

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

- (a) Every school district and county vocational school district, with the exception of any district that obtains a waiver of the requirements of N.J.A.C. 6A:23A-5.3 pursuant to the procedures set forth at (b) below, shall take appropriate steps to maximize its revenue from the Special Education Medicaid Initiative (SEMI) Program by following the policies and procedures to maximize participation in the program as set forth in (d) below and to comply with all program requirements as set forth in (e) below.
- (b) School districts and county vocational school districts may seek, in the prebudget year, a waiver of the requirements of N.J.A.C. 6A:23A-5.3 upon demonstration that for the subsequent school year the district projects, based on reliable evidence, that it will have 30 or fewer Medicaid eligible classified students; or the district demonstrates that efforts to participate in SEMI would not provide a cost benefit to the district, based on the projection of the district's available SEMI reimbursement for the budget year as set forth in (c) below.
1. For the 2008-09 school year, the waiver request must be submitted to the Executive County Superintendent by September 1, 2008. The Executive County Superintendent shall promptly review the request and render a decision no later than September 30, 2008.
  2. Beginning with the 2009-2010 school year, the application for a waiver of the requirements of this section shall be made to the Executive County Superintendent no less than 45 days prior to the submission of the district's proposed budget for the school year to which the waiver request applies. The Executive County Superintendent shall notify the district of the decision on the waiver application within 20 days of receipt of the waiver request. If the waiver is not granted, the district shall submit a SEMI action plan to the Executive County Superintendent as required by (f) below as part of its annual district budget submission or demonstrate to the Executive County Superintendent that the district has achieved maximum participation in the SEMI program in the prebudget year.

(c) As part of the annual budget information, the Department shall provide each school district and county vocational school district with a projection of available SEMI reimbursement for the budget year, as determined by the State Department of Treasury's third party administrator for SEMI. The projection shall be based on the number of Medicaid eligible students; the assumption of 20 services per eligible student per year; one IEP meeting per eligible student per year; and applicable SEMI reimbursement rates.

1. Beginning with the 2009-2010 school year, the district shall recognize as revenue in its annual district budget no less than 90 percent of said projection.
2. A school district or county vocational school district may seek approval from the Executive County Superintendent to use its own projection of SEMI reimbursement upon demonstration that the numbers it used in calculating the projection are more accurate than the projection provided.

(d) Each school district or county vocational school district shall strive to achieve maximum participation in the SEMI program. For purposes of this section, "maximum participation" means obtaining a 90 percent return rate of parental consent forms for all SEMI eligible students. Districts shall enter all students following their evaluations into the third-party system to identify the district's universe of eligible students. This can be done without parental consent.

(e) Districts participating in the SEMI reimbursement program shall comply with program requirements as follows:

1. Each school district or county vocational school district board shall implement a policy concerning the effective and efficient administration of the SEMI reimbursement program consistent with the requirements of this section. A complete listing of requirements and information are available at the SEMI/MAC website at <http://www.state.nj.us/treasury/administration/SemiMac.htm>.

2. Any service submitted to Medicaid for reimbursement shall be rendered by a Medicaid qualified practitioner, or rendered by a provider under the supervision of a Medicaid qualified practitioner. The following outlines the required documentation for each related service provider:
  - i. Nurses – copy of license (Department of Education (DOE) certification is not required for SEMI);
  - ii. Occupational Therapist – copy of license and DOE certification;
  - iii. Physical Therapist - copy of license and DOE certification;
  - iv. Psychologist – copy of DOE certification;
  - v. Social Worker - copy of DOE certification; and
  - vi. Speech Therapist – copy of license, DOE certification, and American Speech-Language-Hearing Association (ASHA) certification or master’s degree in speech pathology on or after January 1, 1993.
3. Practitioners who are not Medicaid qualified can deliver services under the direction of Medicaid qualified practitioners. These include certified occupational therapist assistants (COTAs), physical therapist assistants (PTAs) and speech correctionists.
4. Any direct therapy or other related service shall be prescribed in the related services section of the student’s Individualized Education Plan (IEP) prior to submitting a claim to Medicaid for reimbursement. Delivery of nursing services and dispensing of medication must be referenced in the IEP and supported by physicians’ orders or prescriptions. These documents must be maintained on file. Supporting documentation to be maintained by the district shall be the cover/signature page, related services section of the IEP, therapy logs, and the evaluations and assessments conducted by the Medicaid qualified practitioners.
5. Entities where the district has placed SEMI eligible students shall take steps to enable districts to maximize participation, including either logging the eligible services provided

directly through the vendor or the sending district, as mutually agreed upon with the district, and obtaining SEMI provider qualification certifications. Every out-of district placement must provide copies of SEMI provider qualifications, certifications and licenses.

This paragraph applies to the following out-of-district placement options:

- i. Approved private schools for students with disabilities;
- ii. Educational services commissions;
- iii. Jointure commissions;
- iv. Vocational half-time programs;
- v. Department of Education regional day schools; and
- vi. Special Service School Districts.

6. All supporting documentation for a Medicaid claim shall be maintained on file and available for audit or State review for at least seven years from the date of service. Supporting documentation shall include provider certification (current and historical for each provider), provider service logs, licenses and certifications, physician authorizations for nursing services, parental consent forms, attendance records, and copies of the student IEP.

(f) Each district that has less than 90 percent participation of SEMI eligible students in the 2007-2008 school year or has failed to comply with all program requirements set forth in (e) above, shall demonstrate a good faith effort to achieve maximum participation and to maximize available SEMI revenue during the 2008-2009 school year by submitting a SEMI action plan to the Executive County Superintendent for review and approval by September 1, 2008. In subsequent years, each district that has less than 90 percent participation of SEMI eligible students in the prebudget year or that has failed to comply with all program requirements set forth in (e) above shall submit a SEMI action plan to the Executive County Superintendent for review and approval as part of the district's proposed budget submission.

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

1. Procedures for obtaining parental consent forms including the Parental Consent Best Practices which are available from the Department.
2. Establishment of a benchmark for the 2008-2009 school year or for the first year that the district does not have an approved waiver pursuant to the provisions of (b) above, whichever is applicable, for obtaining maximum participation of all SEMI eligible students by the start of the subsequent school year.
  - i. The benchmarks for the 2008-2009 school year or for the first year that the district does not have an approved waiver pursuant to (b) above, whichever is applicable, for achieving maximum participation shall at a minimum close the gap between current participation and maximum participation by 50 percent by the beginning of the subsequent school year; and
  - ii. The benchmarks shall be based on the percentage of parental consent forms collected from eligible students. The number of parental consent forms shall reflect one parental consent form for each eligible student. This should include documentation of parental refusal to give consent.
3. Procedures to ensure that all IEP meetings are documented in the third-party administrator's system. IEPs are only claimable if a Medicaid qualified practitioner is present;
4. Procedures to ensure that all SEMI eligible services, including services provided by entities where the district has placed SEMI eligible students, are documented in the third-party administrator's system;
5. Procedures to ensure that a valid IEP is on file and the IEP date is on file in the third-party administrator's system for each SEMI eligible student for whom parental consent has been obtained; and

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