MEDICAID SGD FUNDING UPDATE: 2019 Changes to New York Medicaid SGD Guidelines

Wednesday, July 24, 2019 @ 7 pm ET

Presenter:
Lewis Golinker, Esq.
Director, Assistive Technology Law Center
USSAAC Advocacy Director
798 Cascadilla Street, Suite A
Ithaca, New York 14850
607-277-7286 (v)
lgolinker@aol.com (e-mail)

Webinar Logistics

ASHA CEUs – live webcast

- Free - USSAAC members; $25 – non-USSAAC members
- Participant form and instructions on website
- Can only receive CEUs for live webinar
- NOTE: You need to scan and send participant form to smeehan8@ku.edu by August 7,2019

- Archived webcasts https://www.isaac-online.org/english/news/webinars/
- Enter questions in the chatbox. We will answer as time permits.

Webinar Logistics and Details

- You will receive a follow up email with links to CEU form and evaluation
- PLEASE complete the evaluation
- Disclosure: Lew Golinker is the Director of Advocacy for USSAAC
- Save the date! **AAC Disaster Relief Committee, AAC and Disasters: Are You Ready?** September 19 @ 7:00 pm - 8:00 pm

Supporters

USSAAC would like to recognize and thank our Institutional and Corporate Members for their support

Eligibility Standard

- “A member is eligible for a SGD when their ability to communicate using speech and/or writing is insufficient for normal conversation and when it has been demonstrated that a SGD will allow the individual to improve their [sic] communication to a functional level not achievable without the ordered device.”

- 2012: “SGD’s should be rented initially until such time the documentation establishes the coverage criteria for purchase of a device has been met. Documentation must include a detailed description of the beneficiary’s trial of the SGD, addressing the ability to functionally communicate with the device while demonstrating proficiency in accessing and using the device to meet communication needs in all customary environments.”

- > 10/201“SGDs should be rented initially until such time the documentation establishes the coverage criteria for purchase of a device has [sic] been met. Documentation must include a detailed description of the member’s trial of the SGD, addressing the ability to functionally communicate with the device while demonstrating functional competency in accessing and using the device to meet communication needs in all customary environments.”

Eligibility Standard - 2

[improvement of communication functioning]

Without SGD

Proficiency

Competency

Mastery

Very good at

Eligibility Standard: New Guidelines

"The SGD and related accessories must allow members to improve their communication to a functional level not achievable without a SGD or less costly device." [Coverage Criterion (1)(i), p. 106].

This standard allows SLPs to recommend, and clients to receive the SGD and access method that will provide the most improvement [*not otherwise achievable*] in their communication function above their current baseline abilities and opportunities [*reference point to measure benefits*].

Caveat: whatever is recommended must be the *least costly equally effective alternative [LCEEA]* to achieve the stated goal.

“Show Me”Criteria

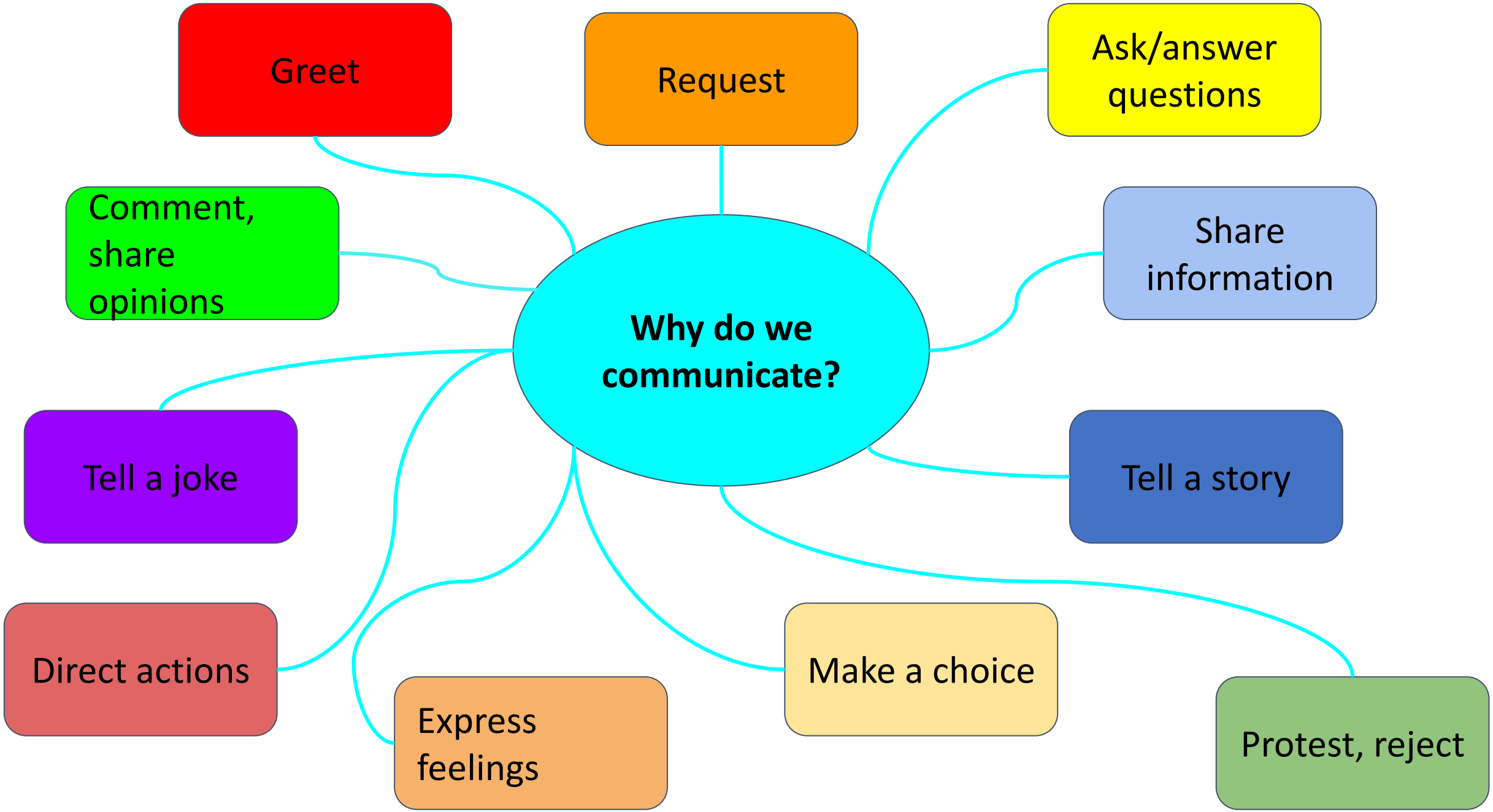
- Medicaid wants clients to be able to use the SGD for communication at the time of purchase. The new Guidelines include 6 “show me” demands. These “for “proficiency,” “competency,” “mastery,” or “very good at.”

Clients must be able to do all of the following:

1. Use the device to produce *functional communication*;
2. *Not be fully dependent on prompting or assistance* in producing the communication;
3. Communicate *multiple message types*;
4. Communicate with *multiple partners;*
5. Communicate *in multiple settings within the trial location*; and
6. Demonstrate these abilities *repeatedly over time, beyond a single instance or evaluation session*.

Functional Communication

- Used repeatedly in new Guidelines, but never defined.
- Alternately called functional communication; functions of communication; meaningful communication; message types.
- Functions of communication are clarified by examples: “requesting, protesting, commenting, describing, etc.”
- Recommendation: all of these phrases are synonyms of each other – refer to the same communication actions AND
- All of these phrases are synonyms of reasons for or purposes of communication.


Why do we communicate?
Greet
Request
Ask/answer questions
Comment, share opinions
Share information
Tell a joke
Tell a story
Direct actions
Express feelings
Make a choice
Protest, reject

Without being fully dependent…

During the SGD assessment, consider the range of message types or communication purposes that comprise functional communication.

Identify the ones the client can produce using the recommended SGD *without being fully dependent on prompting or assistance*:

Which can be produced:

On his or her own, without assistance, consistently;

And

On his or her own, without assistance, intermittently [sometimes without help; sometimes with help].

Rule of 3 - 5

It is recommended that the “Show Me” demands of “multiple” message types, partners, and places, and “repeatedly” be answered through

- 3-5 goals, each addressing a different message type; and
- that the trial be set up to allow communication with 3-5 people;
- in 3-5 settings within the trial location; and
- that clients have at least 3-5 instances where they can demonstrate their functional communication skills.

Multiple People

Medicaid wants the client to speak with multiple people during the trial.

Meeting this “Show Me” demand requires planning and may require some training of communication partners. E.g., if the client will be offering greetings, names of people s/he is likely to encounter must be programmed.

If the client will be responding to questions to make choices, to offer information, etc., partners may have to be trained to ask the questions when the client is encountered so that the clients can demonstrate their functional communication abilities.

Settings Within the Trial Location

Under the current guidelines, SGDs "*must be useful and medically necessary in the member's customary environments.*"

Medicaid often claimed that "useful" meant *actual use* and trials had to be conducted in all customary environments. This claim was rejected repeatedly on appeal because SLPs reported SGD use skills are transferable from setting to setting, so "useful" does not require actual use.

The new Guidelines do NOT require a multi-site trial. One site is enough, but Medicaid wants the device to be used in multiple places within the one site.

School: classroom; cafeteria; art room; music room; gym; hallways; playground

SettingTrial Goals

Identify client strengths

Set goals based on highly motivated activities

Direct goals to activities that can be done without assistance

Direct goals to activities that can be done with no more than intermittent assistance

Goals should demonstrate and produce data about known *existing* skills – no need to set goals to learn new skills or require or expect improvement

New Guidelines focus on functional communication but not message content or how the message is produced, as long as it does not require full dependence. Novel messages; sequencing; page navigation are NOT skills required to meet the Show Me demands

Independence in device use is not required – assistance is permitted – the type of help must be reported and must show the client is not fully dependent

SLP with AAC Experience

Coverage Criterion 1 (f) A licensed Speech Language Pathologist (SLP) experienced in AAC service delivery has made the recommendation

Copied from Massachusetts Medicaid SGD guidelines

No threshold of experience is stated – there is no "official" designation (e.g., degree or certificate); there is no minimum number of years, or clients served.

Treat this as a *documentation requirement.* Explain

- Number of years of SLP experience since CCC was awarded
- Number of years of AAC – any form of AAC – experience
- If focus has been on clients who need SGDs – add this
- If prior funding requests, identify the type of funding source (Medicaid; insurance), and general statement of total and of outcomes (approvals)
- If prior NY Medicaid funding, add this, including outcomes
- If presented at conferences, served as teacher, contributed to professional literature – identify relevant information
- If member of USSAAC [better be!!] or ASHA SIG 12 – report this
- If devote significant percentage of CEU obligation to AAC topics – report this.

Eye Gaze

Only for Eye Gaze accessories [EGA]: a PT or OT must participate in the assessment. Not required for all requests or for alternative access other than eye gaze.

Focus of EGA coverage criteria is ruling out other access options and on client's ability to use the EGA for functional communication

Other options: EGAs are the most costly access option, so of course all others must be ruled out first. Other options specifically mentioned include:

- scanning [CC 2 (a)]
- headpointing [CC 2 (a)]
- boards; E Tran [CC 2 (f)]
- all potentially less costly access methods including boards [CC 2 (g)]

Boards and E-Tran

Can be ruled out categorically, for all clients.

Reason: there is no one responsible to hold the boards and interpret the client's intended communication. Communication partners do not have this obligation. A *communication assistant* would be required to serve this role, but Medicaid will not provide one. When asked specifically if one will be hired, Medicaid testified in federal court that:

"We don't hire anybody for anything."

[Testimony of Jennifer Pike, in *BZ v. Zucker*, transcript of hearing for preliminary injunction, Oct. 11, 2017, at page 222.]

Also, even if Medicaid *did* provide a communication assistant, the cost of this option will be more costly than any SGD + EGA within about 4 months.

Mounts

Mounts are used to secure SGDs for access and safety. Reimbursement is for one mount that meets the member's needs in all customary environments. Selection should be based on medical necessity and 18 NYCRR Section 513.4(d)

New Guidelines say 1 mount per person. New provision. Coverage is for *one mount that meets the client's needs in all customary environments*.

But what if one mount can't accomplish that goal? Request 2 mounts or a 'universal mount' that can serve multiple roles.

For children, EPSDT prohibits limit on the amount of medically necessary care available to Medicaid recipients.

For adults, Medicaid law prohibits offers to meet all medical needs but then imposing caps or limits that make that goal impossible to meet for some clients.

Documentation Requirements: Introduction

“In addition to the specific requirements stated below, the documentation submitted in support of a funding request for a SGD, mount or related accessories must establish that all the standards stated in the Coverage Guidelines are met.”

This text is a warning: The documentation requirements section of the new Guidelines is ***not*** complete. Specifically, the data Medicaid identifies in the Coverage Criteria as required, both for SGDs and for EGAs, are not re-stated in the description of the SLP assessment, trial, or report.

Detailed Fiscal Order

1) Detailed Fiscal Order including the make and model of equipment requested (see “Filling Orders for DMEPOS at https://www.emedny.org/ProviderManuals/DME/PDFS/DME_Policy_Section.pdf)

This is the doctor’s prescription.

IEPs

3) Individualized Education Plan (IEP) for school aged members

This is now a required document to be submitted. Do not refuse to do so. Instead:

- Review the IEP during the assessment or trial period; identify facts, opinions, and conclusions that are contrary to the SLP's observations and opinions.
- Look at the people present: was the SLP present? Is an SLP report attached to the IEP?
- When there are inconsistencies between the IEP and the SLP's observed facts and opinions and conclusions, clients should take the following steps BEFORE the Medicaid request is submitted:

    1) request an IEP meeting (Committee on Special Education (CSE)) meeting to review the IEP in light of the SLP's observations and conclusions

    2) submit a request to the school under the Family Educational Rights and Privacy Act (FERPA) which provides a right to request that schools correct records that are inaccurate or misleading. This can be done by letter.

    3) submit a request to the school under the IDEA for a "due process hearing" to challenge the type, amount, or intensity of the program and services provided to the child regarding communication and speech

Staple a copy of these requests to the front of the IEP when it is submitted to Medicaid.

Testing - 1

d) Psychometric or developmental assessment characterizing cognitive and learning abilities and levels of function (include results of most recent evaluation, name of test, IQ or developmental levels, and date performed). NOTE: Members who do not exhibit cognitive deficits may not need to participate in assessments, however Medicaid reserves the right to request additional documentation regarding cognitive functioning after initial review of PA submission.

This is a new requirement, copied from the Massachusetts SGD guidelines.

Insert in report before discussing the test conducted: “No formal tests are currently available that predict the ability to meet the cognitive requirements of various AAC techniques. Rather, the AAC team is required to analyze the cognitive requirements of a particular approach and then estimate the extent to which the individual will be able to meet those requirements.” Beukelman & Mirenda, (1992) Augmentative Communication at 130.

Testing - 2

NOTE: the requirement does not say “formal” tests or “standardized” tests.

Search criteria for potentially acceptable tests

The instrument has the characteristics of a test or protocol:

1. It will produce results that can be described as developmental levels or abilities
2. It can be performed by SLPs with the minimum amount of distraction from typical assessment procedures.
3. It will provide some data that may be useful to the decision making process.

Tests recommended for use:

Communication Matrix *

Peabody Picture Vocabulary Test (PPVT)

Test of Aided Communication Symbol Preferences (TASP) *

Test of Auditory Comprehension of Language (TACL)

* Tests initially identified by Medicaid

Testing - 3

Additional test options, based on review of Massachusetts Medicaid SGD approvals:

- Goldman Fristoe Test of Articulation – 2
- AAC Evaluation Genie
- Receptive One Word Picture Vocabulary Test – Preschool Language Scale (ROWPVT)
- Formal Receptive Vocabulary Assessment
- Applied Autism Language Program Communicative Operations Framework
- AAC Profile
- Functional Communication Profile (FCP)

Explaining SLP Decision Making

SLPs make 2 decisions: what type of SGD and access method is most appropriate for the client; and what SGD model and access method is the least costly equally effective alternative.

Medicaid will require SLPs to document – to explain in detail – their consideration of and decision to rule out:

speech or writing

other unaided AAC strategies (e.g., vocalization, gesture)

non voice-output aids (e.g., boards)

*

all prior devices used

**

devices similar to the recommended device from other manufacturers

***

The *, **, and *** represent rule out requirements not identified specifically in the new guidelines.

SGD Software Only Option

SGD Software to be loaded onto a client owned device has long been an option. The new Guidelines do not require this option to be discussed, Medicaid is demanding it. Ruling this option out:

1. The client does not own a tablet computer.
2. The client owns a tablet, but when asked, the client said no.
3. The client owns a tablet, but said no after the non-coverage criteria [# 4, 5, 6 and 7] and repair criteria were reviewed: Medicaid won't pay for installation of the software, or repair or replacement of the tablet.
4. The device is used by other family members; the device will not be available to serve as the client's SGD.
5. The client uses the device for recreational purposes. After the SGD software is loaded, these features will remain an accessible distraction.
6. Software comes with no support. The client will require the support offered by the device source [must be discussed in the treatment plan section]
7. Some SGD software isn't available for funding [e.g., Tobii Dynavox software].
8. This option is not least costly to Medicaid or to the client. First, Medicaid will pay for the software. Thereafter, because Medicaid won't pay for repair or replacement, once the device breaks, Medicaid will have to pay for a replacement *SGD.* Paying for these 2 items will be more costly than paying for the device alone. Also, once the tablet breaks, it will be replaced by a dedicated SGD. The family will have to pay for a replacement tablet, adding to their costs as well.

Ruling Out Other Devices: Digitized Devices

Ruling out “categories” or “sub-categories” of digitized devices: client needs that make groups of devices inappropriate, eliminating the need to discuss individual models.

Facts to Rule Out All Digitized Devices:

- Client requires eye gaze access – no digitized devices support eye gaze accessories

- Client will now or in the reasonably foreseeable future, will create messages using letter by letter spelling – no digitized device has text to speech capacity: C + A + T will never be “CAT.”

Ruling Out Other Devices: Digitized Devices - 2

Additional factors allowing categorical ruling out of some or all digitized devices:

Device will not provide client access to all of the client's vocabulary or messaging capabilities

Reason:

- client's vocabulary or messaging exceeds the limits/capability of the digitized device
- digitized devices offering multiple levels or pages all have static displays that require pages/overlays to be manually changed

Ruling Out Other Devices: Digitized Devices - 3

How can digitized device pages/overlays be changed?

Unlikely clients can do this on their own. This requires the cognitive and physical abilities to reach for stored extra pages; review pages to find desired message; extract the existing page and insert the new page; change the level knob on the device [on all but a few models]; and store the unused pages

Common statement in SLP reports to rule out boards, books and PECs applies here too: “Navigating through pages of language … slows down or completely stops the communication process. … The focus inevitably shifts to managing the communication system at the cost of the individual independently communicating preferences, wants and medical needs….”

Ruling Out Other Devices: Digitized Devices - 4

If the client can change pages, with assistance, compare this to how the client can change pages on the recommended ‘touch-screen’ SGD

- Assistance needed is not appropriate compared to no help required
- More assistance needed is not appropriate compared to less help
- More time required – slower – is not appropriate compared to less time required
- Communication breakdowns or loss of communication opportunity is not appropriate compared to fewer or no breakdowns or lost opportunities

Ruling Out Other Devices: Digitized Devices - 5

Client cannot change pages even with assistance - must rely on others to change pages.

This option can be ruled out categorically for the same reason eye gaze boards and E Tran systems can be ruled out: *there is no one required to perform this task.*

Ruling Out Other Devices: E 2510 Devices (Touch-Screen SGDs)

Medicaid also will demand that SLPs explain in detail why they ruled out less costly devices from the same code as the device being recommended, i.e., touch-screen SGDs or ‘E-2510’ devices.

The new Guidelines require SLPs to report *consideration* (***NOT*** trial) of other devices from other manufacturers.

But SLPs should read this as a requirement to rule out all less costly devices in this code, including both less costly models offered by the same SGD source and other SGD models from other sources are not appropriate.

SGD Trial- 1

The SGD trial is at the heart of the SGD request. Medicaid provides 11 sub-parts to describe the trial, but as already noted, this list is incomplete. The “Show Me” demands stated in the Coverage Criteria are to be satisfied from trial data and experience.

Functional Communication is the key. Medicaid wants the device to be used for communication.

We noted earlier that the focus will be on client strengths identified through the assessment, and will follow a rule of 3-5 regarding all the data required to be collected. Strengths are message types the client can perform on his or her own, without assistance, consistently; and those the client can perform on his or her own, without assistance, intermittently.

Trials occur AFTER SLPs make their preliminary conclusion about what is most appropriate and least costly. Trials are a way to gather data to confirm that conclusion, not a test for the client to learn new skills or demonstrate improved abilities related to existing ones.

Remember, an SLP report, including the trial report is an advocacy document as well as a professional report.

SGD Trial- 2

Trial Locations: The new Guidelines ask where the trial occurred. This is just a documentation requirement. The coverage guidelines authorize a single site trial, as long as data is collected in multiple locations in the one site.

Structured or Unstructured Settings: there is no definition of these terms and SLPs should not guess or use their own definitions. Better to say: these terms are not defined, but the specific locations where the trial occurred are identified in the report.

Messaging records and Samples: Medicaid's reviewer will want information reported about what the client said during the trial. When sequencing occurs, separate each component with a "+" sign. Sequencing is NOT required. Nor are novel messages. But reporting on what the client said is. If clients rely on single-hit (whole message) responses, Medicaid will push back about digitized devices. So, refer back at this point, to why digitized devices were ruled out. Also, regarding samples/examples: do not follow the rule of 3-5. Provide about 7-10 examples to keep Medicaid from asking for more.

Assistance: Just report what was provided. Help is expressly allowed. Full dependence is not. If we show the client is independent on some tasks and only needs help sometimes on others, the client passes the "not fully dependent" criterion.

Implementation / Treatment Plan

Recommendation: use the discussion of future needs to reinforce other decisions in the report, e.g., the client will need post-delivery services offered by SGD sources, that will not be available with a software only purchase. These services must be identified – the sources can tell you what they offer; include what you believe the client will need, use and benefit from.

Another use of the treatment plan is to reinforce – or to contradict – the IEP in terms of literacy skills development, or, if the IEP describes very little support and service and correspondingly does not note SGD need, have the implementation plan describe more robust needs to support SGD use and benefit.

Repair

Repair is notable only because Medicaid is so limiting and dismissive about non-dedicated devices, including family owned tablets. See Non-Coverage Criteria 4, 5, 6, and 7, and Repair criterion (a).

Additional Webinar Opportunity

- Revised guidelines for Speech Generating Devices were published in the latest revision of the Durable Medical Equipment, Prosthetics, Orthotics and Supplies Manual, effective August 1, 2019. The manual may be found at https://www.emedny.org/ProviderManuals/DME/index.aspx.

- **The Bureau of Medical Review will be conducting a webinar on August 15, 2019 at 10:00 AM for Speech Language Pathologists, Supporting Clinicians, Ordering Providers and Durable Medical Equipment providers to review the 2019 Speech Generating Device Guidelines**.

- Time will be available at the end of the presentation to answer questions from participants. To enroll for the webinar, please visit www.emedny.org training webpages and click on the link for the webinar. For more information, please contact the Bureau of Medical Review at 1-800-342-3005 or OHIPMEDPA@health.ny.gov with questions about the revised guidelines. For assistance in registering for the webinar, please contact CSRA at 1-800-343-9000.

- Note: this webinar will be conducted *after* the revised Guidelines go into effect on August 1. USSAAC will be offering a webinar about the new Guidelines in July, in advance of the effective date. Date and time -- will be announced when set.


ISAAC 2020
CANCÚN
MÉXICO
COMMUNICATION
BEYOND BORDERS
COMUNICACIÓN
SIN FRONTERAS
ISAAC is excited to announce that ISAAC 2020, the 19th Biennial Conference
of the International Society for Augmentative and Alternative Communication,
will be held at the Cancún International Convention Centre (ICC) in beautiful CANCÚN,
adjoining the Riviera Maya on México's Caribbean coast.
AUGUST 1-2
AAC Camp, Pre-Conference Workshops, Executive and Council Meetings
AUGUST 3-6
Main Conference at the Cancún ICC, México
Surrounded by Mayan culture and with easy access to beautiful beaches, tours, shops and restaurants
of both Cancún and the Riviera Maya, the ISAAC conference will feature AAC events and perspectives;
cutting edge research and clinical innovations; workshops, seminars, exhibits, social events, and
entertainment, all in a unique cultural setting.
Mark your calendar today, and save
the date for ISAAC 2020 in Mexico!
For more information, visit us at www.isaac-online.org
and follow #ISAAC2020 on Twitter.
isaac
International Society for
Augmentative and Alternative Communication
www.isaac-online.org


ISAAC 2020
CANCÚN
MÉXICO
COMMUNICATION
BEYOND BORDERS
COMUNICACIÓN
SIN FRONTERAS
ISAAC se complace en anunciar que el próximo XIX congreso de la Sociedad Internacional de Comunicación Aumentativa y Alternativa, se llevará a cabo en el Centro Internacional de Convenciones (ICC) de la bella ciudad de CANCÚN, contigua a la Riviera Maya de la costa del caribe mexicano.
1-2 DE AGOSTO
Campamento de CAA, Talleres Preconferencia, Juntas Ejecutivas y del Consejo
3-6 DE AGOSTO
Congreso principal en el ICC de Cancún, México
Rodeado por la cultura maya y con fácil acceso a playas hermosas, tiendas, restaurants y tours tanto de Cancún como de la Riviera Maya, el congreso de ISAAC contará con eventos de CAA, perspectivas, lo último en investigaciones e innovaciones clínicas, talleres, seminarios, exposiciones de las compañías más importantes, eventos sociales y entretenimiento. Todo en un sitio culturalmente único.
¡Anótalo en tu calendario y aparta
la fecha para ISAAC 2020 en México!
Para mayor información, consulta nuestro sitio web www.isaac-online.org
y síguenos en Twitter #ISAAC2020
isaac
International Society for Augmentative and Alternative Communication
www.isaac-online.org