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Bureau of Special Education FY'08 Memo #13

DATE: October 10, 2007

TO: Superintendent of Schools  
Private Providers  
Directors of Special Education  
(PLEASE SHARE WITH YOUR NHSEIS DATA ENTRY PERSONNEL)

From: Lyonel B. Tracy, Commissioner  
  
Santina Thibedeau  
State Director of Special Education  
Administrator, Bureau of Special Education

RE: Court-Ordered Placements (Chapter 402 Program)

The Chapter 402 Program is for court-ordered students in which DCYF has financial responsibility for the student's placement in cases of abuse, neglect, or CHINS. The student must be court-ordered and living in a residential placement, foster care, or group home. The district of liability is responsible for paying a cap which is 3 times the State average tuition for these court-ordered students' educational and educational related services costs. The New Hampshire Department of Education is then responsible for paying the remaining special education and special educational related services costs. **The Chapter 402 cap for Fiscal Year 2008 (July 1, 2007 to June 30, 2008) is \$31,129.08.**

Below is an outline of the Chapter 402 process and helpful information on each area:

1. School Districts are responsible for entering all court-ordered students' program data into NHSEIS as it occurs. Students court-ordered to foster homes or group homes who are attending public schools are **not** eligible for Chapter 402. (To record costs for 402, the 402 processing box on the Student Information page of the EASYIEP process wizard must be checked)
2. Districts should enter the invoices as they are received from the private providers. Invoices should be entered **before** submitting any paperwork to the Bureau of Special Education.
  - a) The Chapter 402 cap must include only special education and special education related services costs for the student during the fiscal year they are applying for (July 1<sup>st</sup> through June 30<sup>th</sup>).
  - b) All invoices should be entered into NHSEIS as they come in, except for the following services: The school district is responsible for the costs of all evaluations and consultations. These services are not covered by Chapter 402. Please do not enter costs for any evaluations or consult services. Expenses incurred at YDC or the Detention Unit at Tobey School after the District has met cap are not paid by NHDOE. The District should contact these programs to stop billing.
  - c) The District cannot enter any costs until a finalized IEP has been entered into NHSEIS.

3. After reaching the Chapter 402 cap, the school district should send any remaining special education and/or special education related services invoices for that student to the Bureau of Special Education, Chapter 402, for payment by the State, after having entered the invoice into NHSEIS.
  - a) Please make sure all services have been completed before the invoices are forwarded to the Bureau of Special Education for payment.
  - b) If your school district pays a portion of an invoice to reach the cap for a student, please make sure that you forward a copy of that invoice to the State and **clearly mark** on the invoice the amount your LEA paid and the amount the State is responsible for paying.
  - c) An Attendance Verification Form no longer needs to be submitted as the District is verifying attendance by checking the "Attendance Certified" box when entering the invoices in NHSEIS.
4. A Cost Verification Form no longer needs to be submitted as the District is verifying costs by entering the invoices in NHSEIS.
  - a) If your school district accidentally overpays the Chapter 402 cap on a student, it is **your responsibility** to contact the provider for reimbursement of that overpayment. Once you have been refunded, you can forward the outstanding invoices to the Bureau of Special Education for payment. The invoices in NHSEIS should be adjusted to reflect what was ultimately paid, after receiving reimbursement for overpayment.
  - b) Charges that exceed the approved rate or charges for over-delivery of services will not be used to calculate meeting the 402 cap. The invoices section in NHSEIS will disallow any overcharging by the private provider.
5. Schools and private providers should continue to send invoices to the school districts of liability, even after the district has reached cap for a given court-ordered student. The school district must verify that the billed services are accurate and enter the invoice into NHSEIS before forwarding it to the Bureau of Special Education, Chapter 402, for payment.
6. If there is a change in one of your court-ordered student's placements, please make sure you edit that student's Chapter 402 placement record and cost record in NHSEIS to accurately reflect the student's new placement information.

If you have trouble editing this information, please e-mail [tmorrill@ed.state.nh.us](mailto:tmorrill@ed.state.nh.us) for assistance with this task.
7. School districts should keep files for each Chapter 402 student. The file should contain the following information in case you are audited:
  - Copies of invoices paid by the district to reach the Chapter 402 cap.
  - Copies of invoices forwarded to the Bureau of Special Education for payment.
  - Copies of any court orders.

Please double check to make sure that your school district has followed these procedures for all your Chapter 402 eligible students. Please reference the Department of Education website: [www.ed.state.nh.us/specialed/ch402.htm](http://www.ed.state.nh.us/specialed/ch402.htm) for Chapter 402 program instructions. Thank you for your assistance with this matter. If you have any questions or need assistance, please feel free to contact Kathy Hodges: (603) 271-3738 or [khodges@ed.state.nh.us](mailto:khodges@ed.state.nh.us).