



## Memorandum

Date 03 8 1991

Refer to: FME-42

From Director  
Medicaid BureauSubject Clarification of Early and Periodic Screening, Diagnosis and  
Treatment (EPSDT) - OBRA 1989 Provision--ACTIONto Regional Administrator  
Region III, Philadelphia  
Attention: Division of Medicaid

Refer to: R3-1-DMD (24)

This is in response to your memorandum concerning questions raised by the State of Pennsylvania regarding Medicaid coverage under EPSDT of certain items or services.

We agree with your suggested response to the State regarding items 1 - 4. It is the responsibility of the State to determine the extent of care and services that are medically necessary in any given case. The EPSDT provisions of OBRA 89 **require that all medically** necessary diagnostic and treatment services within the scope of section 1905(a) of the Social Security Act (the Act) must be available to ameliorate health problems found in EPSDT screening, even if the services are not otherwise covered under the State plan. OBRA 89 did not, however, alter State flexibility in determining medical necessity. Therefore, with respect to the provision of specific medical equipment or supplies for an EPSDT recipient, we believe the State must determine whether those items or services are medically - w -ses where the item or service is questionable. Furthermore, for services not covered in the State plan, the State must determine whether the item or service is within the scope of section 1905(a) and, if so, decide the appropriate service category.

Pennsylvania indicates that request<sup>6</sup> for the type<sup>6</sup> of items or services listed in items 1 - 4 of its letter would normally be disapproved. However, it does not indicate the reason for the disapproval. The State must not allow items and services Under the EPSDT benefit which are not Medicaid services under any reasonable reading of section 1905(a), regardless of whether the items can be considered "medically necessary." We agree that the specific items mentioned in the State's letter, for example, a membership to a health club, are questionable. **Nevertheless, it is possible that a child with cystic fibrosis may benefit from the provision of swimming lessons and, if determined to be medically necessary, the State may be able to**

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provide these services in settings other than a health club. For example, **under** the physical therapy service as listed in section **1905(a)(11)** of the Act, a **State** may cover swimming classes if prescribed by a physician and provided under the direction **of** a qualified physical therapist. Similarly, under some circumstances, such a service could be provided as a **rehabilitative service**. Regulations at 42 CFR 440.130(d) **indicate that rehabilitation services include "any medical or remedial services . . . for maximum reduction of physical or mental disability and restoration of the recipient to his best possible functional level.\*** However, as indicated above, the determination **of medical necessity belongs solely with the State.**

We also agree with your response to item 5. While a State may not arbitrarily limit who can be a qualified Medicaid provider, the **EPSDT program does not require States to change the requirements which must be met in order to become a qualified Medicaid provider.** In addition, **States are not required to provide every service through every possible setting or provider type.** If an individual speech therapist does not **meet the established provider qualifications, the State is not required to allow him or her to provide EPSDT services and receive direct reimbursement.** The State continues to have the flexibility to set its own provider requirements. As long as the State can make a reasonable representation that adequate access to speech therapist<sup>6</sup> exists for its Medicaid population, it would not be required to include independent speech therapists as **Medicaid providers.**

If you have any questions *regarding the* information in this letter, please contact Cindy Ruff of my staff on FTS 646-1292.

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Christine Rye

cc:  
All Regional Administrators

**FME-42:CRuff:61292**  
**Disc:Cindy:Doc.,A-5816**  
**Typist:DShore:64449:Final:7/25/91**  
Revised per **OGC:9/16/91**  
**Revised Final:9/18/91**  
**Revised Final:10/2/91**