

Questions on Parental Consent for MassHealth

1. How may written notification be provided to parents? **The Parent's Notice of Procedural Safeguards (PNPS) has been updated and contains sufficient written notice to meet the annual notice requirement.**
2. May the school district post the written notification on its website instead of providing it directly to parents by mail or email? **No, posting is not sufficient. A district may post the PNPS, but must provide directly to parents a notice of its availability along with the website location at least annually.**
3. How should the school district document that the written notification has indeed been provided to parents, as required by federal regulation? **School districts may document the annual distribution of the Parent's Notice of Procedural Safeguards (PNPS) in any manner. Showing such distribution took place is sufficient documentation as long as the most recent version of the PNPS (currently posted at ESE website) is used.**
4. Can the written notification be provided to parents at the same time that the Parental Consent form is provided to parents? **The consent form on the Department's website at: http://www.doe.mass.edu/sped/advisories/13_1.html contains the written notification necessary for the one-time consent. After that, the annual distribution of the PNPS meets the requirement for annual notice.**
5. When must subsequent annual written notification be provided to parents? **Annually, as is true also for the PNPS (containing sufficient notification).**
6. Because eligibility for Medicaid may not necessarily coincide with annual IEP Team meetings, may public agencies provide the written notification to ALL parents of children with disabilities, regardless of whether the school district is seeking to bill Medicaid for the School-Based services that the child receives? **Yes, that is why it is incorporated into the PNPS.**
7. Are school districts required to use the written notification form available on the Massachusetts D.E.S.E. website? Or can districts make up their own form as long as it contains the necessary information? **The one-time consent form is a mandated form. Districts must use the form created by DESE adding only the school district information to the consent form.**
8. If a parent has previously declined to provide parental consent to disclose personally identifiable information to the Medicaid agency may the school continue to ask for consent? **Districts may ask, but may not condition receipt of any special education services on the parents consent.**
9. Can Medicaid claims be submitted for dates of service that have occurred *prior to* the date that parental consent is obtained? **No.**

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10. Must a new One-Time Consent form be signed every time the scope of services *delivered* under the child's IEP changes? **No. A new form is required only if the student moves to another district or the guardianship of the student changes.**
11. The School-Based Medicaid Program rates changed effective 7/1/2013. Does that constitute a change in the "cost of services" which therefore requires a new one-time consent form to be signed? **No.**
12. If a parent previously provided the school consent to bill Medicaid, but then revokes that consent, for which dates of service may the school bill Medicaid? **The district may bill for services from the time of consent until the date of revocation of consent.**
13. If a parent previously provided the school consent to bill Medicaid, but then revokes that consent, is the district permitted to keep previously paid reimbursements for that student? **Yes. Revocation does not apply retroactively.**
14. If a parent previously *denied* the school consent to bill Medicaid, but then subsequently provides the school consent to bill Medicaid, does the consent override the previous denial of consent? **Consent applies from the date of consent, not retroactively.**
15. Does a one-time consent permit billing of Medicaid for the past 90 days even if the student's parents had previously *denied* consent? **No. Consent only applies from the date of consent, not retroactively.**
16. Does obtaining parental consent at an IEP meeting violate HIPAA? **No.**
17. Is a student who is 18 years old or older permitted to sign the parental consent form? **Yes, unless a guardian has been appointed for the student by a court of competent jurisdiction.**
18. Should a surrogate/foster parent, or a DCF social worker, be provided the written notification and sign the parental consent form? **A student who does not have parents able to act on their behalf may provide consent if the student is 18 years of age or over. If the student is under 18 years of age, a legal guardian may provide consent, or an appropriately authorized agent of a state agency that has custody may provide consent. Districts must obtain one-time consent from newly-appointed guardians or agency representatives if custody for the student changes. It is *not* appropriate to receive consent for access to MassHealth from a Special Education Surrogate Parent, as this is an insurance decision and, although related to the provision of special education services, is *not* a special education decision. **Please Note: We are looking into the question of whether a child in state custody requires individual authorization to access MassHealth. Until clarification is received, use the above direction.****

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19. Do the new regulations apply to the use of private insurance? **No.**
20. How is written notification and parental consent handled when a child relocates to another school district or another State? **The one-time consent requirements apply to the school district that is accessing MassHealth to assist in paying for the student's special education services. Therefore, if the student moves from one school to another in the same district, or is placed in a private special education school by the district who continues to be responsible for the student's IEP, then no additional consent is required, although the annual notice requirements continue. However, if the responsibility for the student changes to another district, the new district must obtain the one-time consent also in order to bill MassHealth for any services provided by that district.**
21. If sending by postal mail, do the written notification and parental consent forms need to be sent by registered mail? **No.**
22. Is a cover letter required to accompany the written notification and/or the Parental Consent form? **No.**
23. Where parental consent forms should be filed? **The law does not specify this; however, it would make sense to keep these consents with other billing documents for Medicaid.**
24. What is the effective date of a parent's consent? **The date of consent.**
25. If parental consent was obtained for services under an IEP which began prior to 3/18/13, and that student is still being provided services under that IEP (i.e. no new IEP is in effect yet), can the LEA continue to submit claims for that student based on the prior parental consent? **Yes.**
26. What documentation of the annual notification requirement are LEAs required to maintain? **See Question #3 above.**
27. Does the change in the School-Based Medicaid Program rates that went into effect on 7/1/13 constitute a change in the cost of providing services under the Parental Consent regulations, which therefore would invalidate all prior consent forms and require LEAs to obtain new parental consent forms for all students? **No.**