

Submitter : Mr. Marv Roelofs

Date: 10/09/2007

Organization : Health Resource Service Mgmt, Inc

Category : Social Worker

Issue Areas/Comments

GENERAL

GENERAL

See Attachments

CMS-2287-P-272-Attach-1.DOC

CMS-2287-P-272-Attach-2.DOC

Centers for Medicare and Medicaid Services
Department of Health and Human Services
Attention: CMS-2287-P

Re: Proposed Rule for 42 CFR Parts 433.20, 431.53 and 440.170

Date September 29, 2007

Comments submitted by Marv Roelofs

The comments submitted herein are issued with the express objective that the following information will result in Secretary Michael O. Leavitt withdrawing this proposed rule. This action is necessary to re-establish CMS' creditability as the lead agency in the promotion and provision of health care services to our children.

1. **Issue "Transportation:**

The proposal to eliminate Medicaid reimbursement for transportation services listed on a child's I.E.P. or I.F.S.P. is a violation of **Public Law 100-360 – Appendix "A"**.

As one of the authors of P.L. 100-360, along with NASDSE (National Association State Directors of Special Education) the Act was specifically written to mandate Medicaid funds for "related" services listed on a child's I.E.P. and / or I.F.S.P. and the Secretary would be prohibited from changing this mandate.

"(c) Nothing in this title shall be construed as prohibiting or restricting, or authorizing the Secretary to prohibit or restrict, payment under subsection (a) for medical assistance for covered services furnished to a handicapped child because such services are included in the child's individualized education program established pursuant to part B of the Education of the Handicapped Act or furnished to a handicapped infant or toddler because such services are included in the child's individualized family service plan adopted pursuant to part H of such Act."

The antecedent for "this title" is Section 1903 of the Social Security Act "Payments to the States" and it expressly prohibits the secretary

restricting (no authorization) payments for “related” services on a child’s I.E.P. or I.F.S.P.

Transportation is a “related” service that, if necessary, is listed on the I.E.P. or I.F.S.P.

Based on this reading of P.L. 100-360 the secretary is prohibited from utilizing any rationale for restricting the reimbursement of transportation listed as a “related” service on the I.E.P. or I.F.S.P.

In addition, transportation is a Medicaid covered service listed in state plans and any attempt to nullify this Medicaid reimbursement based on the child’s participation in an educational program would be a violation of the U.S. Supreme Court Ruling in the *Bowen v. Massachusetts*, 487 U.S. 879 (1988) No. 87-712 case.

2. Issue “Administrative Out Reach by Education Agencies”:

The secretary’s basis for proposing to prohibit Medicaid funds for Administrative Out Reach by local education agencies is ill advised and represents another attempt by CMS to obstruct the Congressional directive establishing Medicaid funds to share in the cost of providing health care services to children in conjunction with their educational program. It is ironic the rationale utilized for this action is a GAO report that references alleged abuses that occurred in the early 1990 prior to time CMS issued any directives or guidelines on the administrative out reach activities. The secretary seems to conveniently ignores other GAO reports:

“Medicaid and Special Education: Coordination of Services for Children With Disabilities Is Evolving (Letter Report, 12/10/1999, GAO/HEHS-00-20) Appendix “B”

“Schools can be an appropriate location from which to identify, enroll, and provide Medicaid services to low-income children. In addition to services offered in hospitals, clinics, or other healthcare locations, states are authorized to use their Medicaid programs to help pay for certain healthcare services delivered to Medicaid-eligible children in a school-based setting. In some cases, states have identified schools as providers of Medicaid services. The amount and type of services provided in school-based settings vary by state, ranging from services provided by contractors who visit the schools to services offered by fully equipped school-based health clinics with permanent staff. Commonly provided

school-based services that qualify for federal funds include physical, occupational, and speech therapy as well as diagnostic, preventive, and rehabilitative services.

Finally, providing Early and Periodic Screening, Diagnostic and Treatment (EPSDT) services to all Medicaid-enrolled children under 21 years of age offers eligible children with or without disabilities a special entitlement to health care. Under EPSDT, states are required to cover any service or item that is medically necessary to correct or ameliorate a condition detected through an EPSDT screening, regardless of whether the service or item is otherwise covered under a state Medicaid program. States must also conduct activities to inform Medicaid-eligible individuals about the EPSDT benefit and encourage their participation in the Medicaid program.

For instance, states are required to provide Medicaid-eligible children and families with assistance in locating EPSDT health care providers, assistance in scheduling medical appointments, and transportation. Hence, under EPSDT, Medicaid-eligible children have a broad entitlement to medically necessary services.” Page 5 & 6 of document.

GAO Testimony to Congress “With more Guidance, Schools could Tap Medicaid for Special Ed” March 9, 2000. Appendix “C”

“Where will the money come from? It is a question asked over and over again by schools and by parents of children with disabilities as they try to provide the services these students need to get a quality education. Though the financial struggle is unlikely to abate anytime soon, one funding source that could help lighten the load appears to be underutilized in many districts, according to a recent report by Congress' nonpartisan General Accounting Office <<http://www.gao.gov>>.

Medicaid, designed in general to fund basic medical services for low income families, has been legally required since 1988 to reimburse schools for medically necessary services under the Individuals with Disabilities Education Act.”
Page 1 of document

**REPORT TO THE PRESIDENT ON SCHOOL-BASED
OUTREACH FOR CHILDREN'S HEALTH INSURANCE
Submitted by the Secretary of Health and Human Services -July 2000
Appendix “D”**

“In summary, schools and early child care/education programs are a promising place to conduct outreach for children's health insurance. Most uninsured children can be found in these settings and most parents look to schools and early

childhood programs for information they can trust related to their children. However, schools and early childhood programs face multiple barriers in conducting health insurance outreach, including constraints on time, resources and expertise, as well as privacy issues that limit information sharing. In order to facilitate school-based outreach for children's health insurance, the Federal Government, the States, schools and other partners must join together to break down existing barriers and connect eligible children with the health coverage they need. This Report proposes a set of recommendations that would greatly reduce the existing barriers that keep school-based outreach from becoming an integral part of school business." Page 6 at the end of the Executive Summary

A legitimate point is made noting the administrative out reach payments exceed the reimbursements for direct services. However, this fact should not be used to discontinue the administrative out reach, but rather it should cause CMS to focus on the state Medicaid agency's practice for enrolling children into the Medicaid program.

Note: Illinois' administrative funding has shown a 49% decrease from FY 2000 - \$138 M to FY 2007 - \$70 M. This decrease in administrative out reach funds is directly related to implementation of CMS' guidelines and thus demonstrates an effective program of out reach.

3. Improper Billing Issue:

CMS has had long-standing concerns about improper billing by school districts for administrative costs and transportation services. The U.S. Department of Health and Human Services' Office of the Inspector General and the Government Accountability Office have identified these categories of expenses as susceptible to widespread fraud and abuse. In addition, costs related to education mandates have been improperly allocated to Medicaid. Congress has also expressed concern about the dramatic increase in Medicaid claims for school-based costs, which were the subject of two U.S. Senate Finance Committee hearings, held in June 1999 and April 2000. In fact, examining State-reported expenditure data related to schools reveals that, in certain years, a number of States' reported school-based administrative expenditures approached or even exceeded their reported school-based direct medical service expenditures, which is clearly evidence of improper claiming in this area.

In response to the above statement by CMS, the following summarizes the concerns of the service providers, school district superintendents / directors of special education and state Medicaid directors. The highlighted "red" line shows CMS' pre-occupation with education mandates while ignoring its own Medicaid mandates as they pertain to the education agencies. There appears to be within CMS a pre-conceived

notion that services provided by the schools are educational or this argument is presented as a means to resist Medicaid funds for the services.

4. Various Secretaries of CMS and its predecessor HCFA (Health Care Financing Administration) have demonstrated an obstructive pattern of interference to prohibit and limit the utilization of Medicaid funds by education agencies.

This attitude and pattern of obstruction is applicable to the implementation of P.L. 94-142 and the implementation of P.L. 101-239: EARLY AND PERIODIC SCREENING, DIAGNOSTIC, AND TREATMENT SERVICES DEFINED as these apply to education agencies utilization of Medicaid funds in the provision of health care services to children. The net impact of this activity by CMS / HCFA has caused most state Medicaid agencies to be reluctant to implement school based health care services. This directly impacts upon the level of reimbursements for direct services provided. To date, CMS / HCFA' activities have created a real sense of "distrust" concerning the availability of Medicaid funds for health care services to children. Finally, it has resulted in limited progress in the development of early intervention / prevention programs and services.

The following is presented and cited as evidence of CMS / HCFA's efforts to disallow Medicaid funds to local education agencies:

A. Public Law 94-142 – Enacted in 1975 – Appendix "E"

- Mandates the availability of Medicaid funds to share in the cost of "related" services provided to be provided to a child per his / her I.E.P. or I.F.S.P.
- Early 1980s HCFA (CMS processor) disallows Medicaid reimbursement of "habilitative services" by Massachusetts Department of Education. HCFA claims federal education funds are paid to state for the health care services provided and reject Medicaid liability. HCFA claims services are educational not health as they were provided by educational agency.
- Federal District Court: Commonwealth of Massachusetts V. Margaret Heckler – August 27, 1985.

- HCFA loses and files an appeal: Commonwealth of Massachusetts, Plaintiff Appellee, V. Secretary of Health and Human Services, Defendant, Appellant Nos. 86-1109, 86-1118 United States Court of Appeals, First Circuit Argued October 8, 1986 Decided March 31, 1987.
- HCFA loses – Court states services cannot be identified by simply looking at the agency providing them. Must nature of each service and Medicaid coverage of the service.
- HCFA appeals to the U. S. Supreme Court: BOWEN v. MASSACHUSETTS, 487 U.S. 879 (1988) 487 U.S. 879 BOWEN, SECRETARY OF HEALTH AND HUMAN SERVICES, ET AL. v. MASSACHUSETTS CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT No. 87-712. Argued April 20, 1988 - Decided June 29, 1988 *
- Supreme Court in a 6 – 3 Ruling upheld the District Court’s jurisdiction and ultimately District Court’s decision that Medicaid funds were to be paid for the health care services provided by the state education agency. Health care services were identified as Medicaid covered services.
- The above listed court case are in **Appendix AB, AC, AD**

Note: July 3, 1988 is a very significant date as President Reagan signed the Catastrophic Health Care Act (containing P.L. 100-360) into law and the U.S. Supreme Court issued its ruling in the Massachusetts V. Bowen court case.

B. PUBLIC LAW 101-239-DEC.19, 1989 - SEC. 6403. EARLY AND PERIODIC SCREENING, DIAGNOSTIC, AND TREATMENT SERVICES DEFINED is enacted.

- 5220. UTILIZATION OF PROVIDERS
- 5123. SCREENING SERVICE DELIVERY AND CONTENT
- 5123.2 Screening Service Content.—
- 5340. REIMBURSEMENT
- Above documents are in **Appendix A1, A2, A3, A4& A5**

Guidelines published in 1990.

- C. Does CMS issue any “State Directors Letters” on P.L. 101-239 to recommend the state Medicaid agency enroll local education agencies as E.P.S.D.T. providers? No.
- D. HCFA instead publishes a policy titled “Free Care and Third Party Liability”.

* Policy Statement is in **Appendix DA**

The impact of this policy is to effectively place the direct service claiming by local education agencies into a state of confusion. Local education agencies cannot charge a parent for “related” services and there is no such thing as a “free service” as some entity is paying for the service. However, HCFA espouses the idea health care services provided by the local education agency is ‘free’ and ignores the tax funds to pay for the services. HCFA’s stance can best be described as another attempt to deny its liability to share in the cost of these health care services by claiming services free to children without any health insurance must therefore be free to those with Medicaid coverage.

- E. The “free care principle” was finally reviewed after an audit of Oklahoma Health Care Authority claims for screening services in FY 2000. HFCA per its audit demanded repayment of federal Medicaid funds issued for the services.

Oklahoma appealed the case and it was reviewed and ruled on by the Department of Health and Human Services – Department of Appeals Board – Appellate Division – June 14, 2004.

The Appellate Division essentially threw out the “free care principle” as having “no” statutory basis. The specific details of the cases on this matter can be read in **Appendix: DB, DC and DD**

- F. CMS / HCFA response to this ruling has been one of silence. No publication has been made and the Medicaid web site continues to publicize the “free care principle”.

G. Federal Court rulings continue to be issued stating E.P.S.D.T. is a federal mandate on the states. However, CMS has shown little effort to enforce compliance on the implementation of this Act by the State Medicaid agency.

- Federal Court Cases on E.P.S.D.T: **Appendix F1 & F2**
 - Courts Says States Must Improve Services to Medicaid Children
 - Fifth Circuit Finds EPSDT Enforceable
- Commentator's Note: Local education agencies would be one of the most logical entities to be recognized and enrolled as an "E.P.S.D.T. Service Providers" in the State's Medicaid program based upon fact this is where the children are on a daily basis and parents connect.
- Excerpts from the "Executive Summary" of the Report to the President - **Appendix: D**

"Our findings indicate that school systems and early childhood programs are indeed the critical link in successful outreach for children's health insurance programs in many States. In communities across the country, schools are accepted by parents as a conduit for important and credible information

There is a shared recognition at all levels that America's children face many compelling educational, (i) health and developmental challenges that affect their lives and their futures. The fields of education and health must work together to give children the assistance they need to have bright and healthy futures

Promising State Practices

Almost every State enlists the support of schools in its outreach and enrollment strategies for reaching (ii) children. In the most effective examples, State agencies' participation have been integral to successful outreach. The State provides leadership, enacts enabling legislation or promulgates effective regulations and procedures, and makes available the essential resources. Without these elements, school-based enrollment may not be successful or sustainable.

Promising Practices for School Districts and Schools

Our research on current outreach activities in schools highlighted a wide array of successful techniques to identify and help enroll uninsured children in children's health insurance programs. In part, the continuum of successful outreach includes: identifying and understanding eligible children and their families; educating individuals about the programs; motivating people to take action; facilitating actions needed to enroll children in the programs; following-up with families and State agencies on the status of applications; and evaluating the outreach strategy. While schools can actively participate in all five steps described in the outreach continuum, many schools have fully participated in identifying, educating and motivating families to enroll their uninsured children.

Summary

In summary, schools and early child care/education programs are a promising place to conduct outreach for children's health insurance. Most uninsured children can be found in these settings and most parents look to schools and early childhood programs for information they can trust related to their children. However, schools and early childhood programs face multiple barriers in conducting health insurance outreach, including constraints on time, resources and expertise, as well as privacy issues that limit information sharing. In order to facilitate school-based outreach for children's health insurance, the Federal Government, the States, schools and other partners must join together to break down existing barriers and connect eligible children with the health coverage they need. This Report proposes a set of recommendations that would greatly reduce the existing barriers that keep school-based outreach from becoming an integral part of school business. (iv) "

In conclusion, the above citations clearly illustrate the CMS / HCFA pattern of obstructing efforts to implement a Medicaid reimbursement program for Education agencies. The proposed rule to eliminate Medicaid funds for Administrative Out Reach and transportation services by Education agencies is further evidence of this activity.

5. Members of the U.S. Congress are aware of this activity by CMS and legislative bills have been introduced into the 110th Congress:

- **Senate Bill – S. 578 "Investment in our Children's Act of 2007"**

- House Bill – H.R. 1017 “Protecting Children’s Health in Schools Act of 2007”

**Conclusion of my comments on this Proposed Rule Change
[CMS-2287-P]**

The information presented and cited is an objective review of CMS / HCFA activities and establishes an overwhelming case for Secretary Michael O. Leavitt to withdraw this proposed rule.

This action is necessary to re-establish CMS’ creditability as the lead agency in the promotion and provision of health care services to our children. Successful education programs require healthy bodies and minds for each child to participate in his / her learning and growth as a person.

Sincerely,

Marv Roelofs
09-29-07

**Marv Roelofs Comments September 29, 2007 on
Department of Health and Human Services
Center for Medicare & Medicaid Services
[CMS-2287-P]**

**Proposed rule: “Eliminate Federal Medicaid Payments for Administrative Out
Reach and Transportation services provided by Local Education Agencies”**

** All WORD files except Appendix DB is a PDF file.

Appendix Table:

Appendix “A” Public Law 100-360

Appendix “B” “Medicaid and Special Education: Coordination of
Services for Children With Disabilities Is Evolving (Letter Report,
12/10/1999, GAO/HEHS-00-20)

Appendix “C” GAO Testimony to Congress “With more Guidance,
Schools could Tap Medicaid for Special Ed” March 9, 2000.

Appendix “D” REPORT TO THE PRESIDENT ON SCHOOL-
BASED OUTREACH FOR CHILDREN’S HEALTH INSURANCE
Submitted by the Secretary of Health and Human Services -July 2000

Appendix “E” Public Law 94-142 – Enacted in 1975

Appendixes AB, AC, AD Massachusetts V. HCFA Court Cases

Appendixes A1, A2, A3, A4& A5 E.P.S.D.T. Public Law 101-239

Appendix DA HCFA’ “Free Care and Third Party Liability Policy”

Appendix: DB (PDF), DC and DD Oklahoma Health Care Authority
V. HCFA Administrative Hearings and Rulings

Appendix “F1 and F2” Federal Court cases on E.P.S.D.T

Appendix “D” - Executive Summary - REPORT TO THE PRESIDENT
ON SCHOOL-BASED OUTREACH FOR CHILDREN’S HEALTH
INSURANCE - Submitted by the Secretary of Health and Human Services -July
2000

PUBLIC LAW 101-239-DEC.19, 1989

SEC. 6403. EARLY AND PERIODIC SCREENING, DIAGNOSTIC, AND TREATMENT SERVICES DEFINED.

(a) In General.-Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended by adding at the end the following new subsection:

"(r) The term 'early and periodic screening, diagnostic, and treatment services' means the following items and services:

"(1) Screening services-

"(A) which are provided-

"(i) at intervals which meet reasonable standards of medical and dental practice, as determined by the State after consultation with recognized medical and dental organizations involved in child health care, and

"(ii) at such other intervals, indicated as medically necessary, to determine the existence of certain physical or mental illnesses or conditions; and

"(B) which shall at a minimum include-

"(i) a comprehensive health and developmental history (including assessment of both physical and mental health development).

"(ii) a comprehensive unclothed physical exam,

"(iii) appropriate immunizations according to age and health history,

"(iv) laboratory tests (including lead blood level assessment appropriate for age and risk factors), and

"(v) health education (including anticipatory guidance).

"(2) Vision services-

"(A) which are provided-

"(i) at intervals which meet reasonable standards of medical practice, as determined by the State after consultation with recognized medical organizations involved in child health care, and

"(ii) at such other intervals, indicated as medically necessary, to determine the existence of a suspected illness or condition; and

"(B) which shall at a minimum include diagnosis and treatment for defects in vision, including eyeglasses.

"(3) Dental services-

"(A) which are provided-

Appendix "A1"

"(i) at intervals which meet reasonable standards of dental practice, as determined by the State after consultation with recognized dental organizations involved in child health care, and

"(ii) at such other intervals, indicated as medically necessary, to determine the existence of a suspected illness or condition; and

"(B) which shall at a minimum include relief of pain and infections, restoration of teeth, and maintenance of dental health.

"(4) Hearing services-

"(A) which are provided-

"(i) at intervals which meet reasonable standards of medical practice, as determined by the State after consultation with recognized medical organizations involved in child health care, and

"(ii) at such other intervals, indicated as medically necessary, to determine the existence of a suspected illness or condition; and

"(B) which shall at a minimum include diagnosis and treatment for defects in hearing, including hearing aids,

"(5) Such other necessary health care, diagnostic services, treatment, and other measures described in section 1905(a) to correct or ameliorate defects and physical and mental illnesses and conditions discovered by the screening services, whether or not such services are covered under the State plan.

Nothing in this title shall be construed as limiting providers of early and periodic screening, diagnostic, and treatment services to providers who are qualified to provide all of the items and services described in the previous sentence or as preventing a provider that is qualified under the plan to furnish one or more (but not all) of such items or services from being qualified to provide such items and services as part of early and periodic screening, diagnostic, and treatment services."

Submitter : Sarah Gianocarò
Organization : Santa Clara County Office of Education
Category : Occupational Therapist

Date: 10/10/2007

Issue Areas/Comments

GENERAL

GENERAL

The MAA program provides valuable incentive to school districts to reach out and help connect needy families with Medicaid, thus ensuring that students have health insurance and receive medical services that they need. This valuable reimbursement money is then invaluable in supplementing services that districts can offer to students. In my county of office of education, all the money brought back to us through MAA goes back into serving students, primarily in purchasing equipment and materials that are used in treatment and to support their needs in the classroom.

Submitter : Ms. Elizabeth Michael
Organization : Harrisburg School District
Category : Nurse Practitioner

Date: 10/10/2007

Issue Areas/Comments

GENERAL

GENERAL

Please do not take away funding for students in the school based access program. As professionals in the school district, we are challenged to provide high quality educational services to children with multiple disabilities in the school setting. With funding cuts, this will become increasingly difficult to maintain. As a Certified School Nurse, we have seen the number of medically complex children increase over the last 8 years and funding cuts also increase making our jobs increasingly difficult to perform. Many of these students require complex nursing procedures which take away from the programs which we are mandated by state law to perform on all students attending our schools. Please do not cut funding for this vital and important program.

Submitter : Mrs. Becky Evers

Date: 10/10/2007

Organization : Central Kansas Mental Health Center

Category : Social Worker

Issue Areas/Comments

GENERAL

GENERAL

1. We do not want to see billions of dollars taken out of the Medicaid funded system of care for people with mental illnesses. We do not want to see adults and children ignored and left behind in school, work, and life.
2. Delete all references to other systems and pay for rehabilitative services for individuals with serious mental illnesses when they need them and where they need them.
3. We ask that you revise these regulations to make it clear that the federal government encourages any state system to do all they can to provide effective treatments to people with serious mental illnesses.
4. Services should be provided to help prevent deterioration of an individual. We also would like to see other systems encouraged, not discouraged, from providing help to adults and children with serious mental illnesses.
5. Revise the proposed rule to allow payment for rehabilitative services to prevent deterioration as well as to restore functioning.

Submitter : Ms. Laurie Oyler

Date: 10/10/2007

Organization : LPVEC

Category : Academic

Issue Areas/Comments

GENERAL

GENERAL

See attachment

CMS-2287-P-276-Attach-1.DOC

CMS-

Because the referenced comment number does not pertain to the subject matter for CMS- , it is not included in the electronic public comments for this regulatory document.

Submitter : Mrs. Donna Smyth

Date: 10/10/2007

Organization : LPVEC

Category : Academic

Issue Areas/Comments

GENERAL

GENERAL

"See Attachment!"

CMS-2287-P-277-Attach-1.DOC

CMS-

Because the referenced comment number does not pertain to the subject matter for CMS- , it is not included in the electronic public comments for this regulatory document.

Submitter : Mrs. Selina Coburn

Date: 10/10/2007

Organization : Hickman Community Charter School District

Category : Academic

Issue Areas/Comments

GENERAL

GENERAL

We have passed a District Board Resolution stating our opposition to the U.S. Department of Health and Human Services proposed rule CMS 2287-P to eliminate the Medi-Cal Administrative Activities (MAA) Program. This resolution was voted on by our Executive Board of Trustees with a unanimous vote of 5-0, signed by the Clerk of the Board, on Monday, October 8th, 2007.

Submitter : Mr. Jeff Winfield
Organization : Soulsbyville School District
Category : Local Government

Date: 10/10/2007

Issue Areas/Comments

GENERAL

GENERAL

We are very concerned over the possibility of losing this funding. Our school participates in this program and the revenue we receive is used directly to benefit our students. These monies are unrestricted and are of great use to our district in purchasing supplies to supplement and enhance our programs.

Submitter : Mrs. Julie Weitalla

Date: 10/10/2007

Organization : ISD 484

Category : Nurse

Issue Areas/Comments

GENERAL

GENERAL

The cost of special ed is high and I'm not sure how school districts can survive without the money generated by third party billing. The problem with it to me is that the government is already paying for students to be in school and to turn around again and bill the government for services that we give at school seems like double billing to me. It is alot of extra paperwork and takes alot of extra time. What we need to do is reimburse special ed students at a higher rate and skip the the extra hoops we need to jump through just to provide these students with needed services.

Submitter : Mrs. Patty DeGraw

Date: 10/10/2007

Organization : Mrs. Patty DeGraw

Category : Individual

Issue Areas/Comments

GENERAL

GENERAL

Please do not allow this rule to take effect as it would negative impact students with disabilities. I think Mr. Bush is misinformed. Please tell him we do not need to decrease funding in this area but let it remain. The schools would not be able to make up for the loss of federal reimbursement.

Submitter : Mr. Glenn Swan

Date: 10/10/2007

Organization : Lamar County School Distric

Category : Academic

Issue Areas/Comments

GENERAL

GENERAL

See Attachment.

CMS-2287-P-282-Attach-1.DOC

Glenn A. Swan
Superintendent of Education
Lamar County School District
P.O. Box 609
Purvis, MS 39475
E-mail: gswan@mde.k12.ms.us

The Honorable Gene Taylor
United States Representative
MS Fourth Congressional District
House of Representatives
2311 Rayburn House Office Bldg.
Washington, DC 20510

Dear Representative Taylor:

As the Superintendent of Education for the Lamar County School District, I wish to express my concerns over the Centers for Medicare and Medicaid Proposed Rule to eliminate Medicaid reimbursement for school-based administrative services provided to children eligible for or enrolled in Medicaid.

The effects of this action would extend far beyond the immediate, disastrous impact upon the children of our district: the loss of the 10 school nurses and the clinics that serve over 5,500 students K-8. According to P. Porter, the Medical Director for the School-Based Adolescent Health Care Program of the Robert Wood Johnson Foundation, "Health services need to be where students can trip over them....and school is the only place they're required to spend their time."

In addition, it is vital to the future of our community, state, and nation that our students are mentally and physically healthy so that they can achieve academically. We must attend to physical and mental needs before we can address intellectual ones. Extensive research proves that one can not exist without the other. The future demands that we advocate for healthy lifestyles so that students can assume roles as builders of a healthy America.

Since Mississippi ranks #1 in obesity and its related health issues, it is imperative that the schools maintain an active role not only in the war against this insidious disease but also in the effort to provide medical services and health education for children who otherwise would not receive them. Accessibility, availability, and appropriateness of services to the school population are key reasons for maintaining school-based clinics, and School-Based Administrative Claiming is the key to maintaining those clinics.

On behalf of all children, I implore you not to support the Proposed Rule. It is an ethical imperative that we strive to meet the health and academic needs of our children, for they are our future.

I eagerly await a response from you concerning your position on this critical issue.

Sincerely,

Glenn A. Swan

Submitter : Dr. Albert Zonana
Organization : Santa Barbara County Education Office
Category : Other Government

Date: 10/10/2007

Issue Areas/Comments

GENERAL

GENERAL

I am opposed to CMS-2287-P.

I expect that it will result in a disservice to children by reducing opportunities for appropriate and necessary health care. I expect it will result in increased costs through missed opportunities to get kids covered by health insurance and connected to services they need before health issues become catastrophic.

Submitter : Mrs. Laureen Murray
Organization : Cripple Creek-Victor School District
Category : Nurse

Date: 10/10/2007

Issue Areas/Comments

GENERAL

GENERAL

As a school nurse in a small district of approximately 575 children (k-12), Medicaid funding has been instrumental in receiving services for children of our small rural district. In the school year 2007, the awarded amount was around \$14,000.00. Taking away services to many of these children would not enable the core services that they need. I strongly encourage the retention of this funding in the schools. Laureen Murray, RN/BSN-Cripple Creek-Victor School Dist./Cripple Creek, CO

Submitter : Ms. Sarah Barraza

Date: 10/10/2007

Organization : Chino Valley Unified School District

Category : Academic

Issue Areas/Comments

GENERAL

GENERAL

I am opposed to the proposed regulation from the Centers for Medicare & Medicaid Services CMS-2287-P. Federal reimbursements for the cost of school staff that performs MAA administrative activities, outreach, monitoring of medical services, is critically important to children who need medical services at my school site. The proposed change will greatly impact the financial resources of the Chino Valley Unified School District and individual sites that are used to provide staff support for the health and mental health services for our students.

Submitter : Mr. Michael Brennan
Organization : Valley Home Joint School District
Category : Congressional

Date: 10/10/2007

Issue Areas/Comments

GENERAL

GENERAL

"See attachment"

CMS-2287-P-286-Attach-1.DOC

CMS-2287-P-286-Attach-2.DOC

VALLEY HOME JOINT SCHOOL DISTRICT
STANISLAUS COUNTY, CALIFORNIA
RESOLUTION # 4 – 07-08

Opposition to U.S. Department of Health and Human Services Proposed Rule CMS 2287-P

Whereas, U.S. Department of Health and Human Services plans on publishing a rule (CMS 2287) which would stop school districts from receiving federal reimbursement for an estimated \$3.6 billion over five years in Medicaid services provided to children with disabilities, and

Whereas, this action would reduce the availability of and access to needed health and developmental services for students with Individual Education Plans (IEPs) and other low-income children with special needs, for whom school is their primary site for healthcare delivery, and

Whereas, schools rely on these reimbursements for a variety of purposes such as transporting children to school for their medical appointments, identifying students who need health related screenings and evaluations, connecting children and their families with other needed health services in their community, and coordinating and monitoring those health services with which they have been connected, and

Whereas, the loss of these resources could mean that schools have to lay off nurses and school counselors, curtail their health-related referral services, and/or scale back health-related outreach activities, and

Whereas, many of these identified health services are mandated under the Individuals with Disabilities Education Act (IDEA) law, therefore this action would substantially increase the burden on already financially-strapped local school districts and, as a result, could impact students in regular education programs as well through cuts to electives, after school activities, arts and music programs, and/or reductions in teachers and support positions.

Now, THEREFORE, BE IT RESOLVED that the Valley Home Joint School District hereby proclaims its opposition to the publication of this rule as such action is necessary in order to protect schools' ability to provide children with the health services that they deserve.

AYES: 5
NOES: 0
ABSENT: 0

STATE OF CALIFORNIA)
) ss
COUNTY OF STANISLAUS)

I, Richard Garza, Board Clerk of the Valley Home Joint School District, Stanislaus County, California, hereby certify that the foregoing Resolution was duly and regularly adopted by the said Board at a regular meeting thereof held on the 9th day of October 2007.

IN WITNESS THEREOF, I have hereunto set my hand and seal this 9th day of October 2007.

Richard Garza, Board Clerk

Submitter : Mrs. Pam Bielenberg

Date: 10/10/2007

Organization : N/A

Category : Individual

Issue Areas/Comments

GENERAL

GENERAL

Please reconsider and reinstate the funding in the Medicaid Program that covers the majority of the Family Advocate Network (FAN) budget. This program helps so many children and their families. FAN helps make sure students can concentrate on learning in school by helping out with their individual family needs: clothing, medical needs, housing connections, emergency grants for utilities, etc... And by eliminating this funding and thereby eliminating much of the FAN program, you would be missing out on many in-kind donations from community and businesses that help support the worthy programs for children and their families. Please reinstate the Medicaid for School funding.

Submitter : Dr. ronald miros
Organization : Council for Exceptional Children
Category : Other Association

Date: 10/10/2007

Issue Areas/Comments

GENERAL

GENERAL

October 10, 2007

Centers for Medicare and Medicaid Services
U.S. Department of Health and Human Services
Attention: CMS-2261-P
P.O. Box 8018
Baltimore, MD 21244-8018

Dear Sir(s) or Madam(s):

The Council for Exceptional Children (CEC) is the largest professional organization of teachers, administrators, parents, and others concerned with the education of children with disabilities, gifted and talents, or both. As a member of CEC, I am writing in response to the August 13, 2007 Federal Register announcement requesting public comment on the Notice for Proposed Rule Making for Coverage for Rehabilitative Services under the Medicaid program.

I am deeply concerned about the devastating impact that the proposed CMS regulations for the rehabilitation services option will have on the welfare of children with disabilities. The elimination of these reimbursements would inevitably shift the financial responsibility for rehabilitation claims to individual school districts and early childhood providers across the nation. The Administration estimates that the elimination of the reimbursement for the Medicaid rehabilitation services option will provide a savings of \$2.29 billion over the next five years. However, there is no corresponding increase in funding for the federal special education law, the Individuals with Disabilities Education Act (IDEA), that will enable schools and early childhood providers to make up for the reduction in Medicaid reimbursements for rehabilitation services option provided to children with disabilities.

Sincerely,
Ronald J. Miros, Ed.D.
Chester County, PA

Submitter : Mr. Ronald Lebs
Organization : Sylvan Union School District
Category : Local Government

Date: 10/10/2007

Issue Areas/Comments

GENERAL

GENERAL

See Attachment

CMS-2287-P-289-Attach-1.PDF

**SYLVAN UNION SCHOOL DISTRICT
RESOLUTION NO: 2007/2008 #04**

Opposition to U.S. Department of Health and Human Services Proposed Rule CMS 2287-P

Whereas, U.S. Department of Health and Human Services plans on publishing a rule (CMS 2287) which would stop school districts from receiving federal reimbursement for an estimated \$3.6 billion over five years in Medicaid services provided to children with disabilities, and

Whereas, this action would reduce the availability of and access to needed health and developmental services for students with Individual Education Plans (IEPs) and other low-income children with special needs, for whom school is their primary site for healthcare delivery, and

Whereas, schools rely on these reimbursements for a variety of purposes such as transporting children to school for their medical appointments, identifying students who need health related screenings and evaluations, connecting children and their families with other needed health services in their community, and coordinating and monitoring those health services with which they have been connected, and

Whereas, the loss of these resources could mean that schools may have to lay off school counselors, curtail their health-related referral services, and/or scale back health-related outreach activities, and

Whereas, many of these identified health services are mandated under the Individuals with Disabilities Education Act (IDEA) law, therefore this action would substantially increase the burden on already financially-strapped local school districts and, as a result, could impact students in regular education programs as well through cuts to electives, after school activities, arts and music programs, and/or reductions in teachers and support positions.


Now, THEREFORE, BE IT RESOLVED that the Sylvan Union School District hereby proclaims its opposition to the publication of this rule as such action is necessary in order to protect schools' ability to provide children with the health services that they deserve.

THE FOREGOING RESOLUTION was introduced at a Regular Board meeting of the **SYLVAN UNION SCHOOL DISTRICT** Board of Trustees held on the 9th day of October, 2007, by Board member Dr. Stephen Stroud, who made the motion, which motion being duly seconded by Board member Mrs. Cynthia Lindsey, was carried into Resolution and passed by the following vote:

| | |
|---------------------|---|
| AYES: | STROUD, ZEEK, BROWN, LINDSEY, RAWE |
| NOES: | NONE |
| ABSENT: | NONE |
| ABSTENTIONS: | NONE |

I, DR. JOHN A. HALVERSON, Secretary of the Board of Trustees, do hereby certify that the foregoing is a true and correct copy of a Resolution adopted by the Board of Trustees of the **SYLVAN UNION SCHOOL DISTRICT** at a Regular meeting of October 9, 2007, which Resolution is on file in office of said Board.

DATE: October 10, 2007

SIGNED: 
John A. Halverson, Ed.D., Secretary
Board of Trustees

Submitter : Ms. Deborah Hild
Organization : Chino Valley Unified School District
Category : Individual

Date: 10/10/2007

Issue Areas/Comments

GENERAL

GENERAL

I am opposed to the proposed regulation from the Centers for Medicare & Medicaid Services CMS-2287-P. Federal reimbursement for the costs of school staff that performs MAA administrative activities, outreach, monitoring of medical services, is critically important to children who need medical services. The proposed change will greatly impact Chino Valley Unified School District's financial resources that are used to provide staff support for the health and mental health services for our students.

Submitter : Ms. Deborah Hild

Date: 10/10/2007

Organization : Chino Valley Unified School District

Category : Individual

Issue Areas/Comments

GENERAL

GENERAL

I urge you to reconsider the proposed legislation CMS-2287-P which will eliminate Medicaid funding to schools that provide health services for children who need it the most.

I work for Chino Valley Unified School District in Chino Hills that supports school-based administrative activities for students who are in need of health care.

Our School District provides much needed school-based Medicaid services such as Medi-Cal outreach, coordination and monitoring of medical care of our students. Without the School-Based federal funding, I believe that the health of our special needs students will be greatly impacted. With out the Federal funds, we will be forced to dramatically reduce the health and mental health programs that our students are in need of.

I urge the U.S. Department of Health and Human Services and the Centers for Medicare and Medicaid Services to rescind their proposal CMS-2287-P.

Thank you for reconsidering this very important matter.

Submitter : Ms. Kathleen Gulje
Organization : Santa Barbara County Education Office
Category : Other Health Care Provider

Date: 10/10/2007

Issue Areas/Comments

GENERAL

GENERAL

I am opposed to CMS-2287-P. It is bad policy and could result in increased costs through missed opportunities to get kids covered by health insurance and connected to services they need before health issues become bigger. Parents depend on their schools as a primary source of information and referral on a wide range of services.

Submitter : Ms. Lin Liu

Date: 10/10/2007

Organization : Ms. Lin Liu

Category : Individual

Issue Areas/Comments

GENERAL

GENERAL

My son is diagnosed as PDD, autism. It is a huge emotional stress for the whole family. We depend very much on wrap around, and hope to help my son to live a life as normal as possible, and be an independent and useful person in the society in the future. We consider wrap around is a public service, though different form but similar idea to services like vaccination and disease preventions, except it is provided to a limited group of people, who was defined to have this specific kind of problems. Which way is a more logical way to financially support healthcare, early prevention or wait till the problem gets more severe in the future? To me, in a long run, it may even save more money than housing incapable people in nursing home for the rest of their life. It is so much worthwhile to help those people who still have lots of hope to recover, to restore their normalcy and develop potential skills that benefit the society. Without or limit the resource of wraparound professional service, we substantially lose the efficacy in dealing with this problem. Besides the emotional stress, we don't know what to expect the effect to stand for an extra huge financial stress and burden, and the cost of social function of other family members. As the leading nation in the world, America is a representative image of humanity, caring and giving, and that is the real power to gain and win in finale.

Submitter : Dr. Kerry Jacobson
Organization : Osseo-Fairchild Schools
Category : Individual

Date: 10/11/2007

Issue Areas/Comments

GENERAL

GENERAL

We have worked very hard to justify each of the expenditures for Medicaid Reimbursement. The expenditures are legitimate and the partial reimbursement is reasonable. I am opposed to the proposed elimination or reimbursement for school administrative expenditures and special transportation.

Thanks.

Submitter : Mrs. Karen Burkush
Organization : Manchester School District
Category : Local Government

Date: 10/11/2007

Issue Areas/Comments

GENERAL

GENERAL

See attachment

CMS-2287-P-295-Attach-1.PDF



**MANCHESTER SCHOOL DISTRICT
SCHOOL ADMINISTRATION UNIT NO. 37**

286 Commercial Street, Manchester, NH 03101 • Tel: 603.624.6300 • Fax: 603.624.6337

Michael Ludwell, Ph.D.
Superintendent of Schools

Henry J. Aliberti Jr., Ed.D.
Assistant Superintendent
Elementary Education

Karen DeFrancis
Business Administrator

Karen G. Burkush
Assistant Superintendent
Student Services

VIA WEBSITE <http://www.cms.hhs.gov/eRulemaking>

October 10, 2007

Centers for Medicare and Medicaid Services
Department of Health and Human Services
Attention: CMS-2287-P
Mail Stop S3-14-22
7500 Security Boulevard
Baltimore, Maryland 21244

Re: Public Comment File Code CMS-2287-P
Specialized Transportation

To Whom It May Concern:

Please accept this letter as our comment on the proposed changes to Medicaid regulations that will significantly impact the Medicaid to Schools Program in New Hampshire. We have reviewed the proposed regulations at 72 Federal Register 51397 *et seq*, published on September 7, 2007. The impact of the proposed regulations is extremely concerning. The Board of School Committee of the Manchester, New Hampshire School District respectfully requests your consideration of the following concerns regarding the proposed regulations relative to the elimination of Medicaid reimbursement for specialized transportation:

- The approach to justify the elimination of reimbursement for specialized transportation costs of disabled children from home to school and from school to home is simplistic. The rationale fails to address that in many cases, the costs incurred with providing specialized transportation to students from home to school and from school to home far exceed the normal costs of providing transportation services to students, due to the needs resulting from underlying medical conditions.
- In New Hampshire, school districts are not required to provide general education transportation to high school students. As a result all costs of specialized transportation provided to disabled high school students are necessitated by the child's disability.
- This proposal, which seeks to re-define the definition of a covered service, is in direct violation of Congressional intent as indicated at 42 U.S.C. § 1396b.
- Simply labeling specialized transportation as a non-covered service will severely restrict the flow of Medicaid reimbursement dollars to schools.

Thank you for your time and consideration.

Respectfully,



Frank Guinta
Mayor, City of Manchester
Chairman, Board of School Committee



Leslee Stewart
Vice Chairman, Board of School Committee

C: Board of Mayor and Aldermen, City of Manchester
Lyonel B. Tracy, Commissioner, NH Department of Education
Nicholas Toumpas, Acting Commissioner, NH Department of Health and Human Services
Representative Carol Shea-Porter
Representative Paul Hodes
Senator John E. Sununu
Senator Judd Greg

Submitter : Dr. Earl Watkins
Organization : Jackson Public School District
Category : Academic

Date: 10/11/2007

Issue Areas/Comments

GENERAL

GENERAL

See Attachment

#296

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DEPARTMENT OF HEALTH AND HUMAN SERVICES
CENTERS FOR MEDICARE AND MEDICAID SERVICES
OFFICE OF STRATEGIC OPERATIONS & REGULATORY AFFAIRS

Please note: We did not receive the attachment that was cited in this comment. We are not able to receive attachments that have been prepared in excel or zip files. Also, the commenter must click the yellow "Attach File" button to forward the attachment.

Please direct your questions or comments to 1 800 743-3951.