

CHAPTER VI
UTILIZATION REVIEW AND CONTROL

Chapter VI

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CHAPTER VI UTILIZATION REVIEW AND CONTROL

Introduction

Under the provisions of federal regulations, the Medical Assistance Program must provide for continuing review and evaluation of the care and services paid through Medicaid, including review of utilization of the services by providers and by individuals. These reviews are mandated by Title 42 Code of Federal Regulations, Parts 455 and 456. The Department of Medical Assistance Services (DMAS) or its designated contractor(s) conducts periodic quality management reviews on all programs. In addition, DMAS or its designated contractor(s) conducts compliance reviews on providers that are found to provide services that are not within the established Federal or State codes, DMAS guidelines, or by referrals and complaints from agencies or individuals.

Participating DMAS providers are responsible for ensuring that requirements for services rendered are met in order to receive payment from DMAS. Under the Participation Agreement with DMAS, the provider also agrees to give access to records and facilities to Virginia Medical Assistance Program representatives or its designated contractor(s), the Attorney General of Virginia or his authorized representatives, and authorized federal personnel upon reasonable request. This chapter provides information on utilization review and control procedures conducted by DMAS.

Financial Review and Verification

The purpose of financial review and verification of services is to ensure that the provider bills only for those services that have been provided in accordance with DMAS policy and that are covered under the Virginia Medical Assistance programs and services. Any paid provider claim that cannot be verified at the time of review cannot be considered a valid claim for services provided, and is subject to retraction.

Compliance Reviews

DMAS or its designated contractor(s) routinely conduct compliance reviews to ensure that the services provided to individuals with Medicaid/Family Access to Medical Insurance Security Plan (FAMIS) Plus or FAMIS benefits are medically necessary and appropriate and are provided by the appropriate provider. These reviews are mandated by Title 42 C.F.R., Part 455.

Providers and individuals are identified for review by system-generated exception reporting using various sampling methodologies or by referrals and complaints

from agencies or individuals. Exception reports developed for providers compare an individual provider's billing activities with those of the provider peer group.

To ensure a thorough and fair review, trained professionals review all cases using available resources, including appropriate consultants, and perform on-site or desk reviews.

Overpayment of Funds

Overpayments will be calculated based upon review of all claims submitted during a specified time period.

Providers will be required to refund payments made by DMAS if they are found to have billed DMAS contrary to the Infant & Toddler Connection of Virginia Practice Manual, as well as State and Federal laws and regulations governing the provision of EI services, including failure to maintain any record or adequate documentation to support their claims, or billed for medically unnecessary services. In addition, due to the provision of poor quality services or of any of the above problems, DMAS may restrict or terminate the provider's participation in the program.

Referrals To the Client Medical Management (CMM) Program

DMAS providers may refer individuals receiving Medicaid/FAMIS Plus or FAMIS benefits who are suspected of inappropriate use or abuse of Medicaid services to the Recipient Monitoring Unit (RMU) of DMAS. Referred individuals will be reviewed by DMAS staff to determine if the utilization meets regulatory criteria for restriction to a primary physician or pharmacy in the Client Medical Management (CMM) Program. See the "Exhibits" section at the end of Chapter I for detailed information on the CMM Program. If CMM enrollment is not indicated, RMU staff may educate individuals on the appropriate use of medical services, particularly emergency room services. Referrals may be made by telephone, FAX, or in writing. A toll-free helpline is available for callers outside the Richmond area. An answering machine receives after-hours referrals. Written referrals should be mailed to:

Supervisor, Recipient Monitoring Unit
Program Integrity Division
Department of Medical Assistance Services
600 East Broad Street, Suite 1300
Richmond, Virginia 23219

To contact by telephone, 1-804-786-6548, or the CMM HELPLINE AT 1-888-323-0589. When making a referral, provide the name and Medicaid number of the individual and a brief statement about the nature of the utilization problems. Hospitals continue to have the option of using the “Non-Emergency Use of the Emergency Room” Referral Form when reporting emergency room abuse. Copies of pertinent documentation, such as emergency room records, are helpful when making written referrals. For a telephone referral, the provider should give his/her name and telephone number in case DMAS has questions regarding the referral.

Early Intervention (EI) Services

Quality Management Review - General Requirements

Quality Management Reviews (QMR) of enrolled EI providers are conducted by the Department of Behavioral Health and Developmental Services (DBHDS) as part of the federally required supervision and monitoring system for Virginia’s Early Intervention Part C System. DMAS and DBHDS have entered in an agreement which authorizes DBHDS to conduct the QMRs on behalf of DMAS. These reviews may be on-site and unannounced or in the form of desk reviews. During each review, a sample of the provider's Medicaid billing will be selected for review. An expanded review shall be conducted if an excessive number of exceptions or problems are identified.

QMR is comprised of desk audits, on-site record review, and may include observation of service delivery. It may include face-to-face or telephone interviews with the family and/or significant other(s) involved in the care of the child receiving EI services. In order to conduct an on-site review, providers may be asked to bring program and billing records to the local lead agency.

The review may include the examination of following areas / items:

- Virginia’s eligibility criteria met in accordance with Chapter 53 Title 2.2 (§2.2-5304 of the Code of Virginia);
- The medical necessity of the delivered service (physician certification of IFSP services);
- Compliance with the Infant & Toddler Connection of Virginia Practice Manual procedures for data entry and notification to the Part C Office for activating and/or ending the EI benefit in the VaMMIS;
- Provider qualifications;
- Individual practitioner qualifications; and
- Required supportive documentation of service delivery and billing DMAS.

Services must meet the requirements set forth in this manual, 12 VAC 30-50-131, the Virginia State Plan for Medical Assistance Services, the Infant & Toddler Connection of Virginia Practice Manual, as well as State and Federal laws and regulations governing the provision of EI services. If the required components are not present, reimbursement may be retracted.

Upon completion of a routine QMR, DBHDS will be available to meet with the Local System Manager and any individual or contracted providers invited by the Local System Manager to provide a general overview of the QMR findings, preliminary actions required, recommendations that may help the provider correct problems, or documentation needed. This meeting may be conducted on site or via teleconference.

Following the review, a written report of preliminary findings is sent to the provider by DBHDS. Any potential infractions will be cited. If there is additional information or documentation that was not provided for review, this documentation may be submitted by the provider with a request for further review. The provider's request must detail the potential overpayment errors in question and include any additional supporting documentation that was written at the time the services were rendered to verify the claims as billed. The provider must submit their written request to DBHDS within thirty (30) days from the receipt of the preliminary findings letter. The request notice is considered filed when it is date stamped by DBHDS. Additional information provided will be reviewed by DBHDS and DMAS. At the conclusion of the review, the final audit findings report will be mailed to the provider. DBHDS informs the Local Lead Agency of the findings and required actions.

If a billing adjustment is needed, it will be specified in the final audit findings report. The final QMR report will specify areas requiring technical assistance and/or further review.

Record and Documentation Requirements

Individual Record Documentation

The Provider Agreement requires that records fully disclose the extent of services provided to individuals with Medicaid/FAMIS Plus or FAMIS benefits. Records must clearly document the medical or clinical necessity and support needs for the service. This documentation must be written within five (5) business days of the date of the time the service is rendered, must be legible, and must clearly describe the services rendered.

To describe the service, review the service descriptions for each procedure code in Chapter V of this manual and select the service description which most appropriately describes the service rendered and documented. The service

descriptions will be compared to the codes billed in order to evaluate the documentation during audits of records. The following elements are a clarification of DMAS policy regarding documentation:

- The enrollee must be referenced on each page of the record by full name or Medicaid/FAMIS ID number;
- The enrolled provider must develop and maintain written documentation for each service billed. The enrolled provider must maintain each child's EI record at the local lead agency or the local agency that houses the system's service coordinators. It is acceptable to have EI records located at satellite offices of the local lead agency or service coordinators' agency as long as there is easy access to the records by local lead agency administrators for billing and supervision purposes; and
- Children's EI records must be made available to the State Lead Agency, the DBHDS, and DMAS upon request and at the location designated by the State Lead Agency.

Each child's EI record shall include the following, if applicable for the type of service delivered:

- Accurate demographic and referral information;
- Signed releases and consents;
- Other completed procedural safeguards forms;
- Screening and assessment reports;
- Medical reports;
- Documentation collected during eligibility determination and IFSP development including reports from previous outside screenings, assessments, etc.;
- Completed Eligibility Determination form;
- All IFSPs developed – current and past, including documentation of periodic reviews;
- Service coordinator contact notes;
- Individualized contact notes must convey the individual's status, staff interventions, and, as appropriate, progress toward goals and objectives in the IFSP. Contact notes must be entered for each service that is billed. The content of each contact note must corroborate the time/units billed. The interventions documented must be reflective of the service definitions. Contact notes must include the signature of the qualified practitioner;
- Contact notes /contact logs submitted by providers, including service coordinators;

- A document signed by the individual's parent or guardian verifying that freedom of choice of provider was offered;
- Copies of all correspondence (except that related to third party billing or family financial information) to and from the local Infant & Toddler Connection system or its providers with or on behalf of the family;
- Court orders related to service provision, custody issues, and/or parental rights; and
- Record Access log.

Contact Notes

The term "contact note" is intended to be interchangeable with other commonly used terms such as "progress note," or "case note." Local Infant & Toddler Connection systems and EI providers are not required to call their documentation contact notes. Further guidance and requirements on contact notes are located in the Part C Practice Manual and page 8 of this chapter. Contacts (face to face, phone, email, text) with the family that fail to meet DMAS and DBHDS criteria are not reimbursable.

General Rules for Contact Notes:

- Document all contacts made and all activities completed with or on behalf of the child and family. This includes, but is not limited to, telephone calls (including "no answer" or a "voice message left"), face – to – face contacts, consultations between providers related to the child and family but not with the child and family, and written correspondence. If a contact or activity is not documented, the QMR reviewer will assume that the contact or activity did not occur;
- If two or more providers participate in the same treatment session, they may each write a separate note documenting their time and activities. There may be one note to document the team treatment as long as that note clearly documents each provider's time and how each participated in the session. If a joint note is written, it must be signed by each provider. The option to write a joint contact note does not apply if separate sessions (e.g. at two different times) by two different providers occur on the same day;
- If one provider is performing two roles during a single visit (e.g., one provider is delivering service coordination and developmental services), then that provider may write one note specifying the amount of time spent and activities completed in each role.
- If one provider participated in two different activities on the same day (e.g., assessment for service planning and the IFSP meeting), then that provider may write one note specifying the amount of time spent and his/her role in each activity (assessment and IFSP meeting). It is acceptable to refer in the

note to the IFSP for the specifics about assessment information and IFSP decisions made rather than repeating that information in the note.

- Complete contact notes in a timely manner, no more than five (5) business days from the time of the contact.
 - Day one (1) of the five (5) business-day timeline is the day the service was provided/contact was made.
 - The five (5) business-day timeline applies only to having the note written and does not require that the contact note be placed into the child's EI record within that same period of time.
 - A handwritten note (that is to be transcribed into the electronic health record) completed within five (5) business days meets the requirement even if the note is not entered electronically until after the five (5) business-day deadline.
 - Ideally, the contact note should be done immediately following the contact to ensure optimal recall of what occurred and so that the note is available for other team members who may need the information for their service provision to the family.
- Correct errors on handwritten contact notes by drawing a single line through the incorrect information, providing the date of the correction and the initials of the reviser, then adding the correct information. Correct errors in electronic documentation by following agency requirements or using strike-through and providing the date and initials of the reviser. White-out, or any other means of correction other than that described here, may never be used to change the contact note.

Early Intervention service providers must document all contacts made and all activities completed with or on behalf of families in a contact note within five business days of the contact.

Specific Content Requirements for all Contact Notes

- Child's first and last names. If there is more than one contact note on a page, it is acceptable to have the child's first and last name on each page of contact notes rather than on each note itself (the name must appear on both sides of the paper if both sides are used for contact notes);
- Type of service provided (physical therapy, developmental services, etc.);
- Method of contact (telephone, face-to-face, e-mail, etc.);
- Full date (month, day, year) of the note and date of service or contact, if the note is not written on the same date. If the contact described in the note occurred prior to the date of the note, then the date of the contact should be contained in the body of the note; and

- Practitioner signature (with at least the first initial and a last name), discipline and credentials of practitioner; and the date the note is signed by the provider. The signature of the practitioner must be handwritten or electronic; no stamps allowed.

Contact notes that document a service session also must include:

- A **narrative** description of what occurred during the session including what was done; what the family or other caregiver did during the session, including how they actively participated during the session; how the child responded during the session, including what the child was able to do in relation to outcomes and goals; and suggestions for follow-up, whether services were provided to an individual or in a group setting;
- Who was present (including the child);
- Length of session (in minutes);
- Location/setting (e.g., home, day care, etc.) in which the service was provided;
- Information from the family/caregiver about what has happened since the last visit; and
- Plan for next contact.

Contact notes that document a service coordination contact or activity also shall include the length of the contact or activity (in minutes), the service coordination short-term goal that the contact activity is addressing, and progress toward achieving the service coordination goal.

See Appendix D in this manual for a Contact Note Checklist.

Case Management / Service Coordination Documentation Requirements

- Documentation of Intake, Initial Early Intervention Service Coordination Plan, eligibility determination and assessment for service planning;
- IFSP completed and signed by required parties, including IFSP reviews and Annual IFSPs;
- Contact Notes of all allowable activities and length of time documented in minutes for rendering each allowable activity;
- Documentation of rights and procedural safeguards and Medicaid right to appeal; and
- Contact Notes written within five (5) business days of service rendered.

Medical Records and Record Retention

The facility or agency must recognize the confidentiality of participant medical record information and provide safeguards against loss, destruction, or unauthorized use. Written procedures must govern medical record use and removal and the conditions for the release of information. The participant's written consent is required for the release of information not authorized by law. Current participant medical records and those of discharged participants must be completed promptly. All clinical information pertaining to a participant must be centralized in the participant's clinical/medical record.

Records of EI services must be retained for a minimum of not less than five (5) years after the date of discharge. Records must be indexed at least according to the last name of the participant to facilitate the acquisition of statistical medical information and the retrieval of records for research or administrative action. The provider must maintain adequate facilities and equipment, conveniently located, to provide efficient processing of the clinical records (reviewing, indexing, filing, and prompt retrieval). Refer to 42 CFR 485.721 for additional regulations.

The facility or agency must maintain medical records on all participants in accordance with accepted professional standards and practice. The records must be completely and accurately documented, readily accessible, legible, and systematically organized to facilitate the retrieval and compilation of information.

All EI medical record entries must be fully signed and dated (month, day, and year) including the title or credential (professional designation) of the author. A required physician signature for DMAS purposes may include signatures, computer entry, or rubber stamped signature initialed by the physician. These methods only apply to DMAS requirements. For more complete information, refer to the DMAS Physician Manual. If a physician chooses to use a rubber stamp on documentation requiring his or her signature, the physician whose signature the stamp represents must provide the provider's administration with a signed statement to the effect that he or she is the only person who has the stamp and he or she is the only person who will use it. The physician must initial and completely date all rubber-stamped signatures at the time the rubber stamp is used.

Provider and Staff Qualifications

EI supports and services must be provided only by qualified practitioners. Practitioners, except audiologists, registered dietitians and physicians, who provide EI services, must be certified by the DBHDS as an Early Intervention Professional, Early Intervention Specialist, or an Early Intervention Case Manager prior to rendering billable EI services. See Chapter II for more information about practitioner qualifications and certification.

Service Provided by Qualified Provider Staff / Practitioners

The QMR review will include a determination that the delivered services were provided by qualified staff. The following will be used for provider staff / practitioner review:

- Individual practitioners' discipline specific licenses or certificates;
- Current EI Certification for EI practitioners; and
- Documentation of supervision of Certified Early Intervention Specialists;

Certified Early Intervention Professionals who provide supervision of certified Early Intervention Specialists must document their ongoing clinical supervision of services provided by the Early Intervention Specialist and must maintain that documentation per record retention requirements section of this Chapter. If an Early Intervention Professional observes an Early Intervention Specialist during a service session, then both the Early Intervention Professional and the Early Intervention Specialist must sign the contact note.

Reimbursement Requirements

The QMR review determines that the delivered services as documented are consistent with the individual's IFSP, claims submitted, and specified service limitations. The following will be reviewed and considered during a review:

- The type and amount of service billed match the documented service delivered. Dates, types, and amount of service as recorded on the DMAS billing report are compared against documented services as noted on the contact notes, assessment notes, IFSP and/or IFSP review notes;
- The type and amount of service provided and documented reflect the assessment results, IFSP outcomes, and service frequency and length written on the IFSP;
- The paid service must be specifically listed on an IFSP that is certified by the physician, physician's assistant, or nurse practitioner. If an IFSP review is held and services are changed as a result, certification by the physician, physician's assistant or nurse practitioner of the changes to the IFSP is required. Annual IFSPs require a new certification by the physician, physician's assistant or nurse practitioner;
- The documentation of missed sessions and reason why sessions were missed;
- The documentation must meet requirements listed in the Individual Record Documentation section. If there is no documentation during the period for which services were billed to support that services were delivered, or if the

documentation does not meet the requirements listed in the Individual Record Documenting section, payment may be retracted. If documentation is present but the amount of service delivered does not match the amount of service billed, a billing adjustment is required to correct instances of over-billing or funds may be retracted if there is no documentation to justify the variance;

- The progress notes for services are completed within the five (5) business day timeline;
- The family/guardian is involved in the development of the IFSP; and
- The treatment period for all individuals is defined as the period defined in the IFSP. If the length or frequency of an EI intervention session is different from what is certified on the IFSP, the practitioner must document in a contact note clear reason(s) or purpose for the alteration from the IFSP.

Failure to adhere to any DMAS or DBHDS policies, Federal or State regulations may result in retraction of payments.

Service Coordination Monthly Requirements for Reimbursement

DMAS may be billed for a monthly Service Coordination unit when the following minimum requirements are met:

1. At least one of the allowable activities as listed below must occur and is documented by the service coordinator/case manager during the month in which the activity occurred with the child, the family, service providers, or other organizations on behalf of the child/family. The contact must be relevant to the child/family needs and the IFSP. The service may not duplicate any other DMAS service;

Allowable activities include:

- Coordinating the initial Intake and Assessment of the child and planning services and supports, to include history-taking, gathering information from other sources, and the development of an IFSP, including initial IFSP, periodic IFSP reviews, and annual IFSPs. This does not include performing medical assessments, but may include referral for such assessment;
- Coordinating services and supports planning with other agencies and providers;
- Assisting the child and family directly for the purpose of locating, developing, or obtaining needed services and resources;
- Enhancing community integration through increasing the child and family's community access and involvement;

- Making collateral contacts to promote implementation of the IFSP and allow the child/family to participate in activities in the community. Collateral contacts are defined as “Contacts with the child’s significant others to promote implementation of the service plan and community participation, including family, non-family, health care entities and others related to the implementation and coordination of services;”
 - Monitoring implementation of the IFSP through regular contacts with service providers, as well as periodic EI visits;
 - Developing a supportive relationship with the family that promotes implementation of the IFSP and includes coaching the family in problem-solving and decision-making to enhance the child’s ability to participate in the everyday routines and activities of the family within natural environments where children live, learn, and play; and
 - Coordinating the child/family’s transition from EI services by age 3.
2. The contact or communication and the length of time in minutes conducting the contact is documented appropriately, completely and correctly, as outlined in requirements for acceptable Contact Notes;
 3. At a minimum a phone, or email, text or a face-to-face contact with the family every three calendar months, or documented attempts of such contacts. Such contacts shall be person-centered with the choice of contact method determined by the family. The contacts shall begin the next month after the month that the IFSP is signed;
 4. For reimbursement for the initial development of the IFSP and the annual IFSP a face-to-face contact is required and documented;

There must be documentation that the EI Service Coordinator observed the child during the month of the IFSP meeting in order to bill for that month;

Subsequent months cannot be billed unless or until there is documentation that the EI Service Coordinator has observed the child; and

5. Communication with the child’s physician every six months requesting information about the health status indicators as seen below.
 - a. Is this child up to date (per CDC/ACIP guidelines for this year) on immunizations? Yes No
 - b. What is the date of this child’s most recent visit with you? ____/____/____.
 - c. What is the date of the most recent well child visit? ____/____/____.
 - d. What month/year should this child see you for the next well-child visit? ____/____.
 - e. Are there immunizations needed at time of next visit? Yes No
 - f. Does the child’s record have any lead testing (either capillary or venous) results? Yes No

If yes, date service provided ____/____/____ and testing results:
____normal ____elevated.

Fraudulent Claims

Fraud means an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to him or some other person. It includes any act that constitutes fraud under applicable federal or State law.

Since payment of claims is made from both State and federal funds, submission of false or fraudulent claims, statements, or documents or the concealment of a material fact may be prosecuted as a felony in either federal or State court. The Program maintains records for identifying situations in which there is a question of fraud and refers appropriate cases to the Office of the Attorney General for Virginia, the United States Attorney General, or the appropriate law enforcement agency.

Provider Fraud

The provider is responsible for reading and adhering to applicable State and federal regulations and to the requirements set forth in this manual. The provider is also responsible for ensuring that all employees are likewise informed of these regulations and requirements. The provider certifies by his or her signature or the signature of his or her authorized agent on each invoice that all information provided to the Department of Medical Assistance Services is true, accurate, and complete. Although claims may be prepared and submitted by an employee, providers will still be held responsible for ensuring their completeness and accuracy.

Repeated billing irregularities or possible unethical billing practices by a provider should be reported to the following address, in writing, and with appropriate supportive evidence:

Department of Medical Assistance Services
Division of Program Integrity
600 East Broad Street, Suite 1300
Richmond, Virginia 23219

Investigations of allegations of provider fraud are the responsibility of the Medicaid Fraud Control Unit in the Office of the Attorney General for Virginia. Provider

records are available to personnel from that unit for investigative purposes. Referrals are to be made to:

Director, Medicaid Fraud Control Unit
Office of the Attorney General
900 E. Main Street, 5th Floor
Richmond, Virginia 23219

Participant Fraud

Allegations of fraud or abuse by individuals are investigated by the Division of Program Integrity within the Department of Medical Assistance Services. The unit focuses primarily on determining whether individuals misrepresented material facts on the application for Medicaid benefits or failed to report changes that, if known, would have resulted in ineligibility. The Division also investigates incidences of card sharing and prescription forgeries.

If it is determined that benefits to which the individual was not entitled were approved, corrective action is taken by referring individuals for criminal prosecution, civil litigation, or establishing administrative overpayments and seeking recovery of misspent funds. Under provisions of the Virginia State Plan for Medical Assistance, DMAS must sanction an individual who is convicted of Medicaid fraud by a court. That individual will be ineligible for Medicaid for a period of twelve months beginning with the month of fraud conviction.

Referrals should be made to:

Department of Medical Assistance Services
Division of Program Integrity
600 East Broad Street
Richmond, Virginia 23219