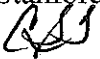


## Memorandum

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*Date:* September 2018

*To:* District Administrators, CESA Administrators, CCDEB Administrators, Directors of Special Education and Pupil Services, and Other Interested Parties

*From:* Carolyn Stanford-Taylor, Assistant State Superintendent, Division for Learning Support 

*Subject:* Department of Public Instruction and Department of Health Services Joint Guidance for Behavioral Treatment for School-Age Youth

Department of Public Instruction (DPI) and Department of Health Services (DHS) are issuing the following joint guidance to clarify each state agency's interpretation of the intersection of the Individuals with Disabilities Education Act (IDEA) and ForwardHealth coverage policies as related to provision of behavioral treatment for school-age youth. The purpose of this document is to clarify the responsibilities and policies that guide DPI and DHS in ensuring positive outcomes for students/members with behavioral needs.

Special education supports and ForwardHealth-covered behavioral treatment may be provided concurrently, depending on the individual needs of the student/member and local school district policy. ForwardHealth-covered behavioral treatment and special education services are neither required nor prohibited from being provided concurrently under state and federal law.

Under federal IDEA law, public schools are responsible for providing a free and appropriate public education (FAPE) in the least restrictive environment (LRE) that meets the individual needs of students with disabilities. Additionally, public schools have a Child Find obligation and are required to locate, identify, and evaluate all children with disabilities beginning at age 3. Under federal Medicaid law, ForwardHealth is responsible for providing reimbursement for medically necessary treatments based on the member's individual needs and circumstances.

Both DHS and DPI are charged with meeting the individual needs of students with disabilities who are eligible for special education and behavioral treatment. The member's individual needs determine the intensity, duration, and scope of medically necessary behavioral treatment services authorized by ForwardHealth, which are expected to change over time as each member develops and acquires skills. In addition, the student's Individual Education Program (IEP) and local school district policies may impact the timing, location, and manner in which behavioral treatment may be provided to students.

The highly individualized nature of disability-related services means that no two students are likely to have identical plans to address their behavioral needs. The following sections address issues that must be considered by local school districts, IEP teams, and ForwardHealth-enrolled behavioral treatment providers when developing individualized plans for behavioral needs that are educationally and medically appropriate and compliant with federal, state, and local laws, as well as school district policies.

DHS and DPI policies permit collaboration between behavioral treatment providers and school personnel in accordance with local school district policies to develop systems for teaching skills or reducing maladaptive behavior. Similar goals for an individual may appear on both an IEP and a ForwardHealth plan of care (POC). These goals are most likely to be achieved when there is a shared understanding and coordination among all team members, leading to consistent program implementation across environments.

School attendance is mandatory for all children between age 6 and 18, and for all children enrolled in part-day or full-day 5-year-old kindergarten (5K) programs, unless the student has graduated or is excused under the law. Local school boards have the authority to excuse absences under certain exceptions to the compulsory school attendance law, including exceptions related to physical and mental health. To determine whether an absence related to behavioral treatment needs is an excusable absence, consult local school district policies and procedures.

If a student is absent from school for a prolonged period of time, or there is a pattern of repeated short-term absence from school for reasons associated with the student's disability, the district must reconvene the IEP team to discuss the student's current IEP in light of the student's absences, and determine whether the IEP and/or the placement needs to be changed in order to continue to provide FAPE to the student.

If a ForwardHealth member is temporarily excused from full-time school attendance related to their participation in behavioral treatment, ForwardHealth requires the behavioral treatment provider to develop a plan and timeline for returning the member to full-time attendance.

Wisconsin school districts have the authority to create local policies governing school access afforded to behavioral treatment providers. The provision of services in schools by behavioral treatment providers is neither required nor prohibited by ForwardHealth or state and federal laws governing special education. Where local school district policy grants access to behavioral treatment providers, the district must ensure that behavioral treatment providers do not interfere with a student's right to FAPE.

If a student has disability-related educational needs, these must be addressed through an IEP. It is the responsibility of the IEP team and school staff to address behavioral needs identified in the student's IEP. This responsibility may not be supplanted by behavioral treatment from an outside provider. The services listed in the IEP address the individual needs of the student and represent a commitment of school district resources. The district must ensure the student is able to receive FAPE consistent with their IEP.

Concurrently, ForwardHealth allows the school environment as a place of service for medically necessary behavioral treatment. ForwardHealth utilizes a prior authorization (PA) process to determine whether treatment is medically necessary and whether school is an appropriate treatment setting, based on the member's individual needs. As a reminder, local school district policy governs school access afforded to behavioral treatment providers. Behavioral treatment providers should not submit a PA request to provide treatment in school without first communicating with school staff and confirming that access is allowed by local school district policy.

ForwardHealth affirms that behavioral treatment is not intended to function as a long-term support or to supplant activities typically provided by educational staff. ForwardHealth may authorize behavioral treatment at school if school is an appropriate setting to address the member's identified needs. Behavioral treatment providers may assist in obtaining stability in the student's behavior for participation in classroom routines and social opportunities.

ForwardHealth will not authorize requests for behavioral treatment providers to provide educational instruction to members. ForwardHealth requires behavioral treatment providers to develop a plan to reduce and conclude behavioral treatment in the school environment. The goal should be generalization of member skills across all settings without behavioral treatment support.

IDEA is a federal law ensuring that children with disabilities attending public schools are provided with a FAPE that meets the child's individual needs. IDEA governs how states provide early intervention, special education, and related services to children and youths with disabilities. Medicaid is a jointly funded (federal and state) state-administered program that pays for health care for low-income families and people with disabilities. In January 2016, ForwardHealth launched a new benefit that provides coverage for behavioral treatment for eligible children and adults.

More information on compulsory school attendance is available through DPI's Answers to Frequently Asked Compulsory School Attendance Questions:

*<http://dpi.wi.gov/sites/default/files/imce/sspw/pdf/schlattendqa.pdf>*.

More information on shortened school days is available through DPI's Information Update Bulletin 14.03: *<http://dpi.wi.gov/sped/laws-procedures-bulletins/bulletins/14-03/>*.

More information on FAPE requirements is available through DPI's Information Update Bulletin 18.02: *<https://dpi.wi.gov/sped/information-update-bulletin-1802/>*.