



Department of Health

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To: Early Intervention Program (EIP) Agencies, Municipalities, School Psychologists, EIP Parents, and Other Interested Parties

Issue Date: April 20, 2022

Subject: Discontinuing Participation of School Psychologists in the Early Intervention Program (EIP)

Background

The New York State Department of Health (The Department) is responsible for establishing appropriate professional requirements for the Early Intervention Program (EIP) based on any State-approved or recognized certification, licensure, registration, or other comparable requirements that apply to the profession or discipline (34 CFR 303.119). New York State-certified school psychologists have been allowed to deliver EIP evaluations and services through a series of time-limited amendments to the NYS Education Law. Specifically, Chapter 217 of the Laws of 2015 originally amended Education Law §§ 4410(6)(d) and 7605(1), relating to the scope of practice of certified school psychologists and use of the title “psychologist,” to allow New York State Department of Health (NYSDOH) approved Early Intervention (EI) agencies to employ NYS-certified school psychologists to deliver EI services for a limited time. These modifications of the Education Law were most recently extended through June 30, 2022 in the 2021 Enacted NYS Budget (Chapter 58 of the Laws of 2020).

Notwithstanding this recent amendment to NYS law, school psychologists are not currently included as qualified personnel under the approved Early and Periodic Screening, Diagnosis and Treatment (EPSDT) EI Medicaid State Plan Amendment (SPA) #18-0039. The Department is actively working on changes to regulation which will remove school psychologist from the list of qualified personnel and align with the approved Medicaid SPA. To comply with the current approved EIP Medicaid SPA which was effective July 1, 2018 and in anticipation of upcoming regulation changes, beginning July 1, 2022 school psychologists will no longer be recognized as qualified personnel in the EIP and cannot deliver EIP services, evaluations, or service coordination.

This communication therefore sets forth guidance for approved EI agencies that currently employ school psychologists to transition into compliance with the Medicaid SPA.

Implementation

Municipalities, service coordinators, and EI provider agencies should work collaboratively to review any service being rendered by a school psychologist and communicate this upcoming change to affected families. Any active/approved/extended service authorizations which include a school psychologist as the rendering provider must be reviewed by the individualized family service plan (IFSP) team. The IFSP team should identify the most appropriate qualified personnel to meet the needs of the child and family, meet the established outcomes, and appropriately fulfill the service approved and authorized on the IFSP.

By June 30, 2022, the old service authorization must be end dated and a new service authorization created, which includes the new qualified personnel who will deliver these services to the child and family. Service coordinators must work closely with the child's early intervention official-designee and the assigned EIP agency to determine availability for the new qualified personnel, and if not available through the same agency, locate another service provider who can fulfill the service authorization mandate. Service authorizations for psychological services or psychological evaluations must be assigned to either a NYS-licensed psychologist or NYS-licensed psychiatrist. The Department will be assisting counties and agencies with the identification of service authorizations that will need to be reassigned and will be communicating with affected agencies and counties separate from this communication.

Effective immediately, service coordinators should not create new service authorizations which include a school psychologist as a rendering provider unless the service authorization has an end date of June 30, 2022 or before. Services delivered on or before June 30, 2022 by a school psychologist may be claimed if services were delivered in accordance with the IFSP and have the appropriate documentation to support the claim. Claims submitted for service dates July 1, 2022 and after which do not comply with the above requirement are not reimbursable and if reimbursed are eligible for recoupment upon review.

Effective immediately, the Department will no longer approve school psychologists as qualified personnel on new provider applications or amendment requests. For agencies currently approved to use school psychologists, the Department will be updating the *Professional Discipline/Qualified Personnel* list in the New York Early Intervention System (NYEIS) to end date school psychologist effective July 1, 2022. Agencies who currently employ school psychologists should update their *Employee/Contractor List* in the EIP data system to indicate each school psychologist's end date and should no longer create any employee/contractor records using this title (see the *NYEIS User Manual Unit 9: Provider Management for* instructions about updating an employee record).

Please note, it is possible that an individual is dually certified or licensed. If a school psychologist has an additional NYS registered certification or license that is recognized by the EIP as qualified personnel in Title 10 NYCRR Subsection 69-4.1(al), they may be able to continue to work in the EIP under their other certification or license to deliver early intervention services within the applicable scope of practice. Additionally, if an individual meets the qualifications to provide EI service coordination services through other credentials and/or experience, they may apply to furnish service coordination services. However, if certification as a school psychologist is their only qualification, they are not eligible to provide any services under the EIP after June 30, 2022. The individual's record in the EIP data system must include this additional certification or license. This is consistent with Section III, Item H of the Provider Agreement for the Early Intervention Program, which states that agency providers shall only utilize qualified personnel as defined in 10 NYCRR Subsection 69-4.1 as appropriate for the provision of authorized services and shall ensure that such qualified personnel maintain current registration, certification, or licensure in the area for which they are providing services on behalf of the agency.

Next Steps

The Department is planning to promulgate regulations to align with the Medicaid State Plan and add four mental health practitioners as EI qualified personnel. Additional guidance will be issued to early intervention stakeholders later in 2022 about six (6) additional qualified personnel who are included in SPA #18-0039. The additional qualified personnel are as follows: NYS licensed

behavior analysts (LBAs), NYS certified behavior analyst assistants (CBAAs), NYS licensed mental health counselors, NYS licensed marriage and family therapists, NYS licensed psychoanalysts, and NYS licensed creative arts therapists. The Department will announce the date when applications and amendment requests to add these additional qualified personnel to an approved provider's profile will be accepted. Information will be disseminated to stakeholders via the Department's email listserv.

This communication replaces all previous guidance and documentation related to the use of school psychologists for the delivery of EIP services and evaluations. If you have questions about this communication, please contact the Provider Approval, Due Process, and Monitoring Unit at provider@health.ny.gov.