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**Third Party Reimbursement**  
**IEP Health Related Services Study: Phase Two**

March 31, 1992



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## Introduction

A September 1990 study, conducted under the auspices of the Minnesota Department of Education, "Third Party Reimbursement, IEP Health Related Services Study: Phase One", undertook to examine to what extent IEP health related services delivered by Minnesota schools might be eligible for reimbursement by private and public health service funds. This present study undertakes to examine the experience of school districts which initiated efforts in billing for such services, and the extent to which such funds have proven helpful in reducing the burden of special education program costs for participating districts.

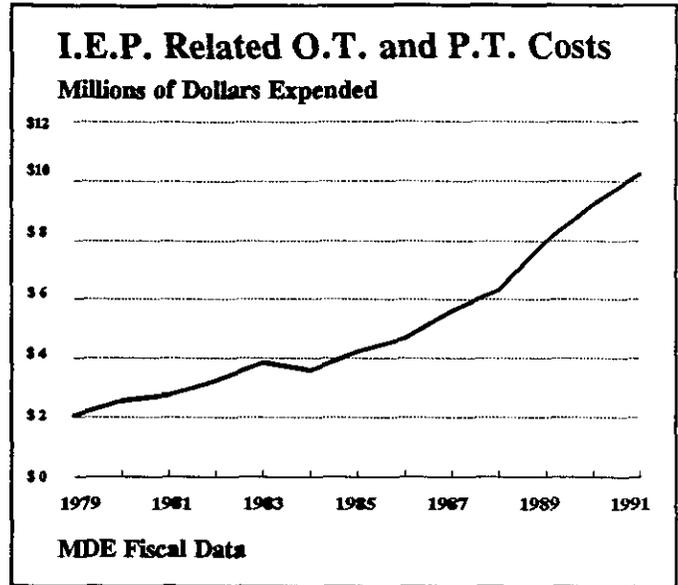
In 1975, the 94th Congress enacted a landmark piece of legislation, the Education of the Handicapped Act (P.L. 94-142), which spelled out for the first time many rights and procedures available to handicapped children, their parents, and their schools in developing and implementing individualized educational plans (IEPs). In structuring the new law (since superseded by P.L. 101-476, the Individuals with Disabilities Education Act, or *IDEA*), the Congress delegated to school districts certain responsibilities previously entrusted to other agencies and individuals. One of these responsibilities was the provision of such health related services as might prove essential for the child to benefit from the IEP developed for him/her.

Health related services which might be prescribed in an IEP and thereby entitle to reimbursement include such professional support as speech-language therapy, audiology, psychological services, physical and occupational therapy, school health services, social work, and medical diagnosis and evaluation, where these services are essential to the effective implementation of the IEP.

Prior to 1975 most of these services were provided under the auspices of, and with funding provided by, other agencies, e.g. private insurers and public assistance plans. While Congress did, in an effort to provide for uniform access to service, shift responsibility to the public school for assuring and coordinating these services, it was explicitly not the intent of Congress to bring about any fundamental changes in the responsibility for paying for them. [S. rep. No. 94-168, 94th Congress, 1st Session 32(1975)]. Subsequent related legislation has emphasized this intent by specifically authorizing the use of Federal Medicaid funds for payment of these costs for eligible recipients.

Despite the clear intent and provision of Congress to support these services through agencies other than school districts, however, school district expenditures in Minnesota for IEP health related services have risen steadily and dramatically over the 15 years since enactment of the legislation. The figure to the right illustrates this growth as it has occurred in the areas of Occupational and Physical Therapy costs to school districts since 1979.

This dramatic increase in the financial burden of school districts has been attributed to a wide variety of factors. It is the intent of this document to review the experience of some school districts in Minnesota as they have worked to recover a portion of these costs from other public and/or private sources rather than looking to state education tax dollars for relief from the burden of these costs. While experience has differed somewhat from district to district, it appears at this time that efforts to recover costs from third parties may be marginally productive.



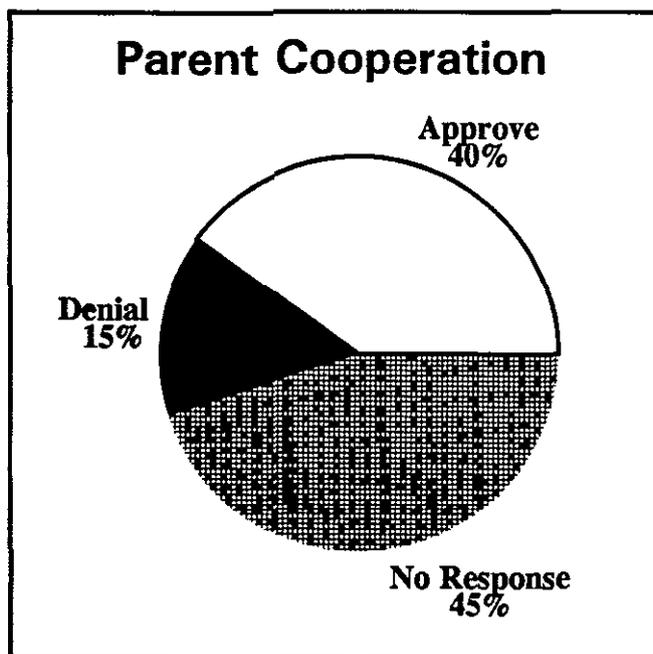
## Methodology

This study discusses summary material from the activities and results of five administrative units with varying degrees of experience in capturing third party funds to defray the cost of IEP health related services. Two units were comprised of single districts; others reflect the collaborative efforts of a group of smaller districts. All reported units are located in the general vicinity of the Minneapolis-St. Paul greater metropolitan area - the area most likely to be productive in these efforts due to the relatively greater affluence (and consequently more extensive insurance coverage) available in the area. Statewide collective statistics have been used to establish some baseline expectations.

## Parent Cooperation:

In every case, prior parent approval is required in order for the school district to access third party funding. This is true in both the instance of private insurance and in that of medical assistance (MA). District experience with parent cooperation has varied from a response of 37% approval to one of 65% approval, but the norm seems to have been at the lower level (40% mean for all reporting units). Of the approximately 60% of all parents who did not allow district access to insurance/MA funding, 75% did so by default while the remaining 25% actively denied or later rescinded approval.

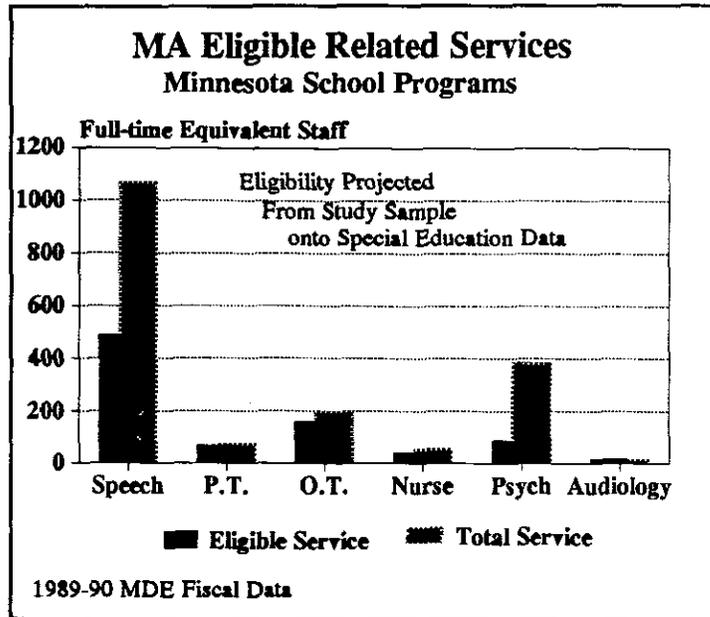
It should be noted that the necessity of eliciting parent approval is one of the major factors governing the productivity of third party funding efforts. There is, of course, some cost associated with the case by case pursuit of approval. More dramatically, however, a statewide extension of the observed pattern would lead us to expect that parent inaction or denial would result in a loss to school districts approaching \$3.3 million in potential cost recovery out of a projected 5.5 million of total funds otherwise seen as recoverable. (See figure)



Further consideration in the weighing of parent cooperation in this evaluation should be given to the motivating factors which lead parents to deny access to insurance funding and to observed trends in parent participation. Both individual parents and parent advocacy groups have expressed deep concern over the impact district access to these funds might have on the availability of funding for their children's future medical needs in light of lifetime limitations, actuarial impact on premiums, etc. As a result, most participating districts have reported a gradual rise in parent resistance seen in increases both in failure to respond and in outright denial of access.

## Staff Licensure

Although not a primary issue for private insurers, MA rules set certain minimum requirements for staff licensure as criteria for reimbursement. The result of this is to render a substantial portion of the services rendered by school districts irretrievable. This issue has in part been addressed, as required by the United States Department of Education under the provisions of *IDEA*, in the Minnesota State Plan for Special Education for 1991-93 by the enhancement of licensure requirements in the area of speech correction so that all speech therapy providers in the schools will be MA eligible.. While the effect of this change will be to substantially increase the number of service providers for whom costs may be billed to MA, its impact will not be felt for at least five years, during which time there will be no alternative to the provision of many services at district expense. (See above figure )



## Cost of Operation

Only two of the participating agencies provided information on this very important component. It would appear from this limited data, however, that district cost of operating a third party billing system does not vary greatly in response to volume, but can be considered to be relatively fixed for a given agency. Cost of operation for the two reporting agencies was estimated as \$58,000 and \$70,000. This represented an overrun of \$20,000 above revenues for the smaller agency, and a 47% administrative cost for the larger one. Two other smaller agencies indicated that they had operated at a net gain over operating cost, but did not submit actual data.

## **Environmental Trends**

In addition to the trend toward parental disaffection noted above, important trends on the part of insurers should be noted in connection with school district access to third party reimbursement for IEP health related services. Private insurers seem to be increasingly wary of involvement with this program. Notably there have been anecdotal reports of policy revisions explicitly excluding such services as those that might be offered by school districts from eligibility; further, some associated M.D.s have been instructed by their associations not to authorize treatment by districts.

Simultaneously, MA has initiated two major changes impacting reimbursement to districts from this source. Payments for speech therapy, a major contributor third party revenues, has been cut by 50% raising considerable doubt about whether revenues will continue to exceed administrative costs as outlined above. In an additional cost containment move, metro area MA plans are experimenting with the provision of services through an HMO model. In this model, services are almost always provided by provider staff, and school district staff are simply not considered. The most enthusiastic of the smaller agencies engaged in third party billing reports, "... we do not attempt to collect from HMO's because it is a waste of our time."

An additional factor recently impacting the billing procedure has been the contract negotiations one participant in this study encountered as they sought to have staff create and supply the basic medical documentation essential for MA application and monitoring.

## **Potential Litigation**

One source of considerable apprehension to administrators considering initiating an effort to recover IEP related service costs is the potential for litigation. Both state and federal law provide that a "free and appropriate public education" (FAPE) must be available to each child. To the extent that the potential exists for cost or loss to the student or the student's family, the parallel potential exists for litigation. It is an actuarial certainty that any large scale attempt to access insurance funds (as required prior to MA application) will result in an increase in insurance premiums - at the parent's cost. Further, a family's or individual's insurability may be jeopardized, and in at least one case an entire small group policy was discontinued based upon service access by a school district. Unless legislative protection for districts and families can be provided across a wide variety of insurance and provider types, such potential liabilities endanger the whole concept of third party billing.

## **Findings and Recommendations**

Overall, review of available data yields a rather bleak picture of third party reimbursement as a significant source of school district revenue. As of this writing three of the five participants in this study have discontinued billing in response to various of the environmental trends noted above. It would, however, appear that such billing can be marginally beneficial in some instances. The recommendations deriving from this study must therefore be rather guarded. Districts wishing to experiment with this source of revenue should certainly be encouraged and supported in their attempt. At the same time, districts should not be coerced into an effort which has already proven fruitless in several instances.