

CMS-2287-P-519

Submitter : Dr. James Lesko

Date: 11/02/2007

Organization : Personal

Category : Individual

Issue Areas/Comments

GENERAL

GENERAL

See Attachment

CMS-2287-P-519-Attach-1.DOC

Centers for Medicare and Medicaid Services
U.S. Department of Health and Human Services
Attention: CMS-2287-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, gifts and talents, or both. As a member of CEC, I am writing in response to the September 7, 2007 *Federal Register* announcement requesting public comment on the Notice for Proposed Rule Making for the elimination of school administration expenditures and transportation for Medicaid-eligible children who receive services under Part B and Part C of the Individuals with Disabilities Education Act.

Introduction

I am deeply concerned about the devastating impact that the proposed Centers for Medicare and Medicaid Services (CMS) regulations for the elimination of reimbursements for transportation and administrative claiming under Medicaid will have on the welfare of children with disabilities. The elimination of these reimbursements would inevitably shift the financial responsibility for these claims to individual school districts and early childhood providers across the nation. The Administration estimates that the elimination of these reimbursements will provide a savings of \$635 million in the first year and \$3.6 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 to schools and early childhood providers.

Major Issues and Concerns

I have major issues with the proposed rule to eliminate the Medicaid reimbursement for transportation and administrative claiming. I believe it is flawed and should be withdrawn. I recognize that the proposed rule, in some cases, seeks to address legitimate policy issues. However, according to the background for the proposed regulations, "school-based administrative activities do not meet the statutory test under section 1903(a)(7) of being 'necessary...for the proper and efficient administration of the State plan.'" I strongly disagree with this statement. The provision of transportation services and administrative claiming under Medicaid are indeed necessary for carrying out state Medicaid plans. Many medically provided services under Medicaid are provided at the school and early childhood settings where Medicaid-eligible children attend, whether or not those services are provided by employees of the state or the local Medicaid agency. This is particularly relevant because the background to the proposed regulations also states that, "CMS recognizes that schools are valid settings for the delivery of Medicaid services", yet the proposed rules would still not recognize the need for transportation to and from school for Medicaid-eligible children who take advantage of these services at school and early childhood settings.

In addition, the proposed regulations state that they were drafted, "Due to inconsistent application of Medicaid requirements by schools to the types of administrative activities conducted in the school setting..." However, the studies that conclude that the misfeasance conducted by some schools in claiming Medicaid reimbursements only took into account an insignificant number of schools. CMS should rightly impose sanctions on those schools and early childhood providers that improperly or illegally misrepresent claims for Medicaid reimbursement; punishing every school and early childhood provider nationwide is not the proper course of action to take in this instance.

I believe that Congress and the Administration should work together to achieve consensus on appropriate policies and procedures to ensure that Medicaid beneficiaries receive the highest quality services, consistent with Title XIX of the Social Security Act, and to ensure that states operate their Medicaid programs to achieve the best outcomes and in the most publicly accountable manner. I believe that this proposed rule prevents a necessary dialogue between federal officials, state Medicaid officials, other state officials (including individuals responsible for programs for people with mental illnesses, developmental disabilities, and child welfare), services providers, and representatives of affected Medicaid populations. I am not aware of any meaningful effort by the Secretary of HHS or CMS to work with affected stakeholders to address current policy concerns. Indeed, I am troubled by dubious enforcement actions and audits by the HHS Office of the Inspector General (OIG) that have appeared more focused on limiting federal expenditures than improving the appropriateness or effective administration of services under Medicaid.

Legal Basis for Providing Transportation and Administrative Claiming

The proposed CMS regulations to eliminate Medicaid transportation and administrative claiming contradict current law. There is firm legal standing for the allowable use of Medicaid claiming for transportation and administration.

First, Section 1903(c) of the Title XIX of the Social Security Act states that "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 child with a disability because such services are included in the child's individualized education program established pursuant to part B of the Individuals with Disabilities Education Act or furnished to an infant or toddler with a disability because such services are included in the child's individualized family service plan adopted pursuant to part C of such Act." Clearly the proposed regulations would be in direct conflict with this provision of law and would not further the purposes of Title XIX of the Social Security Act.

Second, school-based claiming was protected in the courts in the 1987 *Bowen* case, when the appellate court ruled that school-based Medicaid claims were reimbursable, and the Supreme Court elected to let that decision stand by denying cert.

Third, the proposed rules would not comply with Early and Periodic Screening, Diagnosis and Treatment (EPSDT) services. Under current law, states must provide EPSDT services to all children who are eligible for the Medicaid program. This is one of

the mandates that states must meet in order to operate a Medicaid program. Through EPSDT, Medicaid-eligible children must be seen periodically by health care professionals. In 1989 the law was amended to mandate that states provide any necessary Medicaid service that a child requires regardless of whether the state specifically covers the service as part of its regular Medicaid program. A state cannot restrict the services that it provides under the EPSDT mandate; it must make all types of services available, including the services children with disabilities require.

Fourth, under the Medicare Catastrophic Coverage Act of 1988, states are permitted to obtain limited funds for Individualized Education Program-related services and for early intervention/family support services as defined in the individualized family service plan (IFSP). The proposed regulations would deny legally allowable claims to provide services under IEPs and IFSPs.

Finally, the proposed rules would go beyond the regulatory scope and power of the Executive Branch and is inconsistent with Medicaid law. To the extent that policy changes are needed, I believe that the legislative process is the appropriate arena for addressing these issues.

Federal Cost Shifting and Reduced Levels of Service

The proposed rules for the elimination of the Medicaid transportation and administrative claiming will be a huge financial hit to already cash-strapped schools and early childhood providers. The federal government has not even provided half of the promised funds for the IDEA, and denying schools and early childhood providers in this country an additional \$635 million will only make a bad situation worse. This in turn will shift the financial burden to state and local governments to pay a greater share for required services under IEPs and IFSPs, and the frequency and/or intensity of those services may be reduced.

Conclusion

The proposed CMS rules to eliminate the transportation and administrative claiming for schools and early childhood providers under Medicaid are both misguided and contrary to existing legal precedent. For the reasons stated here, I urge the Secretary of Health and Human Services to withdraw the proposed rule.

Thank you for allowing the public to provide comments on the Notice for Proposed Rule Making for the elimination of school administration expenditures and transportation for school-age children under the Medicaid program, and thank you for considering my comments and recommendations.

Jim Lesko
16693 Blue Marlin Ct.
Lewes, DE 19958

Submitter : Ms. Maria Berecin-Rascon

Date: 11/02/2007

Organization : Casa Grande Elementary School District

Category : Individual

Issue Areas/Comments

GENERAL

GENERAL

We strongly oppose the implementation of this rule change. Schools have become an important and cost-effective provider of essential health services for disabled children. These children are transported to school in small vans with special equipment and/or special staffing to meet their needs. The loss of this funding would severely impact our school district and our ability to provide services to all of our children.

Our district provides important outreach services for all of our children, providing information on Medicaid eligibility and services. We also provide essential and cost-effective care coordination for our children with severe disabilities. This cut would impact not only our funding but also services to our families.

Submitter : Ms. Kristine Fontes
Organization : Santa Cruz Valley Unified SD
Category : Local Government

Date: 11/02/2007

Issue Areas/Comments

GENERAL

GENERAL

We strongly oppose the implementation of this rule change. Our schools have become an important and cost-effective provider of essential health services for disabled children in our rural area. These children are transported to school in small buses with special equipment and special staffing to meet their needs. The loss of this funding would severely impact our school district and our ability to provide services to all of our children.

Our district provides important outreach services for all of our children, providing information on Medicaid eligibility and services. We also provide essential and cost-effective care coordination for our children with severe disabilities. This cut would impact not only our funding but also services to our families.

CMS-2287-P-522

Submitter : Ms. Mary Kusler

Date: 11/02/2007

Organization : American Association of School Administrator

Category : Association

Issue Areas/Comments

GENERAL

GENERAL

See attachment

CMS-2287-P-522-Attach-1.DOC



American Association of School Administrators

November 2, 2007

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

AASA Response to CMS-2287-P

On behalf of the American Association of School Administrators, representing more than 13,000 school superintendents and local educational leaders, we urge CMS to reconsider their proposed rule to prevent school-based administrative and some transportation claiming for Medicaid eligible expenses.

Below are the AASA reactions to assertions in the preamble to the CMS 2287 notice of proposed rule making:

- **Assertion:** This proposed rule would supersede the prior guidance and would represent the Secretary's determination that Medicaid expenditures for such school-based administrative activities do not meet the statutory test under Section 1903 a (7) for being necessary...for the proper and efficient administration of the State plan.
 - o **Response:** The problems with implementation result from inaction or change of direction by CMS regarding claims for administrative reimbursement. The assertion above is their latest change of direction. These changes in direction are compounded by a lack of effort to guide implementation. Since the Bowen decision in 1987 and the Title XIX amendment in 1988, CMS has provided guidance to states and school districts on school based Medicaid claiming only twice: in 1997 and 2003. This assertion reverses the 1997 and 2003 guidance, seemingly without the background work on which to base the decision. Further compounding the reversals in direction and lack of guidance, CMS has put has had little written communication with states and schools districts aimed at assistance – not sanctions – and has put very little in writing.

- **Assertion:** ...The proposed rule would supersede the prior guidance and would represent the Secretary's determination that transportation from home to school and back again does not meet the definition of an optional medical transportation service...
 - o **Response:** In 1997, CMS stated that claims for transportation could be submitted. In 2003, CMS proposed changing the rules for transportation claims. Claims for transportation to and from school were still permitted and reimbursed. This proposed change supersedes the previous guidance. Once again, CMS has provided no assistance to school districts to improve claiming. They have also failed to

identify specific problems – including communications problems – related to the difference between school-based transportation and transportation provided by other health care providers such as clinics. We strongly feel that school districts should be treated the same as health clinics in respect to claiming.

- **Assertion:** In addition, OMB Circular A-87, which contains the cost principles for State, local and Indian tribal governments for the administration of Federal awards, states that “Governmental units are responsible for the efficient and effective administration of Federal awards.” Under these provisions, administrative expenditures must be reasonable and necessary for the operation of the governmental unit or the performance of the Federal award.
 - o **Response:** OMB A-87 relates to administration of federal awards. Medicaid provides reimbursement for costs incurred to eligible recipients. OMB Circular A-87 does not apply to Medicaid reimbursements because they are reimbursements, not federal grants.

- **Assertion:** Under the proposed rule ... Federal Medicaid payments would no longer be available for administrative activities performed by school employees, contractors, or anyone under the control of a public or private educational institution...
 - o **Response:** This is beyond the scope of CMS. Currently, they permit school employees to bill for their time for services. This is inconsistent with, and another reversal of, guidance from 1997 and 2003. Administrative claiming is also still allowed for health clinics. This is another example of unfair treatment of schools.

- **Assertion:** However, under the proposed rule, Federal funding would continue to be available for administrative overhead costs which are integral to, or an extension of, a specified direct medical service to the extent these costs are factored into the rate paid for such services and reimbursed at the applicable FMAP rate.
 - o **Response:** Does this mean that if administrative costs are factored in, like clinics and doctor’s offices, that administrative reimbursement for the time of school employees is OK? Is CMS pushing to have all providers use the same billing logic? This will also prevent school districts too small to have providers on staff from receiving any reimbursement for their administrative efforts.

- **Assertion:** CMS has had long-standing concerns about improper billing by school districts for administrative costs and transportation services.
 - o **Response:** As a good steward of federal funds, CMS has an obligation to support school districts’ efforts to improve claiming accuracy by providing clearer guidance and training.

- **Assertion:** 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.
 - o **Response:** Congress expressed more concern for how CMS was administering the claiming from schools, rather than of how the programs were being operated. After the hearings, the conclusion was that there was a need for greater oversight. CMS took no steps to improve oversight or to support school efforts to improve claiming accuracy.

- **Assertion:** ...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.
 - o **Response:** There are valid and logical instances where administrative claiming would exceed service claims. For example, the administrative reimbursement rate is 50 percent of costs while fee-for-service claims are often reimbursed at a lower rate. Additionally, many small school districts participating in consortia only bill for administrative reimbursement.

- **Assertion:** Based on these findings, the proposed rule would specify that Federal Financial Participation under the Medicaid program will not be available for school-based administrative and certain transportation costs unless conducted by employees of the State or local Medicaid agency.
 - o **Response:** This specification makes little sense; school-based administrative and transportation costs are rarely conducted by employees of the state or local Medicaid agency. The state Medicaid agency is not staffed in this manner.

- **Assertion:** With respect to school-based administrative activities, section 1903(c) of the Act provides specific authority under the Medicaid program only for reimbursement of medical assistance for specified covered services in schools; it contains no provision authorizing claiming for the costs of school-based Medicaid administration.
 - o **Response:** At the same time, section 1903(c) does not specifically prohibit administrative claims. When administrating federal programs, the general rule of practice is that unless something is explicitly forbidden in the statute that it is possible to follow current practice.

- **Assertion:** The types of school-based administrative activities for which claims are submitted to Medicaid largely overlap with educational activities that do not directly benefit the Medicaid program.
 - o **Response:** That is the nature of special education. Section 1903 (c) creates a specific eligibility exception for students with disabilities who receive services pursuant to an Individualized Education Program.

- **Assertion:** Furthermore, there is unclear and inconsistent application of Medicaid requirements by schools to the types of administrative activities conducted in the school setting.
 - o **Response:** The unclear and inconsistent application of requirements by schools is a direct result of unclear and inconsistent guidance from CMS. The school inconsistency stems from a lack of CMS support in administration of Medicaid claiming. Without much guidance in writing, it is difficult to have consistency.

- **Assertion:** States receive Federal aid under IDEA to assist public schools in delivering mandated services in pursuit of a free appropriate public education. Section 1903(c) of the Act was intended to provide States with access to Medicaid funding for services provided under IDEA in addition to Federal funding provided through IDEA grants to States. Therefore, CMS has determined that the proper and efficient operation of the State Medicaid plan does not require payment for the cost of administration unrelated to the provision of a

covered direct medical service or for transportation from home to school and back. Schools must perform these activities pursuant to education requirements, even in the absence of Medicaid payment.

- **Response:** Section 1903 (c) was specifically created to help pay the costs of related services that are eligible for reimbursement under Title XIX. Administration of these related services is a large part of the costs and the reason schools historically have been permitted to claim for Medicaid.

- **Assertion:** Activities performed by school employees are therefore not specifically authorized by the responsible State Medicaid agency.
 - **Response:** Services are specifically authorized under the state plan and the cost of those services includes administration. Renaming the administration of services “activities” does not relieve CMS of their obligation to provide reimbursement. This will represent another government shift of their responsibility onto local taxpayers.

- **Assertion:** The proposed rule is estimated to reduce Federal Medicaid outlays by \$635 million in FY 2009 and by \$3.6 billion over the first five years (FY 2009 – 2013).
 - **Response:** Less than one-half of all school districts claim reimbursement for Medicaid administration expenditures. Thus the financial impact is disproportionately magnified for the small number of school districts submitting claims for reimbursement. The cost of eliminating reimbursement is borne unfairly by the school districts that do claim reimbursement.

- **Assertion:**
§431.53 Assurance of Transportation
 - (a) A State plan must--
 - (1) Specify that the Medicaid agency will ensure necessary transportation for recipients to and from providers; and
 - (2) Describe the methods that the agency will use to meet this requirement.
 - (b) For purposes of this assurance, necessary transportation does not include transportation of school-age children between home and school.
 - **Response:** Buses for children with disabilities are specialized to meet their disabilities. This includes physical staffing modifications to address specific student needs and emergency situations. Additionally, many Medicaid services are delivered at public schools during school day. Taken together, these two instances affirm that transportation between home and school should be included for reimbursement. While some Medicaid services are delivered off-site, these services do not differ in terms of the IEP. Further, students in larger districts are frequently transported for services provided by their school district, but at another site for specialized services. Section 1903 (c) of Title XIX clearly states that the Secretary cannot refuse to reimburse for services to students with an IEP under the Individuals with Disabilities Act. Transportation is a service, and as such should be reimbursed.

- **Assertion:**
PART 433 – STATE FISCAL ADMINISTRATION
 - 3. The authority citation for part 433 continues to read as follows:
Authority: Sec. 1102 of the Social Security Act, (42 U.S.C. 1302).
 - 4. Part 433 is amended by adding new section 433.20 as follows:

§433.20 Rates of FFP for Administration: Reimbursement for School-Based Administrative Expenditures.

Federal financial participation under Medicaid is not available for expenditures for administrative activities by school employees, school contractors, or anyone under the control of a public or private educational institution.

- Response: The language in 1903 (c) does not conclude that the administrative costs associated with services to eligible students for Medicaid-covered services cannot be reimbursed. Making such a conclusion would be similar to claiming that the administrative costs of Medicaid services for Medicaid-eligible recipients in a medical clinic cannot be reimbursed if those costs were associated with a clinic employee. Given that CMS regulations recognize the administrative costs associated with Medicaid services and outreach and that schools are Medicaid providers, Medicaid-covered services to students should be eligible for reimbursement.

- **Assertion:**

PART 440 – SERVICES: GENERAL PROVISIONS

5. The authority citation for part 440 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act, (42 U.S.C. 1302).

6. Section 440.170(a)(1) is revised to read as follows:

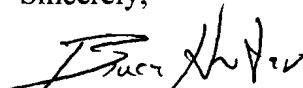
§440.170 Any other medical care or remedial care recognized under State law and specified by the Secretary.

(a) Transportation. (1) “Transportation” includes expenses for transportation and other related travel expenses determined to be necessary by the agency to secure medical examinations and treatment for a recipient. Such transportation does not include transportation of school-age children from home to school and back.

- Response: The last sentence in 440.170 (a) (1) should be deleted. Transportation between home and school is part of a student’s IEP. Section 1903 (c) is very clear in that the Secretary cannot refuse to reimburse services for students with disabilities served under IDEA. Transportation, as included the IEP, includes buses that are specialized to meet the needs of children with disabilities with equipment specialized for specific needs and emergency possibilities as well as specific additional staffing. Transportation is a service, and as such should be reimbursed.

If you have any further question or comments on AASA’s position, please do not hesitate to contact me at 703-875-0738.

Sincerely,



Bruce Hunter

Associate Executive Director for Public Policy

Submitter : Mrs. Gayle McLean

Date: 11/02/2007

Organization : Santa Ana Unified School District

Category : Nurse

Issue Areas/Comments

GENERAL

GENERAL

It's hard to imagine how the above proposed cuts could be considered. Schools are about the most trusted place for parents to find valid information about Medicaid and other vital information to keep their children healthy. The funds from this reimbursement have helped out district to maintain school nurses so we can serve the health needs of students. With so much required of schools to perform, addressing health needs of students is essential for student success. Both health and education will be significantly affected by these cuts. I urge you to reconsider this proposal. Every day, I work as a nurse in a school, I find students needing my care who would not have been seen anywhere else. Parents do not know where to go, do not have a regular source of medical care, do not have the time and money to seek care and depend on schools as a partner to help them. The funds from Medical provide for essential personnel to provide a safe and healthy environment for our children.

Submitter :

Date: 11/02/2007

Organization :

Category : Academic

Issue Areas/Comments

GENERAL

GENERAL

I could not imagine what we would do without the current benefits we receive from Medicaid to transport students and which allows us benefits for health aides in the classroom. This money is critical to us and to cut this reimbursement is detrimental to our students.

Submitter : Ms. Debra Kubin

Date: 11/02/2007

Organization : Willits Unified School District

Category : Academic

Issue Areas/Comments

GENERAL

GENERAL

Please reconsider your position on the proposed changes to the Medicaid program! I am the Superintendent of Schools for Willits Unified School District and am writing to inform you of the detrimental effect this decision will have on children in our community.

Our dollars currently fund School Nurses (Medical Technicians) who work directly with children in our community. These nurses provided much needed care to children in a high poverty community. They work directly with families to refer them to community health services, provide hearing and vision screening and many other services to families. They interact directly with teachers as a resource to guide teachers in determining whether or not students require additional medical assistance.

In addition, our funding is used to provide mental health counseling to children with Emotional Disturbance.

Please DO NOT allow this change in the Medicaid program; it will seriously impact the lives of schoolchildren in our community.

Submitter : Mrs. Susan Maschmeier

Date: 11/02/2007

Organization : Mrs. Susan Maschmeier

Category : Academic

Issue Areas/Comments

GENERAL

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MAA is a critical reimbursement program for the services that schools provide. Schools are hubs for health services and administrative activities consume many hours of school employees time. Students receive more comprehensive services when those services are centered at or coordinated with the school day. If MAA reimbursement was eliminated health and mental health services would be curtailed and children would suffer.

Submitter : Mr. Michael Remus

Date: 11/02/2007

Organization : Deer Valley Unified School District

Category : Local Government

Issue Areas/Comments

GENERAL

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Our school district strongly opposes the implementation of this rule change. Schools have become an important and cost-effective provider of essential health services for disabled children. These children are transported to school in small vans with special equipment and/or special staffing to meet their needs. The loss of this funding would severely impact our school district and our ability to provide services to all of our children.

Our district provides important outreach services for all of our children, providing information on Medicaid eligibility and services. We also provide essential and cost-effective care coordination for our children with severe disabilities. This cut would impact not only our funding but also services to our families.

Please do not take these appropriations from our district which helps families and students. Thank you.

Submitter : Mrs. Carol Wells
Organization : Deer Valley Unified School District
Category : Individual

Date: 11/02/2007

Issue Areas/Comments

GENERAL

GENERAL

Please do not do away with this program it helps our schools. If you take away our program our students will suffer.

Submitter : Miss. Susan Majors
Organization : Northland Community Schools
Category : Health Care Professional or Association

Date: 11/02/2007

Issue Areas/Comments

GENERAL

GENERAL

Please See Attachment

CMS-2287-P-529-Attach-1.RTF

Susan Majors, M.A., LADC, LICSW
Director of Special Education
Northland Community Schools
316 Main Street East, Rm. 200
Remer, MN 56672

Centers for Medicare and Medicaid Services
U.S. Department of Health and Human Services
Attention: CMS-2287-P
P.O. Box 8018
Baltimore, MD 21244-8018

Dear Sir(s) or Madam(s):

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Thank you for allowing the public to provide comments on the Notice for Proposed Rule Making for the elimination of school administration expenditures and transportation for school-age children under the Medicaid program, and thank you for considering my comments and recommendations.

Sincerely,
Susan Majors, M.A., LADC, LICSW

Submitter : Mr. Leslie Dearing
Organization : Mr. Leslie Dearing
Category : Individual

Date: 11/02/2007

Issue Areas/Comments

GENERAL

GENERAL

For many years, congress, the executive branch, and the judiciary have written, signed, and interpreted laws mandating school services without providing adequate funding to support the schools. It almost seems you want public schools to fail. Hmh, I wonder why?

The latest penny wise scheme seeks to cut CMS reimbursement for under funded educational administrative tasks. I guess you all think someone will come along and do it free. Or perhaps you imagine that these services are not actually needed. I wonder why you would make laws and regulations requiring services that you aren't willing to pay for, Hmh?

California schools, especially those in inner city areas, provide services and facilitate access to services that many students and their families would otherwise do without. Children from families that must do without needed support go to school unprepared to learn, if they go to school at all. They experience illness that may go unidentified and untreated. Untreated hearing & vision impairments can make a good educational opportunity all but worthless to a child unable to access it.

I urge you to maintain if not increase the current level of support for these administrative expenses. Cutting these funds could cost a great deal more than it saves. Don't be penny wise and pound foolish.

Submitter : Ms. Janice Moschetto
Organization : Mingus Union High School
Category : Academic

Date: 11/02/2007

Issue Areas/Comments

GENERAL

GENERAL

We strongly oppose the implementation of this rule change. Schools have become an important and cost-effective provider of essential health services for disabled children. These children are transported to school in small vans with special equipment and /or special staffing to meet their needs. The loss of this funding would severely impact our school district and our ability to provide services to all of our children.

Our district provides important outreach information for all of our children, providing information on Medicaid eligibility and services. We also provide essential and cost-effective care coordination for our children with severe disabilities. This cut would impact not only our funding, but also services to our families.

Submitter : Mr. David Abbott
Organization : R.I. Dept. of Elementary and Secondary Education
Category : State Government

Date: 11/02/2007

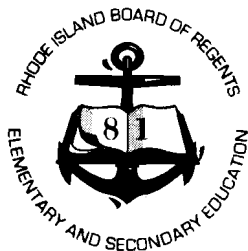
Issue Areas/Comments

GENERAL

GENERAL

See Attachment

CMS-2287-P-532-Attach-1.PDF



Peter McWalters
Commissioner

State of Rhode Island and Providence Plantations
DEPARTMENT OF EDUCATION
Shepard Building
255 Westminster Street
Providence, Rhode Island 02903-3400

November 1, 2007

Centers for Medicare & Medicaid Services
Attention: CMS-2287-P
Mail Stop S3-14-22
7500 Security Boulevard
Baltimore, MD 21244

Reference: File Code CMS-2287-P

To Whom It May Concern:

The Rhode Island Department of Elementary and Secondary Education does not support the proposed cuts for reimbursement described in CMS-2287-P.

For many children, school health programs are their primary access to health care. For some, it is their ONLY access. School districts across the nation have been able to participate as providers in their state's Medicaid Program since 1988. Some districts submit claims for direct services, others participate in administrative claiming and some participate in both claiming opportunities. The Centers for Medicare and Medicaid Services (CMS) has provided several documents to guide school districts participating in the Medicaid Reimbursement Program. These include: *Medicaid and School Health: A Technical Assistance Guide, 1997*; and *CMS Medicaid Administrative Claiming Guide, May 2003*. School districts in Rhode Island (RI) reference these documents to implement their school-based claiming programs.

School districts began participating as Medical Assistance providers in June 1992 after the enactment of RI General Law 40-8-18; seeking direct services reimbursement only. Districts began participating in the administrative claiming program began in 2001 when Rhode Island started submitting administrative claims using a claiming methodology approved by CMS. This claiming methodology changed in September 2004 when the Rhode Island Department of Human Services released its Administrative Claiming Guidebook that was based on the policies and procedures described within the May 2003 Administrative Claiming Guide developed by CMS.

Key statistics in Rhode Island include:

- 100% of the federal reimbursement for direct service and administrative claiming is returned to the LEAs
- Local Education Agencies are mandated by the State to use their reimbursements to support education
- 98% of LEAs participate in the direct services program
- 90% of LEAs participate in the Administrative Claiming program

Telephone (401)222-4600 Fax (401)222-6178 TTY 800-745-5555 Voice 800-745-6575

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Centers for Medicare & Medicaid Services
Attention: CMS-2287-P

November 1, 2007

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While the fiscal impact on districts in Rhode Island does not meet the federal standard used to rate impact, the loss of administrative and transportation claiming will have a substantial impact on district budgets:

Administrative Claiming Impact:

The total revenue received by 39 local education agencies for administrative claiming in state fiscal year 2007 (July 1, 2006 through June 30, 2007) was \$3,884,344, an average of about \$100,000 per district. While districts are mandated by class size ratios to hire a certain amount of teachers, they are not mandated to hire a set number of school nurses and social workers. The loss of \$100,000 from an annual budget could result in the hiring of two less nurses or two less social workers. Districts have reported that they have used the funds to provide therapies such as music therapy, not required by IDEA or funded by any other source, to educate children with low-incidence disabilities. Of course, our larger urban districts with a higher percentage of children in poverty would lose more:

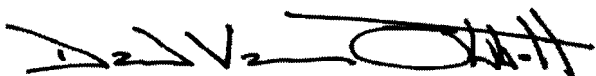
- Providence Public Schools: \$870,472
- Cranston Public Schools: \$440,894
- Pawtucket Public Schools: \$354,001
- Central Falls Public Schools: \$280,654
- Warwick Public Schools: \$212,880

Transportation Claiming Impact:

The total revenue received by 21 school districts for special transportation in state fiscal year 2007 was \$161,991, an average of \$7,713 per district. While the impact the loss of transportation revenue will have on districts in RI is much less than the Administrative Claiming program, every dollar received by our schools is used to support educating our children, including providing medical services for the most vulnerable.

Thank you for your consideration of our comments.

Sincerely,



David V. Abbott
Deputy Commissioner/General Counsel

DA:KGS:da

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sexual orientation, race, religion, national origin, or disability.

Submitter : Dr. Douglas Arnold
Organization : Bristol VA Public Schools
Category : Academic

Date: 11/02/2007

Issue Areas/Comments

GENERAL

GENERAL

Bristol Va Public Schools is strongly opposed to the proposal to cut Medicaid reimbursements for school-based services (Rule 2287-P). To do so would be contrary to existing law and mean-spirited.

Submitter : Mr. Eugene Dudo
Organization : Glendale Union High School District
Category : State Government

Date: 11/02/2007

Issue Areas/Comments

GENERAL

GENERAL

We strongly oppose the implementation of this rule change. Schools have become an important and cost-effective provider of essential health services for disabled children. These children are transported to school in small vans with special equipment and/or special staffing to meet their needs. The loss of this funding would severely impact our school district and our ability to provide services to all of our children.

Our district provides important outreach services for all of our children, providing information on Medicaid eligibility and services. We also provide essential and cost-effective care coordination for our children with severe disabilities. This cut would impact not only our funding but also services to our families.

Submitter : Ms. Jody Attaway

Date: 11/02/2007

Organization : Somerton Elementary School District

Category : Individual

Issue Areas/Comments

GENERAL

GENERAL

I strongly oppose the implementation of this rule change. Public schools have become an important and cost-effective provider of essential health services for disabled children. Our students are transported to school in small vans or other buses with special equipment and or special staffing to meet their needs. The loss of this funding would severely impact my district and the ability to provide services to all of our children.

My district provides important outreach services for all of our children, providing information on Medicaid eligibility and services. We also provide essential and costeffective care coordination for children with severe disabilities. This ;cut would not only impact our funding but also services to our families.

Submitter : Mrs. Sheri Knipe

Date: 11/02/2007

Organization : Spencer Community Schools

Category : Academic

Issue Areas/Comments

GENERAL

GENERAL

This is to request that you strongly reconsider the idea of eliminating reimbursement under Medicaid for services that schools provide for children in need. We spend thousands of dollars each year to help educate our special needs students, including transporting them to the education centers where services are provided. Each year we have a deficit in spending to cover the costs associated with these students. Should you eliminate the medicaid reimbursements, our deficit would easily double or triple. As school budgets are already stretched to the limit, any further reduction in income would adversely affect our students. Taking away this reimbursement directly affects students who desperately need assistance and is not an area that where cuts should be made. Please clarify that school district's continue to have authority to claim for school-based medicaid expenses so that the highest quality of education will be available to all.

Submitter : Mr. Ron Scott

Date: 11/02/2007

Organization : Agua Fria Union High School District

Category : Academic

Issue Areas/Comments

GENERAL

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We strongly oppose the implementation of this rule change. Schools have become an important and cost-effective provider of essential health services for disabled children. These children are transported to school in small vans with special equipment and/or special staffing to meet their needs. The loss of this funding would severely impact our school district and our ability to provide services to all of our children.

Our district provides important outreach services for all of our children, providing information on Medicaid eligibility and services. We also provide essential and cost-effective care coordination for our children with severe disabilities. This cut would impact not only our funding but also services to our families.

Submitter : Dr. Kevin Brown

Date: 11/02/2007

Organization : Flagstaff Unified School District No. 1

Category : Academic

Issue Areas/Comments

GENERAL

GENERAL

RE: Medicaid Program; Elimination of Reimbursement under Medicaid for School Administration Expenditures and Costs Related to Transportation of School-Age Children between Home and School

As you know, in 1988 Congress, with the support of then President Reagan, allowed Medicaid reimbursement to schools for eligible children. The Flagstaff Unified School District educates a total of total was 1861 students with disabilities. This includes 173 preschoolers and 905 K-12 students with disabilities. Elimination of the reimbursement for these services will result in the loss of staff and services for students in regular education settings because, by law, we must continue important services for children with disabilities regardless of the cost. Schools have become important, cost effective providers of health related services for students with the most severe disabilities in our country. Our district is one of the largest geographically in the continental United States and our buses run over 2 million miles annually, including transporting students with severe disabilities in specialized buses with aides trained in medically related services. The cost of providing all services to children with disabilities in our district already exceeds funding by over \$2 million. The federal government has never lived up to funding commitments of IDEA (originally EHA). I urge CMS to refrain from eliminating reimbursement under Medicaid for School Administration expenditures and costs related to transportation of school-age children between home and school.

Submitter : Mr. William Brannen
Organization : Flagstaff Unified School District
Category : Other Government

Date: 11/02/2007

Issue Areas/Comments

GENERAL

GENERAL

The elimination of reimbursements under the proposed CMS-2287-P would be a travesty for the students with severe disabilities and a negative financial impact on the families and school districts that have relied on the benefits received over the years. The passage of CMS-2287-P means eliminating a valuable resource for students and schools which would in effect eliminate vital programs for the disabled; and it would undermine the purpose and intent of the program. Do not let this happen!

Submitter : Ms. Dwayla Bruington
Organization : Chandlel Unified School District
Category : Other Government

Date: 11/02/2007

Issue Areas/Comments

GENERAL

GENERAL

School districts strongly oppose the implementation of this proposed rule change. It is a well known fact that schools have become an important provider of essential health services for disabled children. Small buses with special equipment and/or staffing are available to transport these children to and from the health services required to meet their needs. School districts provide important outreach services for all children, providing information on Medicaid eligibility and services. We also provide essential and cost-effective care coordination for children with disabilities. This funding helps school districts provide these relied upon services. Therefore, a cut would not only eliminate an important funding source, but services to our families.

Submitter : Mrs. Guadalupe Ullery
Organization : Somerton School District
Category : Individual

Date: 11/02/2007

Issue Areas/Comments

GENERAL

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We strongly oppose the implementation of this rule change. Schools have become an important and cost-effective provider of essential health services for disabled children. These children are transported to school in small vans with special equipment and/or special staffing to meet their needs. The loss of this funding would severely impact our school district and our ability to provide services to all of our children.

Our district provides important outreach services for all of our children, providing information on Medicaid eligibility and services. We also provide essential and cost-effective care coordination for our children with severe disabilities. This cut would impact not only our funding but also services to our families.

Submitter : Dr. Roger Morris

Date: 11/02/2007

Organization : Patrick County Public Schools

Category : Local Government

Issue Areas/Comments

GENERAL

GENERAL

We of the Patrick County Public Schools are in opposition of the proposed change. Schools continue to be required to provide necessary medical services, yet we do not have the funding stream for them. To eliminate this provision would severely hurt the school system's ability to provide the needed care for students. Changing this provision would essentially hurt children.

Submitter : Victoria Trahan

Date: 11/02/2007

Organization : Victoria Trahan

Category : Nurse

Issue Areas/Comments

GENERAL

GENERAL

As a school nurse for 23 years, I strongly oppose the implementation of this rule change. Schools have become an important and cost-effective provider of essential health services for disabled children. These children are transported to school in small vans with special equipment and/or special staffing to meet their needs. The loss of this funding would severely impact our school district and our ability to provide services to all of our children.

Our district provides important outreach services for all of our children, providing information on Medicaid eligibility and services. We also provide essential and cost-effective care coordination for our children with severe disabilities. This cut would impact not only our funding but also services to our families.