



MEMORANDUM

TO: All Providers of Physical, Occupational, and Speech Therapy

FROM: HP and NH Medicaid

DATE: June 2011

SUBJECT: Clarification on Physical, Occupational, and Speech Therapy Services Provided by Therapy Assistants

In September 2007 an article titled, "Physical Therapy Services Provided By a Physical Therapy Assistant," appeared on page 19 of the NH Medicaid Bulletin. This article noted that NH statute allows a physical therapy assistant to work under a physical therapist's general supervision, meaning that the physical therapist is not required to be on site for direction and supervision, but must be available at least by telecommunication. The article also indicated that the NH Title XIX (Healthy-Kids Gold/Medicaid) Program rules at He-W 568.05 require a physical therapist to be present (herein after referred to as "physical presence") during the provision of the service being provided by a physical therapy assistant, and that in order for providers to be reimbursed by NH Title XIX, they must follow NH Title XIX rules, even if they are stricter than state law or rules.

After the article appeared, concern was expressed by several providers. Although the criteria in the rules were appropriately expressed in the article, a review by the Department of Health and Human Services (DHHS) concluded that this "physical presence" requirement was no longer necessary. The DHHS determined that formal notification to providers of elimination of this requirement first required a federal interpretation of the federal regulatory requirement that NH Title XIX physical therapy services be provided by or "under the direction of" a qualified physical therapist since "under the direction of" was not defined in federal law. The DHHS now has the necessary interpretation and plans to proceed as follows.

1. For any provider claims submitted since June 2005, the Department will not take any recoupment actions related to the "physical presence" requirement (physical therapist must be present when services are provided by physical therapy assistant) of He-W 568.05 not being met as long as providers have met the requirements of:
 - NH statutes related to therapy services;
 - Rules promulgated by the Governing Boards of Physical, Occupational or Speech Pathologists, as applicable, regarding licensure and supervision; and
 - NH Medicaid rules with the exception of the "physical presence requirement" at He-W 568.05.

2. The Department will be revising the He-W 568 (PT/ST/OT) rules in the summer of 2011. The "physical presence" requirement in the current rule will be replaced with the federal requirements for what constitutes "under the direction of" which will include language related to (a) seeing the recipient initially and periodically thereafter, (b) specifying the type of care to be provided by the therapy assistant, (c) reviewing the need for continued services, (d) assuming professional responsibility for services provided, (e) ensuring that services provided are within the scope of the prescribed services, and (f) documenting the elements in (a) through (e).

Please monitor the Department's website at www.dhhs.nh.gov/oos/aru/index.htm for updates on the He-W 568 rule as providers must comply with provisions of the Department's rules.

Please note that the information in this bulletin is also applicable to occupational therapists and speech language pathologists in similar situations. This bulletin is not applicable to those providers who are billing through the Medicaid in the Schools program, which is administered by a different division (Division of Developmental Services) and under different rules (He-M 1301).

If you have any questions or concerns regarding this Important Notice, please contact the Communications Unit at 1-800-423-8303 (NH & VT only) or (603) 224-1747.