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Insurance-Funded Services in a School Setting

For behavioral health treatment services, the location, such as a school or community setting, may be an integral part of the treatment plan and may be necessary to ensure treatment goals are met, especially generalization of skills across settings. Medically necessary autism treatment may be provided in a school setting (a) to ensure that skills acquired in the home and community generalize to the school setting; (b) when the behavior occurs in the school setting; (c) or simply as a matter of logistics to ensure that a child's full treatment hours are delivered. Moreover, services provided by a school under an IEP do not preclude medically necessary services that are being provided across all natural settings, including the school. Schools do not provide medically necessary treatment; they may provide supports pursuant to a different standard (some educational benefit), for different purposes (to access the educational curriculum) with

differently credentialed providers (special education teachers and aides). Such services do not supplant medically necessary treatment.

- School's Compliance with ADA: Providing services in natural settings in which the child functions, such as schools, is not only considered best practice but is also required under the integration mandate of the Americans with Disabilities Act (*Olmstead v. L.C.*, 527 U.S. 581, 1999).
- The location is often an integral part of the treatment plan and is necessary to ensure that treatment goals are met. That is, for treatment to be effective, it must be generalized across all natural environments, and the school is a natural environment for a school-age child.
- These services target goals in the treatment plan, which addresses the deficits and behaviors associated with your insured's autism diagnosis; school-based services do not address educational/academic goals.
- The location of services is part of the medically necessary treatment of the child's autism diagnosis.
- When this issue has been litigated, the Court has consistently determined that insurance carriers are responsible for funding of medically necessary treatment, regardless of the location where it occurs, including school settings.
- The duty as the insurance carrier to provide coverage for medically necessary treatment is a much higher standard than the duty of the school under IDEA to provide Free Appropriate Public Education.

Locations in 9th Circuit (WA, OR, CA, AZ, ID, MT, NV)

We have attached a copy of the decision in *McHenry v. PacificSource Health Plans* in which the judge makes it clear that the location of treatment, -- i.e., in a school setting -- does not affect whether that treatment is medically necessary. The determination of whether treatment in a school is medically necessary is based on whether the goals of the treatment are part of the authorized treatment plan and whether the person providing that treatment is trained to implement the treatment plan. Moreover, please note that Title III of the Americans with Disabilities Act states, "a) General. A public accommodation shall afford goods, services, facilities, privileges, advantages, and accommodations to an individual with disability in the most integrated setting appropriate to the needs of the individual" (Section 36.203). (Emphasis added.)

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