

**MINNESOTA DEPARTMENT OF HUMAN SERVICES AND
MINNESOTA DEPARTMENT OF EDUCATION
MEMORANDUM OF UNDERSTANDING**

This is a Memorandum of Understanding (hereinafter MOU) between the Minnesota Department of Human Services (hereinafter DHS), and the Minnesota Department of Education (hereinafter MDE). This MOU shall be interpreted pursuant to federal regulations and the laws of the State of Minnesota.

WHEREAS, 42 U.S.C. 1396 provides the authority and Title 42 Chapter IV, Subchapter C of the Code of Federal Regulations (hereinafter CFR) provides the regulations regarding the Medical Assistance Program as defined in Minn. Stat. Chapter 256B.0625, subd. 26.

- DHS is the designated state agency with authority and responsibilities as defined in 42 CFR §431.10, for administering the Medicaid program and assuring compliance with Title XIX, federal regulations and other applicable official issuances of the United States Department of Health and Human Services, state statutes, and administrative rules that govern Minnesota Medicaid Programs.
- DHS is the State Mental Health Authority, Minn. Stat. Chapter 245.

WHEREAS, 20 U.S.C. 1400 provides the authority and Title 34 of the CFR provides the regulations for states regarding the education of children with disabilities as defined in Minn. Stat. §125A.02:

- MDE is the designated state agency responsible for assuring compliance with federal regulations, state statutes, and administrative rules that govern special instruction and health related services provided for children and youth who are eligible for Special Education.

WHEREAS, the regulations at 34 CFR §300.154 require that the financial responsibility of each non-educational public agency, including the State Medicaid Agency, must precede the financial responsibility of the school district (or the State agency) responsible for developing the child's Individualized Education Plan (IEP);

WHEREAS, the regulations at 34 CFR §300.154 (a) require an interagency agreement or other mechanism, it should be dually noted that the requirements at:

- §300.154(a)(1) "Identification of, or a method for defining the financial responsibility of each agency" is ensured under:
 - Minn. Stat. §125A.21;
 - Minn. Stat. §125A.74;
 - Minn. Stat. §125A.744; and
 - Minn. Stat. §256B.0625, subd. 26

- §300.154(a)(2) "Conditions, terms, and procedures, under which the Local Education Agency (LEA) is reimbursed" is ensured under
 - Minn. Stat. §125A.21;
 - Minn. Stat. §125A.74;
 - Minn. Stat. §125A.744; and
 - Minn. Stat. Chapter 256B.0625, subd. 26

- §300.154(a)(4) "Policies and procedures for agencies to determine and identify the interagency coordination responsibilities of each agency to promote the coordination and timely and appropriate delivery of services" is ensured under
 - Minn. Stat. Chapter 125A; and
 - Minn. Stat. Chapter 256B.0625, subd. 26

WHEREAS, DHS and MDE require that school districts utilize Title XIX for Medicaid eligible health services provided to students who have an IEP and are eligible for special education, as mandated by Minn. Stat. §125A.21, Subd. 2;

This MOU is written to:

- Establish the basic terms, conditions, and responsibilities DHS, MDE and LEAs will use as required in 34 CFR §300.154(a)(3): Procedures for resolving interagency disputes.

Procedures for Interagency Disputes for LEAs for Sanctions or Monetary Recovery

- 1) If DHS identifies a Medicaid overpayment to a school district or determines that the conduct of a school district justifies the imposition of a sanction or monetary recovery, and
- 2) If the school district disputes the proposed action by DHS to recover the overpayment or impose a sanction, DHS shall follow procedures set forth in Minn. Stat. § 2568.064 and Minn. Rules, parts 9505.2160 – 9505.2245. These procedures provide for prior notice and the opportunity for a hearing with DHS.
- 3) If the school district requests a hearing with DHS, the hearing shall be a contested case proceeding, in accordance with the provisions of Minn. Stat. §14.57-14.62, the Minnesota Administrative Procedure Act. These procedures allow the school district to request an informal meeting with DHS regarding the matter in dispute.
- 4) MDE is not responsible for initiating or conducting an appeal, but to the extent that MDE assists a school district, MDE understands that information in the hands of DHS about a proposed sanction or monetary recovery is classified as confidential under Minn. Stat. §13.46. DHS cannot release any information to MDE about the matter in dispute, and MDE cannot participate in informal meetings between DHS and a school district if information about the proposed sanction or monetary recovery is

discussed.

- 5) School districts are required to appeal MDE determinations of eligible special education expenditures according to data appeal procedures developed by MDE under Minn. Rule, part 3525.1100, subp. 1.

Procedures for Interagency Disputes for LEAs for Denial of Coverage

- 1) Contact the MHCP Provider Call Center (651-431-2700 or 1-800-366-5411) or DHS Individualized Education Program (IEP) Services Coordinator, if not resolved;
- 2) Contact DHS IEP Services Coordinator's supervisor, if not resolved;
- 3) Submit concerns in writing to the DHS Assistant Commissioner of Health Care and Assistant Commissioner of Education if not resolved;
- 4) Submit concerns in writing to the Commissioner of Human Services for resolution in consultation with the Commissioner of Education.

Medicaid Enrollee Appeals for Denied Coverage

- 1) Submit a request, in writing, to the Appeals Office, Minnesota Department of Human Services, P. O. Box 64941, St. Paul, MN 55164-0941 pursuant to Minn. Stat. §256.045, within 30 days after receiving notice of a denial of coverage.

Terms of the MOU

This MOU shall be in effect on **July 1, 2018**, or upon the date the final required signature is obtained from the parties to this MOU, pursuant to Minn. Stat. §16C.05, Subd. 2, whichever occurs earlier. This MOU shall be in effect until **June 30, 2023** and be reviewed and renegotiated unless either party cancels the MOU in writing or any part of this MOU is cancelled by federal law or legislative mandate by the Minnesota Legislature. Either party may propose modifications to this MOU by providing written notice of the proposed revision to the other party at least 30 calendar days prior to the revision of the MOU. Revisions to this MOU must be agreed to by both parties.

IN WITNESS WHEREOF, the parties have caused this MOU to be duly executed intending to be bound thereby.

1. MINNESOTA DEPARTMENT OF HUMAN SERVICES

By: *Matthew M. Maceau*
Title: Assistant Commissioner
Date: 7/13/18

2. MINNESOTA DEPARTMENT OF EDUCATION

By: *Robert P. ...*
Title: Agency Finance Director
Date: 7/24/18