to sections 1902(a)(27) and 1903(c) of the Social Security Act, 42 C.F.R. § 455.1(a)(2) and § 440.60, and N.H. Admin. Rule HE-M 1301.05(b); and, (III) the OIG's extrapolation methodology.

I. REIMBURSEMENT FOR TRANSPORTATION SERVICES

It is the School District's position that the reimbursements claimed for transportation services met Federal and State requirements for the following reasons.

A. Allegation – Insufficient Documentation

In December 2001, Barbara-Joyce Reed from the State of N.H. DHHS provided guidance to GS BS, LLC that attendance reports would be sufficient to document the receipt of specialized transportation by a student (See Attachment A). As set forth in that e-mail, what was required for transportation services to be reimbursed was specialized transportation in the IEP, the student roster for each bus route and the attendance for the student in school for that day. A driver was not required to take attendance by name each day for each student. For all of the student months set forth below (except for #16 which has unique documentation as set for forth in part I.A.(6) below), the School District has met these requirements and shown that the student was in attendance on the day in question. The School District submits that for the reasons set forth below, the following adjustments should be made for the identified student months:

(1) MTA

- Student #29
- Student #70
- Student #91

Route logs from the Manchester Trust Authority (MTA) exist for students #29, #70 and #91. However, it is not MTA's procedure to provide or maintain individual trip logs. For the student months in question, the attendance records show the students in attendance at school. The route logs show the students to be scheduled to be picked up by the bus on the days in questions. For these reasons, the following amounts should be reduced:

#29	\$230.82
#70	\$192.42
#91	\$331.11

(2) Bus 225

- Student #8
- Student #11

Attendance records show that these two students were in attendance at school on the day in question (12/5/05). Further, the route log/daily mileage log shows that the two students are assigned to Bus 225, although the manifest for the day in question, 12/5/05, is unable to be located. For these reasons, the following amounts should be reduced:

#8	\$8.52
#11	\$17.05

(3) Operator Failure To Complete Log

- Student #41
- Student #43
- Student #49

For these students, logs exist which show the student was scheduled to be transported on the day in questions. Records show the students were in attendance at school on the day in question. However, the bus operator failed to complete the log for the trips at issue. For student #41, 11/3 ride home; for student #43, 12/20 ride home; for student #49, 1/29 ride home. For these reasons, the following amounts should be reduced:

#41	\$4.35
#43	\$4.15
#49	\$9.62

(4) 9/1 Through 9/15

- Student #1

The student was not absent from school any day during the month of September. The provider, S.T.S, provided manifests/logs for 9/19 - 9/30 which reflected that the student rode the bus to and from school on those days. (The provider provided a manifest/log which showed the student rode the bus only to school on 9/19.) The provider was unable to provide any

manifests/logs from 9/1 through 9/15. The S.T.S. manifests were missing from the storage boxes in their storage facility. Given these facts, it is reasonable to presume that the student rode the bus on the days in issue. For this reason, the following amount should be reduced:

#1 \$174.51

(5) PROVIDER Enterprises Bus #209

➤ Student #6

The student was transported to and from school by the PROVIDER Enterprises on Bus #209. A route log from the PROVIDER Enterprises shows that student #6 was to be transported Monday through Friday on Bus #209. The PROVIDER Enterprises did not supply a daily trip log. Student #6 utilized a manual wheelchair, and if student was in attendance at school, the student was transported by specialized transportation in a specially equipped school bus with a monitor. (See Affidavit of parent.) Records show that the student was in attendance at school on the days in question. For these reasons, the following amounts should be reduced:

#6 \$212.19

(6) Other Documentation

➤ Student #4

Student utilized a wheelchair and was transported to and from school on a specially adapted, wheelchair accessible school bus. Parent has provided an affidavit that states that if the student was in attendance at school on any day, student was transported by the wheelchair accessible school bus that day. (See Affidavit of parent.) A route log exists for the student. For these reasons there is sufficient documentation and the following amount should be reduced:

#4 \$41.95

➤ Student #16

On the day in question, 1/11/06, student was present at school and came to school from Wee Play School. Parent did not provide transportation from Wee Play to school. For these reasons, the following amounts should be reduced:

#16 \$5.20

➤ Student #20

On the day in question, 2/1 - ride to school, student attended an out-of-district placement. Student was in attendance at school on that day and the log indicates that the student rode home from school. On 2/1, student was not designated as a “no-show” as on 2/2, 2/6, and 2/16. It is a reasonable conclusion that the student was on the bus for the 2/1 ride to school. For these

reasons, the following amounts should be reduced:

#20 \$7.19

B. Allegation – No Allowable or Billable Medicaid Service on the Day in Question

The School District submits that, for the reasons set forth below, the following adjustments should be made for the identified student months:

(1) Student Received a Coverable But Not Billed Service

- #5, #34, #72(90)
- Student #5

Without prejudice to the position of the School District that specialized transportation is a “stand alone” covered service that does not require that other covered services be delivered on the same day that transportation is billed to Medicaid, the School District provides the following additional information. Student #5, the student in question, attended an out-of-district placement, St. Ann’s Home in Methuen, Massachusetts. St. Ann’s is a specialized day program. When student was in-district during the 2003-2004 school year, student received the services of an individual aide for 1-to-1 assistance. The student is identified as Other Health Impaired. Student’s IEP that was in place during the 2004-2005 school year, indicated that student had been diagnosed with PDD, ADHD and ODD. Student behaviors were of significant concern resulting in the student frequently running out of the building and the necessity for student to be apprehended by staff. Student often refused to come back into the building. Student’s IEP indicated that student hit staff, that the police had to be called in, and that extensive searches were required to take place. Student’s IEP noted that student had frequent tantrums that resulted in throwing items at staff and that it was necessary that student be restrained frequently. Student’s aide during the 2004-2005 school year in the Manchester School District was a Medicaid covered service. When the student went to the St. Ann’s program in 2005-2006, student continued to need the Medicaid covered service of a rehabilitative assistant. However, at St. Ann’s, covered services are included in the design of the therapeutic program and therefore not billed separately. The student nevertheless received other covered service in addition to transportation on the days in question.

For the reasons set forth above, the following amount should be reduced:

#5 \$1,200

- Student #34

Without prejudice to the position of the School District that specialized transportation is a “stand alone” covered service that does not require that other covered services be delivered on the same day that transportation is billed to Medicaid, the School District provides the following additional information for four of the days in question. On those days the student received a covered Medicaid service that was not billed.

Student in question had a primary identification of Emotional Handicapped. As clearly set forth in student's IEP, student had numerous medical issues and attended an out-of-district program, Nashua Children's Home, which should be deemed to be a medical service in its own right. Therefore, Student #34 received another covered Medicaid service that was not billed on the days in question and the full amount of \$270 should be reduced. It is the position of the School District that student received a covered service on the days in question even though the service was not individually billed. Student's prior IEP provided that student had rehabilitative assistance in the form of paraprofessionals during the 2005-2006 school year. When student attended the in-district program at Webster Elementary School, the program had three aides assigned. Student's in-district placement was at the Webster Elementary School in the self-contained program. The Nashua Children's Home is a medical service in and of itself. Further, rehabilitative assistance, a covered service, was provided in the program at Nashua Children's Home although not billed separately. Nashua Children's Home which was student's 2006-2007 placement stated that its program had three self-contained classrooms, each supervised by a certified special education teacher and an aide. The cost of the classroom aide was included as part of the program and was not billed separately. In a self-contained environment, the aides are providing supervision for safety during the entire school day as part of the program. Student therefore received a covered but not billable service each day that student was at the Nashua Children's Home.

The student in question received a Medicaid covered service on 10/10/06, 10/20/06, 10/30/06 (Rehabilitative Assistance) along with 10/20/06, 10/27/06 (Speech Therapy.) The Rehabilitative Assistance covered service was not able to be billed because there was no referral for the service, but the student still received the covered service. The Speech therapy services were covered and provided, but not billed services, even though they were eligible as a billable service (referral supplied); see Previously Adjusted. Therefore, the student received another covered service in addition to transportation on the two additional days in question.

For all of the reasons set forth above, the following amount should be reduced:

#34 \$270.00 (*OIG has already stated it will be partially reduced by \$60.00. \$330 - \$60 = \$270*)

➤ Student #72(90)

The student in question attended an out-of-district placement, the Lighthouse School in Chelmsford, Massachusetts. The Lighthouse School is a specialized day program. It is both a school and a treatment center. Rehabilitative aide services were provided and were coverable services, although they were not able to be billed. Therefore, on the days in question the student received another Medicaid covered service in addition to transportation, although it was not a service that was able to be billed. The service does not have to be billable, only covered in order to allow for transportation.

For the reasons set forth above, the following amount should be reduced:

#72 \$360.00
#90 \$480.00

(2) Bus As An Allowable Medicaid Service

- #3, #5, #12, #17, #21, #32, #34, #35, #38, #47, #61, #65, #72(90), #91, #94, #95, #99

For the student months set forth above, the bus itself was an allowable Medicaid service. It was a covered service. Transportation was a service listed in each student's IEP. The students in question, as highlighted below, had significant medical and psychological needs which required specialized transportation. The vehicles were specially adapted to accommodate the student's disability and/or the students had a specialized route and received transportation because of the student's disability. (See Attachment B; He-M 1300.04(ae))

- Student #3

Student #3 resides in an area that does not have regular school bus transportation to Memorial High School, the school student attends. Student's IEP documents that student fatigues easily, setting forth a medical need for transportation. Additionally, at age 18 student functioned at a first to second grade level. For this reason, the following amount should be reduced:

#3 \$285.26

- Student #5

As set forth previously, student #5 attended an out-of-district program, St. Ann's Home in Methuen, Massachusetts. There was no regular school bus transportation from student's home to the program. The student had a medical need for the transportation, given student's identification of Other Health Impaired and diagnoses of PDD, ADHD and ODD. Student's IEP noted an atypical cyclic mood disorder that was also present. Behavior outbursts were usually the result of overstimulation resulting in increased anxiety. Student #5's behavior plan also identified significant behaviors of concern, specifically that student frequently ran out of the building, was required to be apprehended by staff, would hide on staff, and that the police had to be called in for extensive searches. The IEP also noted that student must be restrained frequently and that during these episodes student tried to hit and kick staff and that student banged head repeatedly on the floor, spitting and yelling that student wanted to hurt self. Student's IEP required that the staff be trained in CPI for physical aggressiveness. It also required that student have a 1-on-1 assistant. Further, because student resided in Manchester and did not have other school bus transportation to student's out-of-district placement, but had a medical need for the transportation, the bus in and of itself is an allowable Medicaid service.

For these reasons, the following amount should be reduced:

#5 \$1,200.00

- Student #12

Student #12 was identified with a primary identification of Emotional Disturbance. Student had difficulty with transitions, and was required based on student's medical/behavioral

needs to be on a bus adapted to serve the needs of the disabled, including but not limited to, a specialized route, a more controlled environment, a smaller number of students and door to door service. The bus is an allowable Medicaid service in and of itself. For these reasons, the following amount should be reduced:

#12 \$51.15

➤ Student #17

The student in question has a primary identification of Emotional Disturbance. Student #17 has a diagnosis of Reactive Attachment Disorder and Post-Traumatic Stress Disorder. The vehicle in which student was transported was required to be adapted to serve the needs of the disabled including but not limited to a specialized route, a more controlled environment, a smaller number of students, and at-home pickups. For this reason, the following amount should be reduced:

#17 \$8.53

➤ Student #21

Student has a primary identification of Emotional Disability. Student's IEP notes that student has difficulty regulating student's emotions and behaviors. Student has an extensive mental health history and had been under the care of the Anna Philbrook Center (New Hampshire State Hospital) since July 7, 2004 due to a variety of unsafe behaviors toward others and self. Student had previously been hospitalized due to aggression toward family members, psychotic symptoms and/or suicidal gestures. Student is attending an out-of-district school which requires transportation. Student's bus was specifically adapted to provide a monitor to address student's medical needs. This medically necessary adaptation indicates that the bus was an allowable Medical service in and of itself. Further, because student resided in Manchester and did not have other school bus transportation to student's out-of-district placement, but had a medical need for the transportation, the bus is an allowable Medicaid service in and of itself. For these reasons, the following amount should be reduced:

#21 \$62.50

➤ Student #32

Student's IEP noted significant medical issues. The student in question had a primary identification of Autism. Student #32 had a diagnosis of Mental Retardation, ADHD and Asperger's Disorder. Student's IEP indicates that student may have also suffered from Post-Traumatic Stress Disorder and Dysthmic Disorder. Student was also diagnosed with the medical condition of epilepsy. Student #32 resided in an area that did not have a school bus that would transport him to student's out-of-district school, Crotched Mountain. For this reason, the bus itself should be considered an allowable Medicaid service. Student's significant medical and psychological needs required specialized transportation. For these reasons, the following amount

should be reduced:

#32 \$240.00

➤ Student #34

Student #34 had a primary identification of Emotional Handicapped. As set forth in student's IEP student had numerous medical issues. Student required transportation in a vehicle adapted to serve the needs of the disabled, and a bus monitor was assigned due to student's needs. For the reasons set forth above, the following amount should be reduced:

#34 \$270.00

➤ Student #35

Student #35's primary identification is as Other Health Impaired. Student's program was a self-contained program. Student required a specially adapted school bus in that student required a school bus with the service of a monitor and with a small population, with door to door service. Student's need for transportation that was adapted to meet student's needs resulted in the bus, in and of itself, being an allowable Medicaid service. For these reasons, the following amount should be reduced:

#35 \$41.60

➤ Student #38

Student's primary identification is Developmental Delay. The student was living in a "family in transition" home. Student resided in an area that did not have school bus transportation to the school in question and given student's developmental delays, needed the transportation. Student was transported from one side of the city to the other. For these reasons, the following amount should be reduced:

#38 \$58.28

➤ Student #47

Student #47 had a primary identification of Emotional Handicap. The student was placed in an out-of-district program at The Life Centered Learning Institute (LCLI). Student was transported to a program in Concord. Student had a specialized route. Student's emotional needs were such that student had a medical need for the transportation. The student could not have been transported on a regular school bus. LCLI where the student was placed provided a therapeutic program. Student was placed there because of student's emotional status and behavioral needs. For these reasons, the bus itself should be considered an allowable Medicaid service. The following amount should be reduced:

#47 \$1,796.60

➤ Student #61

Student in question had a primary disability of developmental delay with weaknesses in areas of social skills/behavioral and self image. Student resided in an area that did not have regular school bus transportation but as a result of developmental delays, student had a medical need for transportation. For this reason, the following amount should be reduced:

#61 \$90.16

➤ Student #65

The student in question's primary identification was Other Health Impaired. Student's IEP denotes medical and behavioral issues. Student was diagnosed with Attention Deficit Hyperactivity Disorder and was on medication for that diagnosis. The IEP also noted that student was very impulsive and that the District was working with student #65 at gaining control of student's emotions. Student had a medical need for transportation. Student was transported in a vehicle adapted to serve student's needs. The adaptations included a more controlled environment, a shorter ride, and a smaller population of students on the bus. For this reason, the bus itself was an allowable Medicaid service and the following amount should be reduced:

#65 \$292.80

➤ Student #72(90)

The student in question has a primary identification of Other Health Impairment. Student's IEP indicates medical needs. The student attended the Lighthouse School in North Chelmsford, Massachusetts, an out-of-district therapeutic program. The student required transportation in a vehicle adapted to serve student's needs. The vehicle had a monitor on it. Therefore the bus service itself was an allowable medical service. For this reason, the following amount should be reduced:

#72 \$360.00
#90 \$480.00

➤ Student #91

The allegation for this student is that there was transportation without another Medicaid service on 05/23 and 05/27. The student has primary identification of Deafness. Because of medical need, student required transportation in a vehicle adapted to serve those needs. Student also required specialized transportation from home to the program for hearing impaired/deaf students located at the Henry J. McLaughlin Middle School, which was not the student's neighborhood school. Therefore, the bus itself should be found to be an allowable medical service, and for these reasons, the following amount should be reduced:

#91 \$28.18 *(the issue with regard to provider logs has been set forth above)*

➤ Student #94

Student #94's IEP provides that student was diagnosed with Attention Deficit Hyperactivity Disorder (ADHD) and that student's mother reported that student had also been diagnosed with Bipolar Disorder. The student resides in an area that does not have school bus transportation to the school that student attended and student's medical diagnoses require the need for specialized transportation. The student was being treated by both student's doctor and Manchester Mental Health to address proper medication to treat student's condition. Student's significant medical and psychological needs required specialized transportation. For this reason, the bus itself was an allowable Medicaid service. For the reasons set forth above, the following amount should be reduced:

#94 \$110.88

➤ Student #95

The student in question had significant medical needs which required transportation in a vehicle adapted to meet those needs. The adaptations included but were not limited to a monitor, a specialized route, a more controlled environment, a smaller number of students, and door to door service. The student was both totally blind and autistic. The bus itself is therefore an allowable Medicaid service. For this reason, the following amount should be reduced:

#95 \$9.50

➤ Student #99

The student was in a wheelchair. Student was also non-verbal and required assistive technology to express student's needs and wants. Student utilizes augmentative communication (an MT 4) to communicate. Student required transportation in a vehicle specially adapted to meet student's needs, specifically a vehicle with a wheelchair lift. On the days in question, student was transported to the Northeast Rehabilitation Hospital. On all days on which student went to the Northeast Rehabilitation Hospital, student was transported by a specially adapted school bus. For this reason, the transportation in and of itself is an allowable Medicaid service and the following amount should be reduced:

#99 \$170.00

(3) The School District Billed Transportation in accordance with State Issued Guidelines.

- #3, #5, #12, #17, #19, #21, #27, #32, #34, #35, #38, #47, #58, #60, #61, #65, #72, #90, #91, #94, #95, #99

It is the position of the School District that they claimed reimbursement for transportation that met Federal and State requirements. The School District billed transportation in accordance with State-issued rules and guidelines.

It is the position of the School District that the State Plan provides that rehabilitative services to be reimbursed by Medicaid included services provided by Public School systems. Thus, transportation provided by the Manchester School District, a public school system, constituted a rehabilitative service reimbursed by Medicaid. (See N.H. State Plan Title XIX-NH Attachment 3.1-A, Page 6-a, 13 a.b.c.d. (Attachment C)).

Further, it is the position of the School District that the “Dear State Medicaid Director” letter issued by the U.S. Dept. of Health and Human Services on May 21, 1999 and quoted in the draft report supports the position that specialized transportation is a “stand alone” covered service that does not require that other covered services be delivered on the same day that transportation was billed to Medicaid. (See Attachment D.) This guidance specifically provided that “If a child requires transportation in a vehicle adapted to serve the needs of the disabled, including a specially adapted school bus, that transportation may be billed to Medicaid if the need for that specialized transportation is identified in the IEP. In addition, if a child resides in an area that does not have school bus transportation (such as those areas in close proximity to a school) but has a medical need for transportation that is noted in the IEP, that transportation may also be billed to Medicaid. As always, transportation from the school to a provider in the community also may be billed to Medicaid. These policies apply whether the State is claiming FFP for transportation under Medicaid as medical assistance or administration.”

The School District disagrees that the CMS letter to State Medicaid Directors, dated May 21, 1999, required that transportation be billed only for days that an allowable or billable Medicaid service other than transportation was provided.

Finally, as noted in the draft report, the State agency issued guidance on August 15, 2000 which quoted the language set forth above from CMS’ May 21, 1999 letter/clarification memo. The State agency guidance specifically stated in bold type “specialized transportation as described above is covered regardless of whether the student received another covered service on that day. (See Attachment E) The School District submitted claims in accordance with this guidance from the State agency. It is the position of the School District that CMS’ technical guide issued in 1997 misinterpreted the law and created confusion. They sought to issue a new rule which was subsequently rescinded. (See Attachment F) The clarification memo issued in May 1999 clarified the 1997 Technical Assistance Guide and supports the position of the School District and the State agency that specialized transportation is covered regardless of whether the student received another covered service on that day.

For these reasons the full amount of \$6,033.05 should be reimbursed for the above students. (Total \$6,033.05; disputed waiting to hear back from OIG \$197.46)

II. OVERBILLED, NOT SUPPORTED, UNALLOWABLE

It is the position of the School District that the reimbursement claimed for the services below were appropriate. The School District complied with Federal and State requirements and billed in accordance with State issued guidelines.

The School District submits that for the reasons set forth below, that the adjustments outlined below should be made for the identified student months:

A. Allegation – No Supporting Documentation

➤ Student #36

School District submitted for only one (1) unit of individual mental health services on 11/16/06. OIG alleges that student #36 was absent on that day so service could not have been provided. Documentation supports that provider went to student's home to provide service on the date in question. Submitted service was delivered. For these reasons, the following amounts should be reduced:

#36 \$25.00

B. Allegation – Reimbursement For Services Not in IEP

➤ #63, #66, #78

➤ Student #63(#73)

Students #63 and #73 are the same individual. For student #63 the service alleged not to be contained in the IEP was transportation. Student had transportation in IEP in both the prior year, 2005-2006, and the subsequent years, 2007-2008 and 2008-2009. Student's IEP that was in place from September 2006 to June 2007 had transportation included within it, however, for student #63, a clerical error omitted showing transportation as a related service in the IEP that was in existence that year. (See documentation for Student Month #73. Student Month #63 and Student Month #73 are the same individual.) This student has had specialized transportation in the IEP as a service throughout student's years in the Manchester School District. For these reasons, the following amount should be reduced:

#63 \$234

[#73 documentation supporting the reduction of \$132.62 has already been provided to and accepted by OIG and it is our understanding that this amount will be reduced.]

➤ Student #66

A clerical error omitted showing transportation when a new IEP was developed in March 2007. The IEP that was in place for the first seven months of the 2006-2007 school year (3/06 to 3/07) documented that student received specialized transportation. The student received the specialized transportation throughout the 2006-2007 school year. Through inadvertence when the new IEP was developed in March 2007 which encompassed the remainder of the school year, transportation was not included. For these reasons, the following amount should be reduced:

#66 \$315

➤ Student #78

For student #78, a clerical error resulted in the omission of transportation as a related service in the IEP that was in existence from 11/22/06 to 11/22/07. Student received transportation in October 2007. The minutes of the team meeting that was held on March 26, 2007 clearly indicated that transportation was included in student's IEP, given that it stated that a recommendation was that the transportation would be changed to S.T.S. on the IEP. The parent requested that S.T.S. be the transporter for mornings for the following year which would be the 2007-2008 school year. The specialized transportation request form indicated that transportation would start on 09/05/07. The IEP for the subsequent years showed that transportation was included on the IEP in place from November 2007 to November 2008, and from March 13, 2008 to November 22, 2008. Transportation was included in the IEP in place from November 2008 to June 2009. Transportation was included in the IEP in place for school year 2009-2010. For these reasons, the following amount should be reduced:

#78 \$45.60

C. Allegation – School District should have questioned contractor's billing rate

➤ #21, #100

For the students set forth above, the School District billed the actual cost. According to the Medicaid to Schools rule, districts are required to bill actual costs. The School District followed this directive and should not be penalized. OIG assumes that there was a billing or rate setting error by the contractor, stating "It appears to be a billing error by contractor but SAU should have questioned it." The rates are set by the contractor/service provider and the School District complied with these rates.

➤ Student #21

Student #21 attended an out-of-district program, the Seacoast Learning Collaborative. The service provider charged the same rate for individual occupational therapy (OT) services as it did for group. In fiscal year 2006 the State of New Hampshire did not establish approved rates for the Seacoast Learning Collaborative, Inc. (See e-mail 6/2/11). However, in fiscal year 2004 and fiscal year 2007 the approved rate established by the State of New Hampshire was the same rate for both ½ hour of individual and ½ hour of group of occupational therapy. (Although in fiscal year 2007 the comment section stated "Group related service rates shall be prorated to reflect the number of students in group."). The guidance provided by the State Department of Education prior to the sample student month did not put the School District on notice that school districts would need to apply an actual group size for purposes of reviewing a facility group rate. For this reason the following amount should be reduced:

#21 \$26.40

➤ Student #100

Student #100 received extended school year (ESY) services from Easter Seals, N.H. The rates of extended school year (ESY) were set by Easter Seals, N.H. through a specific contract for that period of time. The School District was unable to obtain any documentation on the rate setting methodology. When only two students are in a group, it can be claimed using individual codes because of the small group size. Under the definitions set forth in He-M 1301.02(h) “Group’ means 3 or more persons.” For these reasons the following amount should be reduced:

#100 \$11.68

D. Allegation – School District Cannot Submit Claims for This Provider/Referrer Unless a Waiver Is in Place from the State of New Hampshire

➤ Student #55

The providers/referrers were Easter Seals/Jolicoeur School staff members who provided mental health services (H0046TM) to student #55. The providers/referrers met state certification requirements; therefore waivers from the State of New Hampshire were not required in order to place these claims as there were education qualification requirements that satisfy Medicaid requirements. Both ED 507.07, qualifications for a guidance counselor; and ED 507.14, qualifications for a school social worker establish the criteria for determining whether a provider/referrer qualifies for Medicaid to Student billing.

ED 507.07(a)(2) states:

“An individual shall have the following entry level requirements to be a certified guidance counselor:

- (1) Have completed a state board of education approved school counseling collegiate program at the master’s degree level or higher; or
- (2) Have acquired the competencies, skills, and knowledge of a guidance counselor through:
 - a. Completion of courses related to school counseling at the master’s degree level or higher and completion of a counseling internship in a school setting; or
...

The service provider in question was a certified guidance counselor who had “acquired competencies, skills and knowledge of a guidance counselor through experience in comparable positions in education or other professions.” Having met the requirements of ED. 507.07 under Alternative 3B of the ED 500 rules, the provider automatically qualified as provider for the Medicaid to Schools program and a waiver was not required.

With regard to the qualification for a school social worker, ED 507.14 states:

“For an individual to be certified as a school social worker, the individual shall have completed a master’s level specialist program in school social work. Specialist-level

programs shall consist of a full time, or its equivalent in part-time, coordinated sequence of specifically focused study at the graduate level, culminating in at least a Master's Degree. The program shall include at least 60 graduate semester hours or the equivalent, at least 54 hours of which shall be exclusive of credit for the supervised internship experience."

The service provider in question had "completed a master's level specialist program in school social work" which met the requirements of ED 507.14, and the provider demonstrated equivalency under Alternative 3B of the ED 500 rules. The provider automatically qualified as provider for the Medicaid to Schools program and a waiver was not required. The School District's billing was consistent with the State's position. (See Barbara-Joyce Reed Email Memo and DHHS Guidance).

For the reasons set forth above, the following amount should be reduced:

#55 \$370.34

E. Allegation – School District Claimed More than Maximum Allowable Billable Units per Day

➤ Student #14

Student #14 was a medically fragile student, identified as "multi-handicapped" who required many services throughout student's day. As noted in student's IEP, during the 2005-2006 school year, student had no verbal speech. Student chose a desired activity or food item by eye gaze or grasping for an item. In addition to the aide services set forth below, student received physical therapy, direct services and consults, medication management from the school nurse, individual aide services for one hour per day, speech consults and vision consults. Student had crisis intervention/counseling as necessary to address issues related to student's identified disability.

The District placed claims as follows:

1/03/06 – 1/06/06	Group Aides 4 days @ 26 units each day = 104 units total
1/09/06 – 1/13/06	Group Aides 5 days @26 units each day = 130 units total
1/17/06 – 1/20/06	Group Aides 4 days @ 26 units each day = 104 units total
1/24/06 – 1/27/06	Group Aides 4 days @ 26 units each day = 104 units total

The aides document services throughout their day as evidenced on the Documentation for Medicaid Reimbursement form provided. As claims are processed, the School District relied on

the document provided for accurate information. If there is not an obvious misrepresentation of the data received, claims are processed.

OIG has erred in stating that the School District should not have placed claims exceeding 26 units per day relative to all services provided. N.H. Admin. Rule He-M 1301.04(c) states that covered services “may be provided in a variety of locations and settings as specified in a student’s IEP and may occur outside the hours of the usual school day. Covered services may be provided by staff employed or subcontracted by the enrolled provider.” First, a memo from the State of New Hampshire-EDS which addressed the maximum allowable units per day for the rehabilitative assistant code H2017 stated for that code alone, a school district could claim up to 64 units per day for any aides providing services to a particular student. (See Attachment G.) Second, consults would occur in excess of the 26 units within student’s daily schedule because student is not involved in the providers consult with staff. Third, this student was severely disabled. Student would have had, at a minimum, one aide with him at all times, including when student received services from the nurse, physical therapist and other providers. With multi-handicapped students, providers often used a co-treatment model where the providers provide services at the same time.

OIG has erred in finding the School District could not claim more than 26 billable units per day. The units claimed were billed. There is no limit of only 26 allowable billable units per day. For these reasons, the following amounts should be reduced:

#14 \$330.67

III. PREVIOUSLY ADJUSTED

➤ #16, #27, #34, #36, #49, #60, #63, #73, #98

During the ongoing investigation, OIG has worked with Manchester School District to gather supporting documents and information in order to justify the Medicaid expenses. Manchester School District has been informed by OIG that documents have been accepted and the findings for students 16, 27, 34, 36, 49, 60, 63, 73, and 98 have been at least partially reduced.

For student #16, documentation was provided by Manchester School District showing that the student was on a bus for the January 19th ride home and the unallowable amount was reduced by \$2.60.

For student #27, documentation was provided by Manchester School District showing the student received an allowable Medicaid service on one of the days in question and the unallowable amount was reduced by \$10.40.

For student #34, documentation was provided by Manchester School District showing the student received an allowable Medicaid service on October 20th and 27th and the unallowable amount for transportation was reduced by \$60.00.

For student #36, on the days in question, 11/13/06 and 11/17-11/18/06, student #36 received two units of consult services provided by the school nurse (billing code: T1001 TM), which were billable at a rate of \$11.00 per unit, totaling \$22.00. The School District incorrectly claimed psychological consults (billing code: 99271 TM) in the amount of \$70.52. Medicaid to Schools reimbursed the District \$70.52 when in actuality it should have reimbursed \$22.00. The difference in the payments results in an overpayment of \$48.52. A second clerical error in the dates of service is noted as follows: 11/17-11/18/06 should be 11/17/06 and 11/20/06 (one unit of consult service per day). Documentation provided resulted in an adjustment in the amount of \$22.00 for each original entry.

For student #49, documentation was provided by Manchester School District showing the student was on a bus on January 31 for the ride home and the unallowable amount was reduced by \$9.62.

For student #60, documentation was provided by Manchester School District showing the student received allowable Medicaid services on all dates in question but that those services were previously unclaimed. As a result, the unallowable amount was reduced by \$127.06.

For student #63, documentation was provided by Manchester School District reflecting the proper billing unit for the services in question. As a result, the unallowable amount was reduced by \$68.86.

For student #73, documentation was provided by Manchester School District reflecting that the student had an IEP in place that required transportation. The "Draft" stamp remained on the document because of computer issues. During this year the School District was converting to the State mandated computerized special education information system to develop IEPs. A document without the "Draft" stamp was unable to be printed until the data had been inputted and accepted. The subsequent IEP for that student also required transportation. The IEP was completed and in effect when both parents and School District signed it. As a result, transportation was covered by the student's IEP and the unallowable amount was reduced by \$132.62.

For student #98, documentation was provided by Manchester School District showing that the student received services covered by an IEP on some of the days in question. As a result, the unallowable amount was reduced by \$263.60.

IV. EXTRAPOLATION METHODOLOGY

The Manchester School District does not concede that the extrapolation methodology used was valid because of the unique characteristics of the population in question. This issue is reserved for further proceedings in this matter.

Sincerely,

Thomas J. Brennan
Superintendent
SAU #37
Manchester School District
195 McGregor Street, Suite 201
Manchester, NH 03102



State of New Hampshire

DEPARTMENT OF HEALTH AND HUMAN SERVICES

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New Number: 603-271-9200

NICHOLAS A. TOUMPAS
COMMISSIONER

December 12, 2011

Mr. Michael J. Armstrong
Regional Inspector General for Audit Services
Office of Audit Services
Region 1
John F. Kennedy Federal Building
Boston, MA 02203

Report Number: A-01-107-00014

Dear Mr. Armstrong:

I am writing in response to the Office of Inspector General (OIG) draft report entitled "Review of Medicaid Payments for School-Based health Services Made to Manchester, New Hampshire" for the calendar years 2006 through 2008.

Brief Response

The New Hampshire Department of Health and Human Services (DHHS) respectfully concurs in part and disagrees in part to OIG's draft findings.

In a number of instances, NH DHHS has found and is providing to OIG additional support and documentation for MTS (Medicaid to School) services billed to Medicaid. As the review of the claims involves over 1,200 claims for services dating back six years in numerous instances, the NH DHHS review has been a difficult and time-consuming process. In some instances, records were affected by loss due to water damage and other circumstances. This has caused the Department to look for alternative sources of documentation at various locations, including providers who may have a second set of documents where district records are no longer available, or additional documentation substantiating services provided. Some providers involve out of district placements located outside of New Hampshire, whose records were not readily available to the OIG auditors. Consequently, as of the date of this response, the Department continues to locate, receive, and review relevant documentation of services questioned by OIG. Accordingly, NH DHHS respectfully reserves the right to supplement its response with additional supportive documentation.

Attached to this letter is an Addendum to this Response, which outlines and responds more fully to individual questioned items. That addendum is specifically incorporated by reference into this response and should be included in its entirety as an appendix to OIG's report. An additional attached package of materials, which provides documentation to the NH DHHS individual case response, is also included. The documents, which substantiate the individual claims, are not redacted, as the names will be necessary for OIG's review. It is our understanding that the supportive documentation, which contains specific information about identified students, will not be made public unless further redacted.

Mr. Michael J. Armstrong
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December 12, 2011

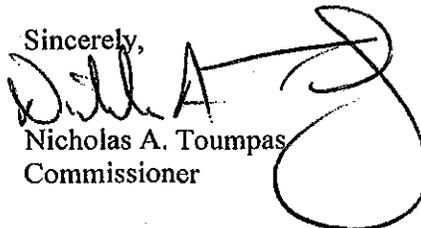
As expressed above the passage of time from the payment of the relevant claims to the audit of services has presented challenges. NH DHHS is committed to review and improvement of the provision and billing of Medicaid services, including MTS services. While NH DHHS believed it was compliant during the audit period based on its understanding of CMS guidance, OIG has brought to our attention the need for improvement in certain areas.

With regard to OIG's finding that in some instances transportation was incorrectly billed on a date when another Medicaid covered service was not provided, NH DHHS states that during the period audited it had interpreted CMS guidance in the SMDL dated May 1999 to authorize billing for specialized transportation in this manner. OIG's current audit of Manchester MTS (Medicaid to Schools) which raised this issue to the State for the first time, has caused NH DHHS to review and revise its guidance on this issue and going forward will require another Medicaid covered service be provided on a date for which specialized transportation is billed to Medicaid. In this audit, OIG has also raised the issue of the adequacy of documentation for specialized transportation billed to Medicaid and seeks bus logs in the first instance. NH DHHS recognizes that adequate documentation can take different forms, but that bus logs when possible are a preferred form of documentation. OIG has also identified individual instances of billing related to an error in billing rates, the occasional instance where a student was absent and did not receive the billed service, or related to referral or provider qualification criteria.

With regard to the MTS program, NH DHHS is in the process of reviewing and revising its rules and procedure to implement recommended changes. The internal NH DHHS rules review process has commenced and is actively underway. The Department will provide revised guidance to school districts and billing agents. With respect to individual and somewhat unique instances of billing errors related to various issues including billing rates, the occasional instance of billing for services not provided due to snow days or absences, provider qualifications and referrals, NH DHHS has an ongoing audit process for MTS billings and will continue to engage in this audit and review process with school districts. As part of this ongoing audit process, NH DHHS routinely offers trainings to school districts at the conclusion of MTS audits. The Department will redouble its efforts at MTS billing training.

Further, NH DHHS observes that an improved IT billing system has been and is continuing to be developed by certain of the school districts' billing intermediaries with the engagement of NH DHHS. This improved IT system will provide for electronic recordation of services, certain provider logs, certain provider criteria and electronic billing. As a result, NH DHHS anticipates that it will have an enhanced ability to perform utilization and review of MTS services because we will have direct access to these billing systems and have the ability to conduct some audit functions remotely. Additionally, NH DHHS anticipates that the IT billing process will also lead to a decrease in billing errors due to single entry of data entry data and the existence of built in billing edits.

Thank you for the opportunity to respond. If you have questions, please feel free to contact Mary Castelli at 603-271-9385.

Sincerely,

Nicholas A. Toumpas
Commissioner

cc: Nancy Rollins, Associate Commissioner, NH DHHS
Mary Castelli, Senior Division Director, NH DHHS
Stephen Mosher, Administrator of Financial Integrity, NH DHHS

Enclosures

Addendum to NH DHHS Response to OIG draft Report Number: A-01-107-00014 entitled "Review of Medicaid Payments for School-Based health Services Made to Manchester, New Hampshire" for the calendar years 2006 through 2008.

Student Month #1 NAME

OIG has made a preliminary finding that there was an over billing of 2 units of rehabilitation assistance, finding that 110 units were billed for the time period 9/12/05 through 9/16/05 when there was documentation only of 108 units during that time period.

The NH DHHS responds that Medicaid was not over billed for these services provided to NAME for student month #3. Documentation exists to show that an additional 5 units of rehabilitation assistance services beyond the 108 units was actually provided. Thus, the records properly support the billing of 113 units. The school district has under billed by 3 units, as described more fully below.

OIG has received and accepted the rehabilitation log for provider NAME showing 108 units provided. An additional log for provider NAME for the time period 9/12/05 thru 9/16/05 is evidence that an additional 5 units of rehabilitation assistance at 1 unit per day were provided.

The NH DHHS has attached relevant documents from the school district and the provider to support these statements regarding date and services provided.

As an additional 5 units of rehabilitation assistance beyond the 108 previously documented, 110 units of rehabilitation assistance were properly reimbursable by Medicaid and an additional three units of this service were under billed for which should be credited to the State.

Student Month #3 NAME

OIG has made a preliminary finding that transportation for NAME for student month #3 was not allowable as it did not have evidence that another Medicaid allowed service was provided to NAME on the following days: 9/6/05 through 9/9/05; 9/12/05 through 9/14/05; 9/16/05; 9/19/05; 9/21/05 through 9/23/05; and 9/26/05 through 9/30/05.

The NH DHHS responds that NAME during student month #3 did receive other Medicaid allowed services on the dates listed above and thus transportation is properly allowable. In particular, he received vocational exploration services, which are covered service under He-M 1301.04 (v)(7) or supported employment for a student with vocational IEP goals, as described more fully below.

As part of his IEP, NAME attended Memorial High School and participated in the Manchester School of Technology (MST) program career related programs designed to enable students to be successful in their chosen technical pursuits and become useful members of society. NAME attended the vocational exploration program at MST 5 days a week for 90 minutes of his 6-hour school day. In this program NAME social and personal development were a core objective and are reflected in the IEP goals. Under NH DHHS Rule He-M 1301.04(v)(7) this is a covered service. Attendance at Memorial High School includes attendance at MST as the student's days are split between the two facilities. Relevant records including NAME's attendance record are attached.

As NAME received another Medicaid covered services on the dates questioned, transportation was properly reimbursable by Medicaid.

Student #4 NAME

OIG has made a preliminary finding that services for NAME during student month # 4 billed to Medicaid for transportation services for 10 days in October 2005 in the amount of \$41.95 was not allowable as OIG did not have sufficient documentation to support the assertion that transportation services were actually delivered. Although attendance rosters were previously provided along with an affidavit from the mother of NAME, OIG determined that bus provider logs are required. OIG also rejected the affidavit provided by the mother of NAME in which she stated, under oath, that NAME was transported to and from school in the month of October only by the transportation provider, STS.

In response to the OIG finding, NH DHHS adopts and incorporates by reference the Manchester SAU response relative to student month #4. In addition, the mother of NAME has signed a second affidavit containing additional details regarding her specific knowledge as to why she remembers and knows that NAME was transported to and from school by the STS bus every day that she attended school in October 2005. See attached.

NH DHHS reserves the right to provide additional documentation.

Student Month #5 NAME

OIG has made a preliminary finding that transportation for NAME for student month #5 was not allowable as it did not have evidence that another Medicaid allowed service was provided to NAME on the following dates:

- 10/3/05 through 10/7/05 (OIG disputing 3 of 5 days);
- 10/11/05 through 10/14/05 (OIG disputing 3 of 4 days);
- 10/17/05 through 10/21/06 (OIG disputing 4 of 5 days);
- 10/24/05 through 10/28/05 (OIG disputing 2 of 5 days).

The NH DHHS responds that NAME received other Medicaid allowed services on the dates listed above and thus transportation is properly allowable. In particular, he received a number of IEP based services in an out-of district placement at St. Ann's Home, as described more fully below.

NAME was diagnosed with pervasive developmental disorder, which affects many areas of his functioning, including social, emotional and behavioral areas. He also was diagnosed with attention deficit hyperactivity disorder (ADHD) and oppositional defiant disorder (ODD). He manifested mixed anxiety and atypical cyclic mood disorder. In his in district IEP, NAME's significant needs for 1:1 assistance and other daily interventions are reflected. He had frequent tantrums and had to be restrained frequently. He ran out of the school building and needed to be apprehended by staff and at times police were required to respond and assist. He would hit and kick staff, spit, bang his head, and express the desire to hurt himself.

Due to his impulsive, anxious and frustrated behaviors, he needed intensive intervention and a highly structured therapeutic environment in his school setting. For these reasons, NAME was placed in an out of district program at St. Ann's Home that provided these daily 1:1 therapeutic

services and interventions in its structured and inclusive program. At St. Ann's Home, consistent with his IEP, NAME received both daily social, behavioral therapeutic supports to his daily program in the classroom and individual therapeutic services. These daily services provided at ST. Ann's were consistent with the fact that when in district the prior year, NAME's IEP included an individual 1:1 rehabilitative assistant.

The purpose and intent of part B of the Individuals with Disabilities Education Act is to make certain that children with disabilities who require, as evidenced by their IEP, medical services to meet their educational needs are able to obtain such services with the financial assistance of the Medicaid Program. This intent is reflected and codified in the Social Security Act. Specifically, 42 USC 1396b(c) says in pertinent part, *"Nothing in this title shall be construed as prohibiting or restricting, or authorizing the Secretary to prohibit or restrict, payment under subsection (a) for medical assistance for covered services furnished to a child with a disability because such services are included in the child's individualized education program established pursuant to part B of the Individuals with Disabilities Education Act..."*

St Ann's is a highly specialized environment that provided daily therapeutic supports to NAME. St. Ann's Home is a clinically supported schools school setting that specializes in meeting the needs of children with significant emotional developmental, behavioral and learning needs. Due to its all-inclusive program, Medicaid covered services were provided to NAME as part of the daily program and were not separately billed. St Ann's states: the "daily school schedule for all students includes both academic and therapeutic activities. . . along with weekly psychotherapy, a behavioral support program emphasizing positive incentives, and a psycho social skills curriculum that is woven throughout all components of the school day." NAME received these daily therapeutic and behavioral support actives in addition to individual therapies.

As NAME received another Medicaid covered services daily in the context of an all inclusive out of district placement which addressed the emotional and behavioral needs of this child in a structured therapeutic environment, transportation was properly reimbursable by Medicaid for the questioned dates.

Moreover, the concerns discussed above regarding the impact of the Individuals with Disabilities Education Act relates most particularly to all students who due to their complex and significant needs have been put in out of district placements. These placements often involve highly structure, intensive therapeutic environments where these services are interwoven into each day's program.

Student Month #6 NAME

OIG has made a preliminary finding that services for NAME during student month # 6 billed to Medicaid for transportation services for 19 days in October 2005 in the amount of \$212.19 was not allowable as OIG did not have sufficient documentation to support the assertion that transportation services were actually delivered. Although attendance rosters were previously provided along with an affidavit from the mother of NAME, OIG determined that bus provider logs are required. OIG also rejected the affidavit provided by the mother of NAME in which she stated, under oath, that NAME was transported to and from school in the month of October only by the transportation provider.

In response to the OIG finding, NH DHHS adopts and incorporates by reference the Manchester SAU response to Student #6 and reserves the right to provide additional documentation.

Student Month #7 NAME

OIG has made a preliminary finding that transportation for NAME during student month #7 billed to Medicaid for 11/23/05 in the amount of \$12.50 was not allowable as OIG did not have evidence that another Medicaid allowed service was provided to NAME on that day.

The NH DHHS responds that on 11/23/05 there was no school according to the school calendar. NH DHHS agrees that transportation billed to Medicaid for this date is not allowable, but not for the stated reason of transportation without a covered service, rather, because there was no school on 11/23/05.

Student Month #9 NAME

OIG has made a preliminary finding that a billing error occurred related to NAME for student month #9 for services provided 12/19/05 through 12/21/05 resulting in an over bill to Medicaid. Specifically, OIG found that 14 of 26 hours were incorrectly billed at the individual rate of \$8.64 instead of the group rate of \$2.16.

The NH DHHS responds that a recalculation of services at the correct provider rates indicates that SAU under billed for the services provided. The OIG finding that the SAU billed at an individual rate of \$8.64/unit is incorrect. The SAU billed the appropriate rate of \$2.16 per unit for providers NAME and NAME as supported by the attached documentation. The SAU, in fact, under billed the number of units and billed for 26 units where they should have billed for 62 units. In addition, another provider, NAME, provided 18 units of service, which should have been billed but was not. In total, the SAU should have billed \$86.68. Actual billing was \$81.38. Therefore, the OIG error finding of \$25.20 should be reversed to \$4.38 in favor of the SAU.

Student Month #21 NAME

OIG has made a preliminary finding that transportation related to NAME for student month #21 billed to Medicaid for 03/06/06 and on 03/20/06 in the amount of \$62.50 was not allowable as OIG did not have evidence that another Medicaid allowed service was provided to NAME on those days.

The NH DHHS responds and says that NAME has significant mental health issues and an extensive mental health history that require behavioral management services to be delivered on a daily basis in order to allow him to function in and receive an education in an educational setting. NAME had been under the care of the Anna Philbrook Center since July 7, 2004 due to unsafe behavior toward self and others including aggressive behaviors toward family members, psychotic symptoms and suicidal gestures. The requirement for a behavioral management program was included in NAME's IEP. NAME attended the Seacoast Learning Collaborative that billed a daily rate part of which is attributable to counselors who are available to the students throughout the day by being in the classroom and participating in classroom activities. Given the significant mental health condition of NAME, it is presumed that covered mental health Medicaid services were delivered daily by a qualified provider.

As NAME did receive another Medicaid covered service(s) on the dates questioned, 03/06/06 and 03/20/06, transportation was properly reimbursable by Medicaid.

Student Month #27 NAME

OIG has made a preliminary finding that \$10.40 for services provided to NAME on 4/4/06 should be disallowed, as the service was not a Medicaid covered service because the speech provider was not certified by the American Speech Language Hearing Association (ASHA). On 12/6/11 OIG indicated they would allow the charges after reviewing DAB Decision No. 2415 (New Jersey) and NH Administrative Rules Chapter SPE 305.01 and ASHA requirements. However, on 12/7/11 OIG reversed the allowance stating the consult provided by the speech therapist is not a billable service.

The NH DHHS responds the speech therapy service provided to NAME on 4/4/06 by NAME, SLP is properly determined to be a Medicaid covered service based on NH Administrative Rule He-M 1301.04(x) "Provision of rehabilitative assistance services shall be reviewed by a licensed practitioner of the healing arts at least weekly. Such review shall include consultation with the staff person providing the rehabilitative assistance." NAME, SLP provided one 15-minute unit of consulting services on 4/4/06 for Student NAME, which should be treated as a Medicaid covered service. \$10.40 for that service should be allowed.

Student Month #32 NAME

OIG has made a preliminary finding that there was no Medicaid covered service for NAME on 10/13/06 and 10/20/06 stating that rehabilitation provided by a teacher is not a covered service.

The NH DHHS responds regarding the provision of a covered service to NAME that another Medicaid covered services was provided as evidenced by a 'Medication Administration record' (MAR). The MAR indicates that the youth received medication(s) on both 10/13/06 and 10/20/06. The student's IEP indicates that the student will have access to nursing services as necessary to address issues related to his disability and to implement goals and objectives in the IEP. The \$120 for 10/13/06 and the \$120 for 10/20/06 were related to the nursing services called for in the IEP and provided on those dates. The NH DHHS will continue to monitor the services provided to NAME.

Student Month #34 NAME

OIG has made a preliminary finding that services related to NAME for student month #34 billed to Medicaid for 10/10/06, 10/20/06 and 10/30/06 in the amount of \$1.80 was not allowable as OIG did not have evidence that a referral was in place for the rehabilitative services received on those days. In addition, OIG has made a preliminary finding that transportation for to NAME billed to Medicaid on 10/02/06 through 10/06/06, 10/10/06 through 10/13/06, 10/16/06 through 10/20/06 and 10/24/06 through 10/27/06 in the total amount of \$270.00 was not allowable as OIG did not have evidence that another Medicaid allowed service was provided to NAME on those days

In response to the OIG finding that \$1.80 was not allowable due to the lack of a referral for services delivered on 10/10/06, 10/20/06 and 10/30/06, the NH DHHS says that the attached referral for rehabilitative services which was made on 1/27/06 for NAME is a valid referral for the services delivered in October 2006. Accordingly, the \$1.80 is allowable.

In response to the OIG finding that transportation services billed to Medicaid for NAME in the total amount of \$270.00 was not allowable because OIG did not have evidence that another

Medicaid allowed service was provided to NAME on those days, NH DHHS says that the Nashua Children's Home is an intensive program that specializes in providing education services to children who are emotionally disturbed. Nashua Children's Home bills for tuition inclusive of counseling and rehabilitative assistance and therefore a Medicaid covered service was delivered each and every day that NAME attended the program. Nashua Children's Home is a licensed residential home and enrolled Medicaid provider. Children are at Nashua Children's Home because they need services beyond what a less restrictive environment within the school district is able to provide.

The attached documentation supports the NH DHHS position. The Nashua Children's Home is a program designed for students who cannot be appropriately educated in less intensive programs within the public schools. In a letter dated November 30, 2011, the Assistant Educational Director, NAME stated that the Nashua Children's Home does not bill separately for either counseling services (Individual or Group) or aide services (rehabilitative assistance) as those services are part of the inclusive tuition payment. In addition, counseling and rehabilitative assistance are an integral part of the programming at Nashua Children's Home and that all students who attend receive counseling services although they are not individually billed.

NAME's IEP identifies his need for counseling services due to his primary identification of Emotional Handicapped and also noted that NAME's behavior impeded his education. Manchester noted in their response that while at the Webster Elementary School, NAME had three aides assigned to him. Clearly, his disability made placement in an intensive program like Nashua Children's Home necessary so that his emotional needs could be addressed on a daily basis in order to allow NAME to receive an education.

The purpose and intent of part B of the Individuals with Disabilities Education Act is to make certain that children with disabilities who require, as evidenced by their IEP, medical services to meet their educational needs are able to obtain such services with the financial assistance of the Medicaid Program. This intent is reflected and codified in the Social Security Act. Specifically, 42 USC 1396b(c) says in pertinent part, *"Nothing in this title shall be construed as prohibiting or restricting, or authorizing the Secretary to prohibit or restrict, payment under subsection (a) for medical assistance for covered services furnished to a child with a disability because such services are included in the child's individualized education program established pursuant to part B of the Individuals with Disabilities Education Act..."*

In this case NAME, because of a serious medical condition, attended school in an out of district placement at Nashua Children's Home. Nashua Children's Home billed the school district for a daily tuition rate that anticipated and included services that are covered by Medicaid, made necessary by the medical condition of NAME, and which were included in the IEP. Because NAME received a Medicaid covered service each and every day that he attended Nashua Children's Home, the \$270 is allowable.

Student Month #36 NAME

OIG has made a preliminary finding that counseling services for NAME during student month #36 for 11/16/06 in the amount of \$25.00 was not allowable because the youth was not in school on that day. In addition, OIG has made a preliminary finding that transportation charges for 11/30/06, in the amount of \$11.60, were not allowable, as OIG did not have evidence of transportation being provided to NAME for that day.

The NH DHHS responds, regarding services on 11/16/06, that the youth received counseling services in his home by a licensed guidance counselor. As evidenced on the 'Documentation for Medicaid Reimbursement – Guidance Counselors' log for 11/16/06 and on the attached 'Progress/Contact notes' from NAME the services indicated were provided at the student's home and were therefore properly reimbursable by Medicaid.

In response to the OIG preliminary finding that transportation charges of \$11.60 for 11/30/06 were incorrectly billed to Medicaid, the NH DHHS provides transportation logs indicating that NAME was picked up for transport to Memorial High School at 7:05 on 11/30/06 and picked up at 1:00 on 11/30/06 for transport to his home. Therefore the \$1160 transportation billed to Medicare was appropriate.

Furthermore, in researching records for NAME, the Manchester School District has located additional services that were not but should have been billed. A credit should be provided for these services against questioned costs.

1/30/06 92507 TM 2 units	\$35.38
2/6/06 92507 TM 3 units	\$53.05

Student Month #37 NAME

OIG made a preliminary finding that a billing error occurred related to NAME for services provided from 11/1/06 – 11/30/06 in a group setting resulting in an overbill to Medicaid.

The NH DHHS responds that an error in billing for group speech services did take place; however, we disagree with the amount OIG calculated.

Group speech (code 92508) is based on a 30-minute unit. The service provider's unit rate for 30 minutes is \$17.50. Therefore, the cost of \$17.50 should be billed for one unit of group speech service. Because this is a code for group service, it is not necessary to divide by the number of students in the group, as would be necessary when billing group service under an individual treatment service code.

The provider's unit rate of \$17.50 is greater than the Medicaid cap of \$9.38. Therefore, the following paybacks should be based on that rate:
11/1/06, 11/9/06, 11/16/06 and 11/30/06.

OIG's calculated that Manchester was overpaid \$10.62 for each unit (\$13.14 - \$2.52) based on incorrectly dividing the group rate by the number of students in the group. The correct calculation (\$13.14 - \$9.38) results in an overpayment of \$3.76.

The rate of payback OIG has indicated for NAME for student month # 37 should be reduced from \$10.62 per unit to \$3.76 per unit for the 11/1/06, 11/9/06, and 11/30/06 dates indicated above.

Regarding the service provided on 11/16/06, Manchester was reimbursed \$26.22. OIG made a preliminary finding that Manchester overbilled by \$20.39. The questioned amount should be reduced to \$16.84.

Student Month #47 NAME

OIG has made a preliminary finding that services for NAME for student month # 47 billed to Medicaid for transportation services for 15 days in January 2007 in the amount of \$1,796.60 was not allowable as OIG did not have evidence that that another Medicaid allowed service was provided to NAME on those days

In response to the OIG finding that \$1,796.60 billed to Medicaid for transportation services for NAME was not allowable, the NH DHHS says that Medicaid covered services were in fact provided to NAME on 8 of the 15 days questioned by OIG as not having a Medicaid covered service.

Individual therapy was included in NAME's IEP. As indicated in the supporting documentation, NAME received individual therapy on 01/02/07, 01/08/07, 01/18/07, 01/23/07, 01/25/07, 01/26/07 and 01/30/07. Specifically, NAME received individual counseling from NAME, LICSW and from NAME. In addition, NAME received a Medicaid covered service at Pittsfield Medical Center on 01/17/07.

Additional documentation will be provided if needed.

Student Month #55 NAME

The OIG has made a preliminary finding that services for NAME during student month # 55 billed to Medicaid for 03/01/07, 03/06/07, 03/08/07, 03/09/07, 03/14/07, 03/15/07 and 03/20/07 in the amount of \$362.34 as OIG did not have evidence that the providers were qualified to provide the services that were delivered and has recommended a disallowance. In addition, OIG has made a preliminary finding that \$8.00 was not allowable for billed Medicaid services billed for 03/01/07, 03/06/07 through 03/07/07, 03/13/07, 03/16/07, 03/20/07, 03/23/07 and 03/28/07 as OIG did not have evidence that a referral was in place for the rehabilitative service received on those days and has recommended a disallowance.

In response to the OIG finding that \$362.34 billed to Medicaid for NAME was not allowable because the providers were not qualified, NH DHHS says that the providers in question were qualified and that the services billed to Medicaid should be allowed.

Specifically, NAME provided mental health service to NAME on March 1, 2007, March 8, 2007, March 15, 2007 and March 29, 2007 in the total amount of \$212.34. NAME was qualified to deliver these Medicaid services because he meets the qualifications for School Guidance Counselor pursuant to NH Code of Administrative Rules PART Ed 507.07 and also meets the qualifications as a licensed practitioner of the healing arts pursuant to He-M 426.

The Medicaid rules, PART He-M 1301 (Medical Assistance Services Provided by Education Agencies), allow for qualification under Department of Education rules. Specifically, He-M 1301.05(b)(12) provides as follows:

“Persons providing mental health services other than psychiatric services and psychological services described under He-M 1301.04(p) through (s) shall be certified pursuant to Ed 507.06, guidance and counseling director, **Ed 507.07, school guidance counselor**, or Ed 507.14, social worker, or by a community mental health program in **accordance with He-M 426**” (emphasis added).

The attached documentation supports the position that NAME is a qualified school guidance counselor pursuant both under PART Ed 507.07 and under He-M 426 as he was employed by the Greater Manchester Mental Health Center provided similar services from 1999 until 2004 and is therefore eligible to provide Medicaid reimbursable mental health services. Similarly, the services that were provided by NAME to NAME that OIG found were not allowed are, in fact allowable pursuant to He-M 1301.05(b)(12) as NAME is a qualified School Social Worker pursuant to Ed 507.14.

In addition, NH DHHS adopts and incorporates by reference the Manchester SAU response to NAME for Student Month #55.

Student Month #65 NAME

OIG has made a preliminary finding that transportation related to NAME for student month #65 was not allowable as it did not have evidence that another Medicaid allowed service was provided to NAME on 5/21/07, 5/22/07 and 5/24/07 during the period of 5/21/07 through 5/27/07

The NH DHHS responds that NAME did receive another Medicaid allowed services of OT and counseling on 5/22/07 and thus transportation is properly allowable for that date, as described more fully below.

On 5/22/07, NAME, a qualified OT, provided an OT consultation for NAME OT consultation services are Medicaid covered services under He-M 1301.04(j). Also, on the date 5/22/07, a log documents that group counseling services were provided to NAME by NAME.

Copies of the OT and counseling logs are attached, as well as NAME's OT license.

As NAME received other Medicaid covered services on 5/22/07, transportation was properly reimbursable by Medicaid for that date.

Student Months #72 and #90 NAME

OIG has made a preliminary finding that transportation services for NAME during student months #72 and #90 were not allowable as it did not have evidence that another Medicaid allowed service was provided to NAME on the following days:

Student month 72

9/5/07 through 9/7/07
9/11/07 through 9/13/07 (OIG does not dispute 9/11/07);
9/21/07; and
9/25/07 through 9/28/07 (OIG does not dispute 9/25/07).

Student Month #90

4/01/08;
4/03/08 through 4/04/08;
4/07/08 through 4/09/08 (OIG does not dispute 4/8/08);
4/11/08;
4/14/08 through 4/18/08 (OIG does not dispute 4/15/08); and
4/28/08 through 4/30/08 (OIG does not dispute 4/29/08).

The NH DHHS responds that NAME during student months #72 and #90, did receive other Medicaid allowed services on the dates listed above and thus transportation is properly allowable. In particular, he received a number of IEP based services in an out-of district placement at Lighthouse School, as described more fully below.

As stated in his IEP, NAME had psychosocial issues with identified difficulties in the cognitive, affective, behavioral and social areas. He was diagnosed with Tourette's syndrome, ADHD, epilepsy, psychotic disorder, NOS (not otherwise specified) and had moderate to severe mental retardation. His IEP indicated that he was receiving the assistance of 1:1 rehabilitative aide in the classroom.

Due to his conditions, NAME required intensive therapeutic services, which caused him to be placed at Lighthouse School. Lighthouse School has provided a description of the therapeutic nature of the services it provided to NAME as part of its out-of district all-inclusive program. Lighthouse School states that NAME was receiving all of the services identified in his IEP. His daily program included academic, vocational and therapeutic interventions and activities. Lighthouse School is a Therapeutic Day Treatment program. It is based on a comprehensive biodevelopmental services model (APEX Biodevelopment). The specially qualified staff at Lighthouse School provided for services including rehabilitation assistance throughout NAME's school day. A bus monitor also accompanied NAME in his transportation each day due to his specialized needs.

NAME in student months #72 and #90 received other Medicaid covered services in the context of an all inclusive out of district placement at Lighthouse School which specialized in the unique challenges of addressing the social, emotional, behavioral and cognitive needs of this child in a structured therapeutic environment. Therefore, transportation was properly reimbursable by Medicaid for the questioned dates.

Student Month #78 NAME

The OIG has made a preliminary finding that transportation services related to NAME during student month # 77, billed to Medicaid for 10/01/07 through 10/05/07, 10/09 through 10/12/07, 10/15/07 through 10/19/07 and 10/ 22/07 through 10/26/07 in the total amount of \$45.20 was not allowed as OIG did not have evidence that transportation was included in the IEP and, secondarily, that there was no evidence that a covered service was provided on certain days.

The NH DHHS directs the OIG to the Manchester SAU response that indicates transportation services were indicated in the IEP team meeting notes held March 26, 2007 and due to clerical error were not specifically mentioned in the final IEP document for the period in question.

Student Month # 86 NAME

The OIG has made a preliminary finding that transportation services for NAME during student month # 86 billed to Medicaid for 03/20/08 and 3/21/08 in the total amount of \$130.00 be disallowed as OIG determined that the student was absent both days in question and, secondarily that there was no covered Medicaid service provided on the days in question.

The NH DHHS responds and says that the records indicate that the student was absent from school on 03/20/08 and 03/21/08. To the extent that the student was absent from school, the NH DHHS concurs that transportation services should not be billed.

Student Month #87 NAME

The OIG has made a preliminary finding that transportation services for NAME during student month #87 billed to Medicaid for 03/04/08 through 03/07/08, 03/10/08 through 03/14/08, 03/17/08 through 03/21/08 and 03/24/08 through 03/27/08 in the amount of \$239.94 be disallowed as OIG had no evidence of a covered Medicaid service on the days in question.

The NH DHHS responds and says that an email from the provider dated April 8, 2008 indicates that NAME was absent for the period March 3 through March 31. To the extent that the student was absent from school, the NH DHHS concurs that transportation services should not be billed.

Student Month #90 NAME

See discussion at Student Month #72.

Student Month #94 NAME

OIG has made a preliminary finding that transportation services for NAME during student month #94 were not allowable as it did not have evidence that another Medicaid allowed service was provided to NAME on the following days:

4/28/08 through 5/2/08;
 5/5/08 through 5/6/08;
 5/8/08 through 5/9/08;
 5/12/08 through 5/16/08;
 5/19/08 through 5/23/08; and
 5/27/08 through 5/30/08.

The NH DHHS responds that for student month #94, NAME received other Medicaid allowed services on the dates specified below, as described more fully below.

NAME was identified in his IEP as having bi-polar disorder and ADHD. He had problems with and needed to improve his bilateral coordination, visual motor, visual perception and handwriting skills. He had weaknesses in the area of receptive and expressive language skills. His IEP required the delivery of OT, Speech Therapy and nursing services for his disability. He also was required to receive crisis intervention and counseling as needed and to have access to a rehabilitative aide

On 4/30/08 and 5/7/08 NAME received OT from NAME, who is a qualified occupational therapist. A copy of the log and her license is attached.

On 4/28/07, 5/5/08, 5/13/08, 5/19/08 and 5/29/08 NAME was provided speech therapy by NAME. NAME was licensed as a speech language pathologist by the State of NH, which licensure is equivalent to ASHA certification. On December 2, 2011, OIG in its meeting with the State, OIG indicated that state licensure was equivalent to ASHA requirements. See also DAB 2415 decision dated 9/29/11 New Jersey Docket No. A-10-79, (equivalence to ASHA acceptable).

As NAME for student month #94 received another Medicaid covered services on the dates 4/28/07, 4/30/08, 5/5/08, 5/7/08, 5/13/08, 5/19/08 and 5/29/08, transportation services for those days were properly reimbursable by Medicaid.

Student Month #99 NAME

OIG has made a preliminary finding that transportation for NAME during student month #99 for 7/24/08 and 7/25/08 was not allowable as it did not have evidence that another Medicaid allowed service was provided to the youth on those dates.

The NH DHHS responds that NAME did receive other Medicaid allowed services on those dates and thus transportation is properly allowable. In particular, he received pool therapy provided by a licensed OT, as described more fully below.

In particular, on 7/24/08 and 7/25/08, NAME was transported to Northeast Rehabilitation Hospital where he received Medicaid allowed services. Northeast Rehabilitation Hospital is licensed as a rehabilitation hospital. See attached copy of hospital license.

NAME has many significant and complex health needs. As identified in his IEP, the youth had a genetic abnormality, 1p36.3 deletion syndrome that has caused him to suffer from multiple disabilities and health impairments. He was cognitively impaired and was non-verbal, using augmentative communication to communicate. He had a seizure disorder. He was in a wheelchair and could not walk independently. He had dysphagia requiring assistance with eating, a sensory diet and a quiet eating environment. He received assistance with grasping the eating utensil, picking up food and bringing it to his mouth. Among the therapies identified in his IEP were PT, OT, SP/L Pool Therapy and Music therapy. He also required a full time 1:1 paraprofessional to assist him in all areas, including functional needs.

NAME attended Northeast Rehabilitation Hospital Summer Camp during the days identified. At the hospital's summer program, on 7/24/08 and 7/25/08 the youth received pool therapy as part of his regularly scheduled program. See attached calendar labeled "Group I, Summer Camp 2008, NAME. The document further shows that on Thursday and Friday, which were the week days for 7/24/08 and 7/25/08, pool therapy was provided by staff member NAME. The key on that calendar identifies NAME as NAME. NAME is and was at the relevant time a licensed occupational therapist. See attached license. Also, the youth had the services of 1:1 paraprofessional aide each day throughout the day.

The State has attached relevant documents from Northeast Rehabilitation Hospital to support these statements including days attended and services provided.

As Student 99 NAME received another Medicaid covered service(s) on the dates questioned, 7/24/08 and 7/25/08, transportation was properly reimbursable by Medicaid.

Bus Logs

OIG has made preliminary findings of transportation without adequate documentation for a number of students. The NH DHHS has found that many of the missing logs are from one particular bus company. The Manchester School District has indicated that the location at which they had stored relevant records of bus logs was water damaged in a ceiling leak. Staff from the School District and the NH DHHS are actively working with the transportation provider to locate documentation in the provider's facility to support the charges made to Medicaid for students, including but not limited to: 1, 4, 8, 9, 11, 16, 22, 38, 52, 58, 61, and 65. Due to the age of the records in question, the transportation provider must access records archived in their warehouse.

This requires additional time to complete the conduct of this search. NH DHHS will continue to work with the provider and the Manchester School District to locate documentation. NH DHHS reserves the right to and will provide OIG with supplemental information to support the transportation charges.