



STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES

Joe Manchin III  
Governor

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Martha Yeager Walker  
Secretary

MEMORANDUM

**DATE:** August 23, 2007

**TO:** Regional Directors, Community Service Managers  
Regional Program Managers, and Child Welfare Consultants

**FROM:** Jane McCallister, Director, Children and Adult Services

**SUBJECT:** Medicaid Billing for Services on IEP's

The purpose of this memorandum is to clarify the responsibility of DHHR caseworkers in giving consent to release the child's educational records in order to bill Medicaid.

The Individuals with Disabilities Education Act (IDEA) was reauthorized in 2004. The federal regulations were effective August 14, 2006. Each State must align its state policies with the federal legislation. Therefore, West Virginia revised its Policy 2419, Regulations for the Education Exceptional Children.

On page 46608 of the Federal Register/Vol. 71, No. 156, it states;  
***Information from a child's education records is protected under the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232(g) (FERPA) and section 617(c) of the Act. Under FERPA and section 617(c) of the Act a child's education records cannot be released to a State Medicaid agency without parental consent, except for a few specified exceptions that do not include the release of education records for insurance billing purposes.***

The school district must obtain parental consent in writing to release any education record to Medicaid for billing purposes, such as speech therapy.

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If a child in DHHR custody has a service **indicated on their IEP** which can be billed to Medicaid the worker will attempt to have a parent of the child sign the consent to release the records for billing purposes. If the parent is not available or is unwilling to sign the consent, the DHHR caseworker can sign.

JM:bjb