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Bureau of Special Education FY'16 Memo #35

Date: June 1, 2016

To: Superintendents of Schools
Special Education Director

From: Office of the Commissioner of Education

Division of Educational Improvement
Bureau of Special Education

Re: Court Ordered Payment(s) (Chapter 402) - School Year 2016-2017
(July 1, 2016 to June 30, 2017)

Eligibility for Court Ordered Payment(s) (Chapter 402)

For complete instructions, please refer to the Court Ordered Placement Procedure Manual at:

http://www.education.nh.gov/instruction/special_ed/forms.htm

The New Hampshire Department of Education (NHDOE), Bureau of Special Education, is offering guidance to districts applying for court ordered payment(s) (Chapter 402) for 2016-2017.

GENERAL INFORMATION

In order to qualify for court ordered payment(s) (Chapter 402):

1. The student must have a court order(s) covering the school year and placing them at a residential school, foster care, or group home.
2. Students must have been placed in special education programs for their disability that have been approved for special education by the New Hampshire Department of Education (NHDOE).
3. The Department of Health and Human Services (DHHS) must have financial responsibility for the residential cost of the student.
4. The student must not be attending a public school.
5. School districts must have entered in the New Hampshire Special Education Information System (NHSEIS) student evaluation and placement data. The data must be in compliance with the requirements of the New Hampshire Rules for the Education of Students with Disabilities (effective June 30, 2008, amended December 1, 2010, and amended May 15, 2014).

6. The cost to the district for implementing the student's Individualized Education Program during the 2016-2017 school years must exceed 3 times the estimated State average cost per pupil. The student may have been placed in more than one (1) program during this period, in which case costs are accumulative. This includes approved Special Education Extended School Year (July 1, 2016 to August 31, 2016).
7. For any student eligible for court ordered payment(s) (Chapter 402), the district obligation of 3 times estimated State average cost per pupil will be paid only once, even if that student transferred to one or more school district(s) during the school year.

Please note that the Estimated Cost per Pupil Tuition for Fiscal Year 2017 has been established at \$14,855.59. Use the figure of \$44,566.77 for 3 times.

APPLICATION FOR COURT ORDERED PAYMENT(S) (CHAPTER 402)

1. Districts must enter the court placement date and begin date in the student's information section of NHSEIS prior to entering the student's invoices.
2. Districts must enter all invoices, by line item, for each student whose cost exceeds 3 times the estimated state average cost per pupil, of \$44,566.77.
3. Districts must submit a copy of the court order(s) for placement that pertains to the 2016-2017 school year.
4. On copies of submitted invoices that are at cap or beyond cap, districts must print clearly on the invoice the amount the district is responsible to pay and the amount the NHDOE is responsible to pay.
5. Costs for students whose data is found in non-compliance with the NH Rules for the Education of Children with Disabilities will not be computed for court ordered payment(s) (Chapter 402).
6. It is the district's responsibility to maintain accurate fiscal records of invoices and vouchers for audit purposes.
7. To assist in the review of the student's invoices, you may indicate on the invoice when a session is a make-up session.
8. Costs which exceed rates established by the NHDOE will be disallowed, the NHDOE will only allow for the established rate. For students who are placed out-of-state, the NHDOE will consider the established rate, which is the rate set by the State's Department of Education.

ALLOWABLE COSTS

1. Costs will be considered allowable if they are a direct service to the student.
2. For private special education programs, rates have been established by the NHDOE. The rates are the maximum costs which will be allowed when figuring the court ordered payment(s) (Chapter 402) calculations.
3. Before the NHDOE processes court ordered payment(s) (Chapter 402), it is the responsibility of the district to make all payments to vendors for direct services provided up to the meeting of the cap and resolve any overpayment of services to vendors.

DISALLOWED COSTS

1. Costs on invoices for services not found in a student's IEP; cost on invoices for which there was not agreed on in the IEP and cost on invoices for excess services not found in the child's IEP.
2. Student is in a placement not approved for his/her disability.
3. Placement is not in the student's IEP for the timeframe of the invoices submitted.
4. The NHDOE will not consider costs for administrative function of personnel. Administrative functions can include, but not limited to: cost to attend meetings, writing of reports including IEP's, development and analysis of data.

TIMELINES FOR COURT ORDERED PAYMENT(S) (CHAPTER 402)

Districts should be entering court ordered payment(s) (Chapter 402) data into NHSEIS on a monthly basis. The NHDOE is available to assist districts and provide technical assistance throughout the year in the court ordered payment(s) (Chapter 402) process.

When the student has reached cap, school districts shall submit special education service provider's invoices to the NHDOE within 30 days of receipt of such.

- A copy of all invoices used to meet cap.
- A copy of court order(s) that cover the school year.
- When more than one service provider is used in meeting cap, please fill out the Cost Verification Form on page 42 of the Court Order Placement Procedures Manual.

The NHDOE shall then verify the cost, and distribute the appropriate amount to the education service provider.

The NHDOE shall distribute special education payments within 60 days of receipt of invoice from the school district provided that all of the information submitted is accurate.

If you had an eligible court ordered (Chapter 402) student move into, or from your district during the 2016-2017 school year, please notify Tamela Dalrymple at 271-6056.

Should you need further information or clarification, please contact Tamela Dalrymple at (603) 271-6056 or Tamela.Dalrymple@doe.nh.gov.