

Refer to: R3-DMD (20)

12/9/97

TZ #198
T-198

Ms. Sherry Knowlton
Deputy Secretary
Office of Medical Assistance Programs
Department of Public Welfare
P.O. Box 2675
Harrisburg, Pennsylvania 17105

Dear Ms. Knowlton:

This is in response to your request for advice regarding the availability of federal financial participation (FFP) for assistive devices provided under the EPSDT benefit. These services are commonly included in the individualized educational plans for handicapped children. The devices described in your letter to us include a TouchTalker with Minspeak, DynaVox and an Apple II computer, which appear to be personal computers including monitors and keyboards, printers, and various adapted software, used to help the child in social or educational situations.

A technical amendment in the Medicare Catastrophic Coverage Act of 1988 prohibits restrictions on funding for medical assistance for covered services furnished to a handicapped child because the services are included in the child's individualized education plan (IEP). However, the service provided to the child as part of the IEP must be coverable under a Medicaid benefit in order to be reimbursable. The Omnibus Budget Reconciliation Act of 1989 (OBRA 89) expanded the definition of services required to be provided to children under the Early and Periodic Screening, Diagnostic and Treatment (EPSDT) program, to include all medically necessary services coverable under Medicaid, whether or not the service is included in the State plan.

Under the Medicaid program, medical equipment may be furnished under the home health benefit. Regulations at 42 CFR 440.70 (b) (3), home health services, provide for the provision of "medical supplies, equipment and appliances suitable for use in the home." The individual would have to be eligible for home health services and the equipment would be for use in the home. In your letter you advised us that the devices would be used to assist the children in communicating not only at home, but in school and in social situations such as a shopping mall'. If so, coverage of equipment under the home health benefit for use outside the home would be problematic.

Certain types of medical- equipment may be covered as a "prosthetic device" as defined by regulations at 42 CFR 440.120 (c). This section defines prosthetic devices as replacement, corrective or supportive devices Prescribed by a physician or other licensed practitioner of the healing arts to "(1) artificially replace a missing portion of the body; (2) prevent or correct physical deformity or malfunction; or (3) support a weak or deformed portion of the body."

Pennsylvania may choose to provide this type of equipment under a home and community based waiver program. Under the waiver, a state is not limited in the scope of services they can provide, which allows the state to provide some services which do not meet the definition of a coverable Medicaid service.

While a state is required to provide all medically necessary services to Medicaid eligible children under age 21 as part of the EPSDT program, the state may establish procedures to ensure that the most cost effective, medically appropriate treatment is provided. This means that where there are medically appropriate alternative types of treatment or in this case, equipment available, the state may use cost effectiveness as one factor in determining which will be available to the recipient. Such determinations must be made on a case by case basis. Therefore, if the state determined that some type of assistive device was medically necessary for a given child, it would also be able to make the determination as to what type of device would be available,

While it is difficult for us to classify the assistive devices described in your letter as medical equipment, we have determined that Pennsylvania could, under certain circumstances, determine that this equipment may be covered under its Medicaid program, and under which appropriate service category such equipment will be included. If the state determines that the assistive devices are medical equipment, medically necessary for a particular child, and reimbursable under one of the Medicaid service categories, Federal financial participation would be available.

We trust that this information is responsive to your inquiry. Please contact us if we can be of additional assistance.

Sincerely,

Robert J. Taylor
Associate Regional Administrator
Division of Medicaid