

Medical Assistance Billing Information and Consent Policy Revision *Questions and Answers*

June 6, 2013

This Q and A document was developed by the Minnesota Department of Education (MDE) to answer important questions posed by school districts pertaining to obtaining informed consent necessary for billing special education services to Medical Assistance (MA). The questions were collected from e-mail and telephone communications with third-party billing coordinators in Minnesota school districts. Additional Q and A documents may be forthcoming from MDE as necessary to support implementation of the new federal regulations.

1. What is the primary authoritative source for information on the new federal regulations for school district billing of special education services to public insurance programs?

The primary authoritative source for information on the new federal regulations is the federal Office of Special Education Programs (OSEP). [The new regulations, along with a brief and Question and Answer document are available from the U.S. Department of Education website](http://www2.ed.gov/policy/speced/reg/idea/part-b/part-b-parental-consent.html) (<http://www2.ed.gov/policy/speced/reg/idea/part-b/part-b-parental-consent.html>). The federal document entitled *Non-Regulatory Guidance on the IDEA Part B Regulations Regarding Parental Consent for the Use of Public Benefits or Insurance to Pay for Services under the IDEA, Issued February 14, 2013, and Effective March 18, 2013*, is the primary source of information for which the following questions and answers provide guidance to school districts for implementation of the new federal regulations in Minnesota.

2. What happens to requirements for third-party billing consent on July 1, 2013?

New federal regulations go into effect on July 1, 2013 that require school districts to provide specific information to parents *before* obtaining their consent to bill Medical Assistance and submitting bills, and annually thereafter in the district's *Procedural Safeguards* document. The information that must be provided to parents is summarized in [recommended text for Procedural Safeguards available on the MDE website](http://education.state.mn.us/MDE/SchSup/ComplAssist/ProcSafe/index.html) (<http://education.state.mn.us/MDE/SchSup/ComplAssist/ProcSafe/index.html>).

3. Do the *Procedural Safeguards* recommended by the Minnesota Department of Education in 2010 meet the new federal requirements in effect July 1, 2013?

No, the new federal requirements have additional required information that must be provided to parents before obtaining their consent. The 2010 version of the *Procedural Safeguards* provides only three points of information, whereas the new federal regulations necessitate communicating a larger number of informational points before obtaining parental consent. The information that must be provided to parents is summarized in [recommended text for Procedural Safeguards available on the MDE website](http://education.state.mn.us/MDE/SchSup/ComplAssist/ProcSafe/index.html).

4. Does the Minnesota Health Care Programs (MHCP) application meet the new federal requirements in effect July 1, 2013?

No, the new federal requirements have added required information that must be provided to parents before obtaining their consent, and annually thereafter. The Minnesota Health Care Programs (MHCP) application does not inform parents of certain federally required information that is now incorporated in the current [recommended text for *Procedural Safeguards* available on the MDE website](#).

5. Do school districts still need to obtain informed consent from parents for third-party billing after July 1, 2013?

Yes, school districts must always obtain parental consent before submitting bills to MA for special education services. School districts may obtain parent consent in two ways: 1) with school district consent forms (e.g. the MDE recommended form); and 2) the Minnesota Health Care Programs (MHCP) application. The two options for obtaining consent impose different timelines for billing, with school district consent forms making immediate billing possible, and the MHCP application option requiring a waiting period after receiving the revised (2013) *Procedural Safeguards*, up to one year, during which parents at some point re-enroll in MA and provide their informed consent at that time.

6. What does a school district need to do in order to bill MA for special education services effective July 1, 2013?

In order to bill Medical Assistance (MA) for special education services after July 1, 2013, school districts must obtain a new consent to bill MA either prior to, or the first time that, there is a change in the type or amount of the services to be provided to the child, or by June 30, 2014, when the cost of billed services will change. At or prior to the change of services or June 30, 2014, school districts must provide the revised *Procedural Safeguards* and then either obtain consent from parents using the school district's own process and forms (e.g. MDE recommended consent form) or wait for parents to provide consent by re-enrolling in MHCP within the year.

7. If a school district obtains consent with its own forms, is it necessary to renew the consent on an annual basis?

If a school district obtains consent with its own forms it is not necessary to renew consent on an annual basis. The consent remains valid from year to year as long as the school district annually provides parents with the revised (2013) *Procedural Safeguards*, and as long as the parent does not revoke consent for the same.

8. Can consents to share information and bill MA obtained in 2012-2013 be continued or "grandfathered" after July 1, 2013?

Federal regulations allow consents obtained in 2012-2013 to be continued after July 1, 2013 and until such time as there is a change in the amount, type or cost of services to be provided to the student. After July 1, 2013, when there is a change in the amount or types of service provided to a student, the school district must provide parents the revised (2013) *Procedural Safeguards* and obtain a new consent before continuing to bill MA.

10. Do the new federal regulations apply to Part C Early Childhood Special Education (ECSE) programs?

The new federal regulations apply to students receiving special education services as provided for in an *Individualized Education Program* (IEP). The new federal regulations do not alter the requirements previously in place for Part C Early Childhood Special Education (ECSE) programs and students with an Individualized Family Service Plan (IFSP).

11. Do new consents need to be obtained from all MA-covered students with IEP's in 2013-2014?

Yes, at some point in the 2013-2014 school year, all students for which a school district is submitting bills to MA for special education services will require new parental consent to avoid an interruption in MA billing for those students. Students who had valid consent in place on June 30, 2013 continue to have that consent in place after July 1, 2013, except in cases where the consent expires or is withdrawn for some other reason. A new consent must be obtained for these students in 2013-2014 when there is a change in the amount or types of special education services they are receiving (e.g. at an IEP review meeting), or by June 30, 2014 when there is a change in the costs of services billed to MA. Students for whom the school district will seek to bill MA for the first time in 2013-2014 (e.g. MA-covered students new to the school district or special education services) will also require a new consent in 2013-2014. In both cases, the revised (2013) *Procedural Safeguards* should be provided to parents prior to consent. The information that must be provided to parents is summarized in [recommended text for *Procedural Safeguards* available on the MDE website](#).

12. Where can I go to get reliable information on federal and state policies for MA-billing informed consent?

Tom Delaney in the Special Education Division of the Minnesota Department of Education is the state agency contact for questions concerning federal and state policies for MA-billing informed consent, including information to be provided prior to consent. Tom Delaney may be contacted at thomas.delaney@state.mn.us, or 651-582-8324.