



**Memorandum 2026-01**  
**Qualified Personnel Requirements in the Early Intervention Program**

**To:** Early Intervention Officials, Approved Evaluators, Providers,  
Service Coordinators and Interested Parties

**From:** New York State Early Intervention Program

**Date:** June 2026

**Subject:** Qualified Personnel in the Early Intervention Program

The purpose of this Memorandum is to provide guidance and clarification regarding the use of qualified personnel (QP) in the Early Intervention Program (EIP). The memorandum identifies for each EIP service type the QP who can deliver the service, supervision requirements, and written order requirements.

The federal Individuals with Disabilities Education Act (IDEA) requires states to adopt policies to ensure that personnel who provide early intervention services meet the highest standards in the state applicable to a specific profession/discipline in which the individual is providing services (34 CFR § 303.361). In New York State, the State Education Department's (SED) Office of Teaching Initiatives is responsible for the certification of teachers and Office of the Professions is responsible for the licensing of professionals. Professionals who provide services in the EIP are subject to SED's regulations. The term "qualified personnel" is defined in section 69-4.1(al)(1)-(28) of the EIP regulations as those individuals who are approved as required by section 69-4.5 of this Subpart and under contract with or employed by approved agency providers who deliver services to the extent authorized by their licensure, certification or registration to eligible children and have appropriate licensure, certification, and/or registration, as applicable, in the area in which they are providing services, including:

- (1) audiologists
- (2) occupational therapy assistants
- (3) licensed practical nurses, registered nurses, and nurse practitioners
- (4) licensed behavior analysts
- (5) certified behavior analyst assistants
- (6) low vision specialists
- (7) orientation and mobility specialists
- (8) vision rehabilitation therapists
- (9) occupational therapists
- (10) optometrists
- (11) physical therapists
- (12) physical therapy assistants
- (13) pediatricians and other physicians
- (14) physician assistants
- (15) psychologists
- (16) school psychologists, only through June 30, 2024
- (17) clinical and master social workers

- (18) licensed mental health counselors
- (19) licensed marriage and family therapists
- (20) licensed psychoanalysts
- (21) licensed creative arts therapists
- (22) registered dietitians and certified dietitians/nutritionists
- (23) special education teachers and teachers of students with disabilities, birth to grade two
- (24) speech and language pathologists
- (25) teachers of the blind and partially sighted, teachers of the blind and visually handicapped, and teachers of the blind and visually impaired
- (26) teachers of the deaf and hearing impaired and teachers of the deaf and hard of hearing
- (27) teachers of the speech and hearing handicapped and teachers of speech and language disabilities
- (28) other categories of personnel as designated by the Commissioner

Some issues regarding qualified personnel who provide early intervention services may be complex in nature and involve questions about the appropriate practice of a particular profession, such as levels of supervision, settings that influence practice, etc. *This guidance document is meant to clarify issues that have been frequently raised regarding use of qualified personnel providing early intervention services and is not meant to be all inclusive.* All descriptions of activities by qualified personnel in the EIP are subject to each profession's scope of practice restrictions and to changes in the relevant laws and regulations. For all issues related to the practice of the professions under Title 8 of the Education Law, qualified professionals should contact the SED's Office of the Professions. If there are specific questions about the appropriate practice of a particular profession, it is strongly recommended that the applicable professional State Board be contacted at SED: <http://www.op.nysed.gov/contact.htm>.

### **Screening Services**

Screening is a process involving those instruments, procedures, family information and observations, and clinical observations, used by qualified State-approved early intervention providers to assess a child's developmental status to indicate what type of evaluation, if any, is warranted.

### **Providers**

Screening services are provided in accordance with 42 CFR § 440.130(b) *Diagnostic, screening, preventive, and rehabilitative services*. Screening services are provided by the following New York State (NYS) licensed and registered qualified professionals acting within their scope of practice under NYS law:

- A NYS licensed and registered **audiologist**, qualified in accordance with 42 CFR § 440.110 (c)(3), *Physical therapy, occupational therapy, and services for individuals with speech, hearing, and language disorders* and other applicable state and federal law or regulations, acting within their scope of practice under NYS law.
- A NYS licensed and registered **occupational therapist (OT)** qualified in accordance with 42 CFR § 440.110(b), *Physical therapy, occupational therapy, and services for individuals with speech, hearing, and language disorders* and applicable state and federal laws and regulations, acting within their scope of practice under NYS law.
- A NYS certified **occupational therapy assistant (COTA)** "under the direction of" such a qualified licensed and registered occupational therapist, within their scope of practice under NYS law.
- A NYS licensed and registered **physical therapist (PT)** qualified in accordance with 42 CFR § 440.110(a), *Physical therapy, occupational therapy, and services for individuals*

*with speech, hearing, and language disorders* and with applicable state and federal laws and regulations, acting within their scope of practice under NYS law.

- A NYS licensed and registered **physician**, acting within their scope of practice under NYS law.
- A NYS licensed and registered **psychologist**, qualified in accordance with applicable state and federal laws and regulations, acting within their scope of practice under NYS law.
- A NYS licensed and registered **speech-language pathologist (SLP)**, qualified in accordance with 42 CFR § 440.110(c), *Physical therapy, occupational therapy, and services for individuals with speech, hearing, and language disorders* and applicable state and federal laws and regulations, acting within their scope of practice under NYS law.
- A NYS **licensed clinical social worker (LCSW)** qualified in accordance with applicable state and federal law or regulations, acting within their scope of practice under NYS law.
- A NYS **licensed master social worker (LMSW)** qualified in accordance with applicable state and federal law or regulations, acting within their scope of practice under NYS law **“under the supervision of”** such a qualified licensed clinical social worker, a qualified licensed and registered psychologist, or a qualified licensed and registered psychiatrist.
- A NYS **teacher of special education, with a master's degree** and certified by the NYS Education Department's Office of Teaching Initiatives.

### **Evaluation Services**

Evaluation services are the procedures used by appropriately qualified, New York State (NYS) Department of Health (DOH) approved early intervention providers to determine a child's initial and continuing eligibility for early intervention services.

Evaluation services determine the child's level of functioning and needs in the areas of cognitive, physical, communication, social-emotional, and adaptive development and include a health assessment including a physical examination, routine vision and hearing screening, and where appropriate, a neurological assessment. When indicated, evaluation services include diagnostic procedures and review of medical and other records to identify a diagnosed physical or mental condition with a high probability of resulting in developmental delay.

### **Written Orders**

To be reimbursable under the EIP, a written order is required for any multidisciplinary or supplemental evaluation. This written order must be signed and dated by a NYS licensed and registered, NYS Medicaid-enrolled physician, physician assistant, or nurse practitioner acting within the scope of their practice. For speech evaluations, a recommendation would be accepted by a NYS licensed speech language pathologist who is enrolled as a Medicaid provider. In addition, **an audiological evaluation** must be supported by a written order signed and dated by a NYS licensed and registered, NYS Medicaid-enrolled physician, physician assistant, or nurse practitioner acting within the scope of their practice. The need for an audiological evaluation must also be documented in the individualized family service plan (IFSP). The only exception to having the audiological evaluation documented in the child's IFSP are infants who have failed their newborn hearing screening and are receiving a diagnostic audiological evaluation to rule out hearing loss.

### **Providers**

Early Intervention evaluation services are provided by the following NYS licensed and registered qualified professionals acting within their scope of practice under NYS law:

- A NYS licensed and registered **audiologist**, qualified in accordance with 42 CFR § 440.110(c)(3), *Physical therapy, occupational therapy, and services for individuals with speech, hearing, and language disorders* and other applicable state and federal law or regulations, acting within their scope of practice under NYS law.
- A NYS licensed and registered **occupational therapist (OT)** qualified in accordance with 42 CFR § 440.110(b), *Physical therapy, occupational therapy, and services for individuals with speech, hearing, and language disorders* and applicable state and federal laws and regulations, acting within their scope of practice under NYS law.
- A NYS **certified occupational therapy assistant (OTA)** "under the direction of" such a qualified licensed and registered occupational therapist, within their scope of practice under NYS law.
- A NYS licensed and registered **physical therapist (PT)** qualified in accordance with 42 CFR § 440.110(a), *Physical therapy, occupational therapy, and services for individuals with speech, hearing, and language disorders* and with applicable state and federal laws and regulations, acting within their scope of practice under NYS law.
- A NYS licensed and registered **physician**, acting within their scope of practice under NYS law.
- A NYS licensed and registered **nurse (RN)** qualified in accordance with applicable state and federal law and regulations, acting within their scope of practice under NYS law.
- A NYS licensed and registered **psychologist**, qualified in accordance with applicable state and federal laws and regulations, acting within their scope of practice under NYS law.
- A NYS licensed and registered **speech-language pathologist (SLP)**, qualified in accordance with 42 CFR § 440.110(c), *Physical therapy, occupational therapy, and services for individuals with speech, hearing, and language disorders* and applicable state and federal laws and regulations, acting within their scope of practice under NYS law.
- A NYS **licensed clinical social worker (LCSW)** qualified in accordance with applicable state and federal law or regulations, acting within their scope of practice under NYS law.
- A NYS **licensed master social worker (LMSW)** qualified in accordance with applicable state and federal law or regulations, acting within their scope of practice under NYS law, "under the supervision of" such a qualified licensed clinical social worker, a qualified licensed and registered psychologist, or a qualified licensed and registered psychiatrist as described above.
- A NYS Licensed **Mental Health Practitioner** (Mental Health Counselors, Marriage and Family Therapists, Creative Arts Therapists, and Psychoanalysts) acting within their scope of practice under NYS law.
- A NYS certified **Teacher of Special Education**, with master's degree and certified by the NYS Education Department's Office of Teaching Initiatives.
- **A Teacher of Students with Disabilities (birth through grade 2)** certified by the NYS Education Department's Office of Teaching Initiatives in the subject area of Early Childhood Education, for birth through grade 2, for students with disabilities.
- **A Teacher of the Blind and Visually Impaired (Partially Sighted)** certified by the NYS Education Department's Office of Teaching Initiatives in the subject area Blind and Visually Impaired, for pre-Kindergarten through Grade 12 (all grade levels).
- **A Teacher of the Deaf and Hard of Hearing (Hearing Impaired)** certified by the NYS Education Department's Office of Teaching Initiatives in the subject area Deaf and Hard of Hearing, for pre-Kindergarten through Grade 12 (all grade levels).
- A NYS **registered certified dietitian/nutritionist** who meet the education and experience requirements set forth by the NYS Education Department under applicable NYS law and regulations.

## **Rehabilitation Services**

**Qualifications for service providers who furnish occupational, physical, and speech-language therapy services under the EIP are described in this section.**

### **Written Order Requirements**

To be reimbursable under the EIP, occupational and physical therapies require a signed and dated written order from a NYS Medicaid-enrolled physician, a physician assistant, or a nurse practitioner who is acting within the scope of their practice under NYS law. Speech and language therapy requires a signed and dated written recommendation from a speech-language pathologist or a written order from a physician, physician assistant, or nurse practitioner acting within their scope of practice under NYS law. The written recommendation or order must include a diagnostic statement and purpose of treatment. The written recommendation or order is required prior to treatment. The need for these services must also be documented in the IFSP.

### **"Under the Direction of" (UDO) Requirements**

"Under the direction of" (UDO) requirements apply when services are provided by certified occupational therapy assistants, certified physical therapy assistants, or a speech-language pathologist applicant completing a nine-month experience and/or Clinical Fellowship Year (CFY) as applicable.

<b>License/Certification as Named with NYSED or Governing Agency</b>	<b>Employment Type</b>	<b>"Under the Direction of" Licensed Certified &amp; Registered</b>
Occupational Therapy Assistant (OTA)	Employee only	Occupational Therapist
Physical Therapy Assistant (PTA)	Employee only	Physical Therapist
Speech-Language Pathology Licensure Applicant, CFY	Employee	Speech-Language Pathologist

"Under the direction of" means that with respect to each child enrolled in the Early Intervention Program and receiving services from an OTA, PTA, or Speech-Language Pathology Licensure Applicant, CFY, under the qualified therapist (licensed OT, PT, or speech-language pathologist as applicable):

- Sees the participant at the beginning of and periodically during the course of treatment.
- Is familiar with the treatment plan as recommended by the referring physician or other licensed practitioner of the healing arts practicing under NYS law.
- Has continued involvement in the care provided and reviews the need for continued services throughout treatment.
- Assumes professional responsibility for the services provided under their direction and monitors the need for continued services.
- Spends as much time as necessary directly supervising services to ensure beneficiaries are receiving services in a safe and efficient manner in accordance with accepted standards of practice.
- Ensures that individuals working under their direction have contact information to permit direct contact with the supervising therapist as necessary during the course of treatment.
- Keeps documentation supporting the supervision of services and ongoing involvement in the treatment.

### **Occupational Therapy Services**

Occupational therapy services are provided in accordance with 42 CFR § 440.110(b), *Physical therapy, occupational therapy, and services for individuals with speech, hearing, and language disorders*. Occupational therapy services include services provided to an individual child and instruction provided to the child's parent or caregiver, and services provided to children individually or in a group when such contacts directly benefit the needs of the child as described in their treatment plan, the IFSP, and pursuant to a written order or prescription from a physician, physician assistant, or nurse practitioner acting within their scope of practice under NYS law.

Occupational therapy services must be provided by:

- A NYS licensed, and registered occupational therapist (OT) qualified in accordance with 42 CFR § 440.110(b), *Physical therapy, occupational therapy, and services for individuals with speech, hearing, and language disorders* and applicable state and federal laws and regulations acting within their scope of practice under NYS Law; or
- A NYS certified occupational therapy assistant (COTA) "under the direction of" a qualified licensed and registered occupational therapist within their scope of practice under NYS Law. (see above section "Under the Direction of" Requirements).

### **Physical Therapy Services**

Physical therapy services are provided in accordance with 42 CFR § 440.110(a), *Physical therapy, occupational therapy, and services for individuals with speech, hearing, and language disorders*. Physical therapy includes services provided to an individual child and instruction provided to the child's parent or caregiver, either individually or in a group, when such contacts directly benefit the needs of the child as described in their treatment plan, the IFSP, and pursuant to a written order or prescription from a physician, physician assistant, or nurse practitioner acting within their scope of practice under NYS law.

Physical therapy services must be provided by:

- A NYS licensed, and registered physical therapist (PT) qualified in accordance with 42 CFR § 440.110(a), *Physical therapy, occupational therapy, and services for individuals with speech, hearing, and language disorder* sand with applicable state and federal laws and regulations, acting within their scope of practice under NYS Law; or
- A NYS certified physical therapy assistant (PTA) "under the direction of" a qualified licensed and registered physical therapist, acting within their scope of practice under NYS Law. (see above section "Under the Direction of" Requirements)

### **Speech-Language Pathology Services**

Speech-language pathology services are provided in accordance with 42 CFR § 440.110(c), *Physical therapy, occupational therapy, and services for individuals with speech, hearing, and language disorders*. Speech-language pathology services are provided to an individual child and instruction provided to the child's parent or caregiver, either individually or in a group, when such contacts directly benefit the needs of the child as described in their treatment plan, the IFSP, and pursuant to a written recommendation from a speech-language pathologist, or written order or prescription from a physician, physician assistant, or nurse practitioner acting within their scope of practice under NYS law.

Speech-Language therapy services are provided by:

- A NYS licensed and registered speech-language pathologist (SLP) qualified in accordance with 42 CFR § 440.110(c), *Physical therapy, occupational therapy, and services for individuals with speech, hearing, and language disorders* and applicable state and federal laws and regulations acting within their scope of practice under NYS law.

### **Audiology-Nursing-Nutrition**

#### **Written Order Requirements**

To be reimbursable under the EIP audiological, nursing, and nutrition services require a signed and dated written order or prescription from a NYS Medicaid enrolled physician, a physician assistant, or a nurse practitioner who is acting within the scope of their practice under NYS law. The written order must include a diagnostic statement and purpose of treatment. The written order is required prior to treatment. The need for these services must also be documented in the Individualized Family Service Plan (IFSP).

#### **Audiological Services**

Audiology services are provided in accordance with 42 CFR § 440.110(c), *Physical therapy, occupational therapy, and services for individuals with speech, hearing, and language disorders*. Audiology services include services provided to an individual child and instruction provided to child's parent or caregiver when these contacts directly benefit the needs of the child as described in their treatment plan, the IFSP, and pursuant to a written order or prescription from a physician, physician assistant, or nurse practitioner acting within their scope of practice under NYS law as appropriate.

Audiology services must be provided by:

- A NYS licensed and registered audiologist, qualified in accordance with 42 CFR § 440.110(c)(3), *Physical therapy, occupational therapy, and services for individuals with speech, hearing, and language disorders* and other applicable state and federal law or regulations, acting within their scope of practice under NYS law.

#### **Nursing Services**

Nursing services are provided in accordance with 42 CFR § 440.70(b)(1), *Home health services*. Nursing services include services provided to an individual child and instruction to the child's parent or caregiver when such contacts directly benefit the needs of the child as described in their treatment plan, the IFSP, and pursuant to a written order or prescription from a physician, physician assistant, or a nurse practitioner who is acting within their scope of practice under NYS law.

Nursing services are provided by:

- A NYS licensed registered nurse (RN) qualified in accordance with applicable state and federal law and regulations, acting within their scope of practice; or
- A NYS licensed practical nurse (LPN) qualified in accordance with applicable state and federal law and regulations, acting within their scope of practice "under the direction of" a licensed registered nurse, a nurse practitioner, a clinical nurse specialist, a physician, a dentist, or other licensed health care provider authorized under the Nurse Practice Act.

License/Certification as Named with NYSED or Governing Agency	Employment Type	“Under the Direction of” Licensed Certified & Registered
Licensed Practical Nurse	Employee only	Licensed Registered Nurse or Nurse Practitioner, Clinical Nurse Specialist, Physician, Dentist, or other health care provider authorized under the Nurse Practice Act

“Under the direction of” means that the qualified clinician:

- Sees the participant at the beginning of and periodically during the course of treatment.
- Is familiar with the treatment plan as recommended by the referring physician or other licensed practitioner of the healing arts practicing under NYS law.
- Has continued involvement in the care provided and reviews the need for continued services throughout treatment.
- Assumes professional responsibility for the services provided under their direction and monitors the need for continued services.
- Spends as much time as necessary directly supervising services to ensure beneficiaries are receiving services in a safe and efficient manner in accordance with accepted standards of practice.
- Ensures that individuals working under their direction have contact information to permit him or her direct contact with the supervising therapist as necessary during the course of treatment.
- Keeps documentation supporting the supervision of services and ongoing involvement in the treatment.

**Nutrition Services**

Nutrition services include services provided to an individual child and instruction provided to the child’s parent or caregiver when such contacts directly benefit the needs of the child as described in their treatment plan, the IFSP, and pursuant to a written order or prescription from a physician, physician assistant, or nurse practitioner acting within their scope of practice under NYS law.

Nutrition services are provided by:

- A qualified NYS registered certified dietitian/nutritionist acting within the scope of their profession.

**Psychological Services**

Psychological services are provided in accordance with 42 CFR § 440.60, *Medical or other remedial care provided by licensed practitioners*. Psychological services must be provided by a qualified licensed practitioner, within their scope of practice in accordance with NYS law. Services may be provided by:

- A NYS **licensed and registered psychiatrist** qualified in accordance with applicable state and federal law or regulations, acting within their scope of practice under NYS law.
- A NYS **licensed and registered psychologist** qualified in accordance with applicable state and federal law or regulations, acting within their scope of practice under NYS law.

- A NYS **licensed clinical social worker (LCSW)** qualified in accordance with applicable state and federal law or regulations, acting within their scope of practice under NYS law.
- A NYS **licensed master social worker (LMSW)** qualified in accordance with applicable state and federal law or regulations, acting within their scope of practice under NYS law, **“under the supervision of”** such a qualified licensed clinical social worker, a qualified licensed and registered psychologist, or a qualified licensed and registered psychiatrist as described above (**see section below Supervision of LMSW**).
- A NYS **licensed Mental Health Counselor** qualified in accordance with applicable state and federal law or regulations, acting within their scope of practice under NYS law.
- A NYS **licensed Marriage and Family Therapist** qualified in accordance with applicable state and federal law or regulations, acting within their scope of practice under NYS law.
- A NYS **licensed Psychoanalyst** qualified in accordance with applicable state and federal law or regulations, acting within their scope of practice under NYS law.
- A NYS **licensed Creative Arts Therapist** qualified in accordance with applicable state and federal law or regulations, acting within their scope of practice under NYS law.

Supervision Of Licensed Master Social Worker

License/Certification as Named with NYSED or Governing Agency	Employment Type	“Under the Supervision of” Licensed Certified & Registered
Licensed Master Social Worker	Employee or Contractor	Licensed Clinical Social Worker, Licensed Psychologist, Licensed Psychiatrist

Supervision of the clinical social work services provided by the licensed master social worker (LMSW), shall consist of contact between the licensed master social worker (LMSW) and supervisor during which:

- The licensed master social worker (LMSW) apprises the supervisor of the diagnosis and treatment of each client.
- The licensed master social worker's (LMSW) cases are discussed.
- The supervisor provides the licensed master social worker (LMSW) with oversight and guidance in diagnosing and treating clients.
- The supervisor regularly reviews and evaluates the professional work of the licensed master social worker (LMSW).
- The supervisor provides at least two hours per month of in-person individual or group clinical supervision.

The supervision shall be provided by a NYS licensed and registered psychiatrist, psychologist, or licensed clinical social worker (LCSW). The supervisor shall be responsible for maintaining records of the client contact hours in diagnosis, psychotherapy, and assessment-based treatment planning and supervision hours provided to the qualified individual.

**Social Work Services**

Social work services are provided in accordance with 42 CFR § 440.60(a), *Medical or other remedial care provided by licensed practitioners*. Social work services must be provided by a qualified licensed practitioner, within their scope of practice in accordance with NYS law. Social work services may be provided by:

- A NYS licensed clinical social worker (LCSW) qualified in accordance applicable state and federal law or regulations, acting within their scope of practice under NYS law; or
- A NYS licensed master social worker (LMSW) qualified in accordance with applicable state and federal law or regulations, acting within their scope of practice under NYS law, “under the supervision of” such a qualified licensed clinical social worker, a qualified licensed and registered psychologist, or a qualified licensed and registered psychiatrist.

License/Certification as Named with NYSED or Governing Agency	Employment Type	“Under the Supervision of” Licensed Certified & Registered
Licensed Master Social Worker	Employee or Contractor	Licensed Clinical Social Worker, Licensed Psychologist, Licensed Psychiatrist

**Supervision of Licensed Master Social Workers**

Supervision of the clinical social work services provided by the licensed master social worker (LMSW), shall consist of contact between the licensed master social worker (LMSW) and supervisor during which:

- The licensed master social worker (LMSW) apprises the supervisor of the diagnosis and treatment of each client.
- The licensed master social worker's (LMSW) cases are discussed.
- The supervisor provides the licensed master social worker (LMSW) with oversight and guidance in diagnosing and treating clients.
- The supervisor regularly reviews and evaluates the professional work of the licensed master social worker (LMSW).
- The supervisor provides at least two hours per month of in-person individual or group clinical supervision.

The supervision shall be provided by a NYS licensed and registered psychiatrist, psychologist, or licensed clinical social worker (LCSW). The supervisor shall be responsible for maintaining records of the client contact hours in diagnosis, psychotherapy and assessment- based treatment planning and supervision hours provided to the qualified individual.

**Special Instruction/Developmental Services**

Special instruction services are provided in accordance with 42 CFR § 440.130(c), *Diagnostic, screening, preventive, and rehabilitative services*. Special instruction services are provided to an individual child and instruction provided to the child's parent or caregiver, and services provided to children and/or family in a group when such contacts directly benefit the developmental needs of the child as described in their treatment plan, the IFSP.

Special instruction services are provided by qualified individuals possessing the following certification issued by the State Education Department pursuant to State regulations and acting within the scope of practice of their professions:

- Special education teachers
- Teachers of students with disabilities - birth to grade two
- Teachers of the blind and partially sighted
- Teachers of the blind and visually handicapped
- Teachers of the blind and visually impaired

- Teachers of the deaf and hard of hearing
- Teachers of the deaf and hearing impaired
- Teachers of the speech and hearing handicapped (TSHH)
- Teachers of speech and language disabilities (TSLD)

### **Medical Equipment and Appliances**

Medical equipment and appliances are provided in accordance with 42 CFR § 440.70(b), *Home health services* and include medical supplies, equipment, and appliances suitable for use in any setting in which normal life activities take place, other than a hospital, nursing facility, or intermediate care facility for individuals with intellectual disabilities, or any setting in which payment is or could be made under Medicaid for inpatient services that include room and board. Under the EIP, such equipment is used to increase, maintain, or improve the functional capabilities of the child.

Assistive technology services are provided in accordance with 42 CFR § 440.70(b), *Home health services* and 42 CFR § 441.57, *Discretionary services*. Assistive technology services are services provided to an individual child and include instruction to the child's parent or caregiver when such contacts directly benefit the needs of the child as described in their treatment plan, the IFSP.

Assistive technology services are provided by:

- Medical equipment and supply dealers
- Clinics
- Hospitals
- Pharmacies
- Residential health facilities
- Certified home health agencies enrolled in the medical assistance program as a medical equipment dealer

Assistive technology services may also be provided by:

- State licensed audiologists
- Speech-language pathologists (SLP)
- Physical therapists (PT)
- Occupational therapists and assistants (OT and OTA)
- Orientation and mobility specialists
- Physicians, practical nurses (LPN), registered nurses (RN), and nurse practitioners (NP)
- Other individuals with licensure, certification, or registration in a professional medical, health related, and/or developmental discipline, within the scope of their professions and to the extent authorized by their licenses

### **Vision Services**

Vision services are provided in accordance with 42 CFR § 440.130(c), *Diagnostic, screening, preventive, and rehabilitative services*. Vision services are provided to an individual child and include instruction provided to the child's parent or caregiver, and services provided to children and/or family members in a group when such contacts directly benefit the needs of the child as described in their treatment plan, the IFSP, pursuant to a written order or prescription from a physician, physician assistant, or nurse practitioner acting within their scope of practice under NYS law.

Vision services include evaluation and assessment of visual functioning, including the diagnosis and appraisal of specific visual disorders, delays, and abilities; professional services necessary for the treatment of visual functioning disorders; communication skills training, orientation, and mobility training for all environments; visual training, independent living skills training, and additional training necessary to activate visual motor abilities.

**Written Order Requirements**

Vision services require a written order or prescription from a physician, physician assistant, or nurse practitioner acting within their scope of practice under NYS law.

Vision services are provided by:

- Certified low vision specialists (therapist)
- Orientation and mobility specialists and vision rehabilitation therapists certified by the Academy for the Certification for Vision Rehabilitation and Education Professionals
- State licensed physicians including ophthalmologists
- Licensed optometrists
- Orientation and mobility specialists within the scope of their profession and to the extent authorized by their license or certification

**Applied Behavior Analysis (ABA) Services**

ABA services outlined in this section are provided in accordance with 42 CFR § 440.60(a), *Medical or other remedial care provided by licensed practitioners*. ABA services must be provided by a qualified practitioner within their scope of practice in accordance with NYS law.

**Written Order Requirements**

ABA services require a written order or prescription from a physician, physician assistant, or nurse practitioner acting within their scope of practice under NYS law.

ABA services are provided by:

- A NYS licensed and registered behavior analyst (LBA) qualified in accordance with applicable state and federal laws and regulations, acting within their scope of practice under Education Law Article 167, *Applied Behavior Analysis*; or
- A NYS certified behavior analyst assistant (CBAA), under the documented direction of such a qualified licensed and registered behavior analyst, acting within their scope of practice under Education Law Article 167, *Applied Behavior Analysis*.

License/Certification as Named with NYSED or Governing Agency	Employment Type	“Under the Direction of” Licensed Certified & Registered
Certified Behavior Analyst Assistant	Employee only	Licensed Behavior Analyst

"Under the Direction of" means that with respect to each child enrolled in the Early Intervention Program, the Licensed Behavior Analyst supervisor:

- Provides supervision in all aspects of CBAA's work, including but not limited to, carrying out initial assessments, treatment, and assessments to terminate services.

- Is familiar with the treatment plan as recommended by the referring physician or other licensed practitioner of the healing arts practicing under State law.
- Meets with and observes the CBAA supervisee on a regular basis to review the implementation of treatment plans and to foster the CBAA supervisee's professional development.
- Spends as much time as necessary directly supervising services to ensure beneficiaries are receiving services in a safe and efficient manner in accordance with accepted standards.
- Assumes professional responsibility for the services provided under their direction and monitors the need for continued services.
- Periodically assesses each patient's/client's progress.
- Reviews and signs treatment notes and reports prepared by the CBAA supervisee.
- Ensures that individuals working under their direction have contact information to permit him or her direct contact with the supervising therapist as necessary during the course of treatment.
- Keeps documentation supporting the supervision of services and ongoing involvement in the treatment.
- An LBA cannot supervise more than six CBAs at a time.

### **Transportation Services**

Transportation delivered by a designated transportation provider pursuant to prior authorization by a municipal Early Intervention Official or Early Intervention Official Designee in the State or the City of New York must be included in the IFSP as recommended by the IFSP team. Transportation arrangements must be identified in the IFSP.

Transportation is limited to those situations where the child and an accompanying parent or guardian receive transportation to obtain an early intervention service other than transportation and both the service and the need for transportation are included in the child's IFSP. Transportation can only be billed to Medicaid on a day that a Medicaid reimbursable service was delivered and may only be billed at the rate for each one-way trip.

Transportation services must be provided by Medicaid Transportation Vendor, a transportation vendor in Contract/Agreement with Municipality, or a Parent or Caregiver authorized on the IFSP. Each one-way trip must be documented in accordance with Medicaid record keeping requirements to bill Medicaid. To receive payment for services provided to a Medicaid recipient a vendor must be an enrolled Medicaid transportation provider authorized to provide transportation services on the date the services are rendered.

### **Service Coordination Services**

Service Coordination services include assistance and services provided by a service coordinator (SC) to enable an eligible child and the child's family to receive the rights, procedural safeguards, and services that are authorized to be provided under the EIP and the services agreed upon in the IFSP.

Service Coordination services may be provided by individuals who meet the following qualifications, as defined in NYS EIP Regulations (10 NYCRR § 69-4.4(a)):

- A minimum of one of the following educational or service coordination experience credentials:

- Two years of experience in service coordination activities as delineated in EIP regulation 10 NYCRR §§ 69-4.6 and 4.7 (voluntary or part-time experience which can be verified will be accepted on a pro rata basis);
- One year of service coordination experience and an additional year of experience in a service setting with infants and toddlers with developmental delays or disabilities;
- One year of service coordination experience and an associate degree in a health or human service field;
- A bachelor's degree in a health or human service field; or
- A license, certification, or registration in one of the professions listed in section 69-4.1(al)

**And**

- Demonstrated knowledge and understanding in the following areas:
  - Infants and toddlers who may be eligible for early intervention (EI) services;
  - State and federal laws and regulations pertaining to the EIP;
  - Principles of family-centered services;
  - The nature and scope of services available under the EIP and the system of payments for services in the State; and
  - Other pertinent information.

**Graduate Students/Interns**

A student/intern may engage in the supervised practice of the licensed profession as part of an internship for:

- Physical therapy
- Occupational therapy
- Speech-Language Pathology
- Audiology
- Psychology
- Social Work
- Mental Health Practitioners
- Applied Behavior Analysis (LBA or CBAA)
- Teachers with internship, supplementary, or conditional initial certifications.

The following criteria must be met:

- The EIP agency is legally authorized to provide the professional service(s).
- There is an affiliation agreement between the EIP agency and the education program that is registered by SED and authorized to award a bachelor's or master's degree for the profession.
- The student/intern is enrolled in the registered program and the internship is part of the required field work component of the education program.
- The student is supervised by an individual who is licensed and authorized to practice the profession, and who is responsible for all services provided by the student.

Supervision of a student/intern includes at minimum the following:

- Supervising practitioners must ensure that individuals working under their direction have contact information to permit them direct contact with the supervising practitioner as necessary, during the course of treatment.

- Supervising practitioners must assume professional responsibility for the services provided under their direction and monitor the need for continued services.
- Professional responsibility implicitly supports face-to-face contact by the qualified practitioner; thus, practitioners must spend as much time as necessary directly supervising services to ensure beneficiaries are receiving services in a safe and efficient manner in accordance with accepted standards of practice.
- Employment terms should provide supervisory ratios that are reasonable and ethical and in keeping with professional practice acts, in order to permit the supervising practitioner to adequately fulfill supervisory obligations and ensure quality care.
- Supervising practitioners must review and co-sign daily notes, periodic progress reports, and evaluation reports required by the EIP.

Note: The intern, supervisor, and agency who is utilizing the intern must be knowledgeable about the Educational Program's requirements for supervision and comply with these requirements. There may be requirements that are in addition to the above that are specific to the profession.

Additional requirements for use of teachers with internship, supplementary, or conditional initial certificates to provide EIP services:

The Department and the New York State Education Department (NYSED) have determined that only those State-approved EI agency providers that are also approved by NYSED under Section 4410 of the Education Law can employ individuals with either internship, supplementary, or conditional initial teaching certificates to provide EIP services. EIP agencies must permit supervising teachers to adequately fulfill their supervisory obligations and ensure quality care, the agency must allow for supervisory ratios that are in keeping with recognized teaching practices and allow the time required to appropriately supervise candidates who have not yet met the requirements for initial teaching certificates.

The following conditions also apply:

- Corporate entity must own and operate both the early intervention provider agency and the 4410 program.
- EIP agency and the 4410 entity must be identified by the same employer tax identification number.
- The teacher can provide EIP services on-site at the school operated by the 4410 entity where the individual is supervised by a certified teacher while providing these services, as approved by SED.
- The teacher can provide EIP services in a home-based setting where the individual is under the direct, on-site supervision and oversight of a certified teacher.
- Supervising teacher must meet the definition of qualified personnel in the EIP.
- Supervising teacher must assume professional responsibility for the services provided under his or her direction and monitor the need for continued services.
- Supervising teacher must spend as much time as necessary directly supervising services to ensure children/families are receiving services in a safe and efficient manner, in accordance with accepted standards of practice.
- Supervising teacher must review and co-sign daily notes, periodic progress reports, and evaluation reports required by the EIP.

Additional early intervention program responsibilities when utilizing any intern for EIP services:

- EIP agencies must notify the municipality, service coordinator, and parent that the agency intends to have a student/intern provide EIP services “under the supervision of” a licensed practitioner.
- EIP agencies must provide the municipality, service coordinator, and parent written documentation of how the supervising practitioner will assume professional responsibility for the services provided under their direction and how the need for continued services will be monitored.
- EIP agencies must receive agreement from all parties (municipality, service coordinator, and parent) prior to the provision of services by a student/intern.
- Municipalities must ensure that the IFSP includes the name and license number of the supervising practitioner, and identity of the student/intern.
- The student/intern must obtain an appropriate national provider identifier (NPI) number.

When all above conditions are met, a student/intern may engage in the supervised practice of the profession as part of an internship and may provide EIP services.

### **Ongoing Training and Continuing Education**

Employees (including service coordinators) and independent individual contractors utilized by a provider Agency who deliver services must demonstrate continued professional development related to their professional field of practice, and on State and municipal policies and procedures of the EIP, including participation in Department sponsored training.

General:

- EI QP shall participate in a minimum of ten (10) clock hours of professional development activities per year.
- Professional development activities are not restricted to Department sponsored training and may include other professional activities necessary for licensure and activities identified by the EI QP to increase the EI QP’s professional skills and knowledge.
- Activities may include but are not limited to formal continuing education courses/workshops, formal academic study, independent study, mentoring, and in-service training programs.
- Activities may also include Department sponsored training, Municipal sponsored training, webcasts, and webinars which may be provided particularly during periods of introduction of a new policy and procedure.
- EI QP and service coordinators must maintain documentation of professional development activities and make such documentation available upon request to the Department and/or Municipality.

Service coordination (SC) specific:

- Must complete and document introductory SC training sponsored or approved by the Department of Health within four weeks following Department approval and prior to rendering SC services.
- Participate in a minimum of one (1) professional development activity totaling a minimum of 1.5 hours directly related to SC per calendar year, such activity is not limited to Department sponsored training but can include other professional development activities which focus on enhancing skills necessary for SCs to increase their competency to provide SC activities.

- Participate in ongoing training including but not limited to introduction to SC, evaluation, and IFSP training sponsored or approved by the Department of Health.

Evaluation specific:

- Must complete continuing professional and clinical education relevant to EI services, and in-service training sponsored by the Department regarding evaluation and eligibility, within four weeks of becoming an employee of the Agency Provider and prior to rendering evaluations or within four weeks of the start date of the Provider Agreement.
- Participate in a minimum of one (1) professional development activity totaling a minimum of 1.5 hours per year related to the provision of evaluation & assessments to children under the age of 5 years old, such activity is not limited to Department sponsored training but can include other professional development activities which focus on enhancing skills necessary for evaluators to increase their competency to provide evaluation activities.
- Must have the training and competency to administer a particular evaluation tool prior to conducting an EI evaluation utilizing such tool.
- Agency Providers must ensure that its employees and individual contractors who conduct evaluations have the training and competency to administer a particular evaluation tool prior to conducting an unsupervised evaluation.

**Quality Assurance Plan**

Approved EIP providers must ensure that they are providing quality EIP services which meet all federal and state laws, regulatory requirements, and EIP developed standards and guidance. Approved EIP agency providers are required to have a comprehensive quality assurance plan that is approved by the Department for all services offered by the agency, including evaluations, early intervention services, and service coordination. Agencies differ in organizational structure, staffing, size, and service delivery. Each agency's quality assurance plan must be appropriate to the agency, implementable, and available for review. The quality assurance plan shall include, but not be limited to, ensuring qualified personnel have appropriate and current licensure, registration, and certification as applicable; ensuring continuing education and training requirements are met; and addressing how the agency will ensure that all documentation requirements to support billing and claiming for early intervention services are met.

**Quality Assurance Plan Oversight**

EIP approved agencies must employ a full-time agency program director who meets qualifications identified in 10 NYCRR § 69-4.5. The agency program director shall be responsible for developing a quality assurance plan that is approved by the Department, for implementing such plan, and for monitoring that quality assurance requirements are met.

**Suspended-Revoked-Limited-Annulled Licenses (EIP Regulations: Section 69-4.5)**

In accordance with 10 NYCRR § 69-4.5(f), Approved individuals shall notify the Department within two business days if their license is suspended, revoked, limited, or annulled, regardless of whether the suspension or limitation is stayed.

Service authorizations may not be issued to individual approved providers until the stay on their license is lifted. Agencies may not issue service authorizations to contractors or employees until the stay on their license is lifted. Approved agency providers shall ensure that services are delivered by those authorized to do so and shall only employ or contract with individuals who are licensed, registered or certified in compliance with applicable provisions of law, in one of the disciplines set forth in subdivision (a) of section 69-4.1.