

**Submitter :** Mr. Tom Changnon  
**Organization :** Stanislaus County Office of Education  
**Category :** State Government

**Date:** 11/02/2007

**Issue Areas/Comments**

**GENERAL**

**GENERAL**

See Attachment

CMS-2287-P-602-Attach-1.DOC

CMS-2287-P-602-Attach-2.DOC

CMS-2287-P-602-Attach-3.DOC



Tom Changnon, Superintendent

1100 H Street • Modesto, CA 95354 • (209) 238-1700 • FAX (209) 238-4201

November 2, 2007

Secretary Michael Leavitt  
Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
**Attention: CMS-2287-P**  
Mail Stop S-3-14-22  
75 Security Boulevard  
Baltimore, MD 21244

Dear Secretary Leavitt:

As the superintendent of Stanislaus County Office of Education in the upper Central Valley of California, I am very concerned with the proposed change in rules being introduced with CMS-2287-P and am submitting the following comments in opposition to this Centers for Medicare and Medicaid Services (CMS) proposed rule restricting local educational agency eligibility for Medicaid funding, published in the Federal Register on September 7, 2007. This rule would effectively eliminate federal reimbursement under the Medicaid program for the costs associated with school personnel who perform specified administrative activities, such as Medicaid outreach and referral, and monitoring of medical services. The proposed rule would also eliminate reimbursement for many of the transportation services required for special education students.

Schools play a key role in identifying children for Medicaid and connecting them to needed services in schools and the community. Effectively, schools serve as a gateway to health care for some of California's most vulnerable residents – special education students and children in families whose circumstances have limited their access to health care. School districts across California assist their county Medicaid administrative agencies in distributing information about the California program and other available services to individuals within our population that would otherwise not receive this much-needed care. This regulation will eliminate federal support for the continual school efforts to bring health services to medically compromised children.

The school districts within Stanislaus County vary in size from the largest with 32,584 students to the smallest with 80 students, but each district involved in this Medicaid reimbursement program recognizes the fiscal value. The financial impact of this regulation on small and urban California schools will be dramatic. While the \$103 million in federal Medicaid reimbursements for services provided by California school districts is considered modest compared to the overall federal Medicaid budget, it is critical funding for school districts that are committed to improving health care access for their students. These funds have been a vital source of support for schools that have hired additional school nurses or health aides, supported expanded outreach activities or developed school-linked medical services for high-risk populations.

The main reason cited by CMS for these restrictive regulatory changes is concern to ensure that school-based administrative expenditures are recognized and claimed properly, consistent with Federal law. California was one of the first states to adopt new guidelines issued for this program in the *2003 CMS Medicaid School-Based Administrative Claiming Guide*. The California School-Based Medi-Cal Administrative Activities (MAA) program has been implemented in a comprehensive and systematic manner consistent with these guidelines, with required oversight at multiple levels. To my knowledge, there have been no published audit findings to gauge state compliance with these 2003 guidelines, yet these restrictive regulations are proposed to stem alleged widespread "waste, fraud and abuse."

California does not support a program where waste, fraud and abuse could occur. We have made excellent progress in complying with the requirements of the *2003 Guide*, and have implemented policies and procedures statewide that institute systemic controls designed to detect and limit non-compliant activities. Implementing CMS-2287 is an ill conceived "fix" that will only set back our efforts to ensure that all children come to school healthy and ready to learn.

I have attached **Resolution Number 2007-30 in Opposition to U.S. Department of Health and Human Services Proposed Rule CMS-2287-P** issued by the Stanislaus County Office of Education Board of Education indicating the strength in commitment to oppose this change in rules.

Thank you for your consideration of my comments on this important issue.

Sincerely,



Tom Changnon  
County Superintendent of Schools

c: Senator Dianne Feinstein  
Senator Barbara Boxer  
Representative George P. Radanovich

STANISLAUS COUNTY OFFICE OF EDUCATION  
STANISLAUS COUNTY, CALIFORNIA

RESOLUTION NUMBER: 2007-30

**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 Stanislaus County Office of Education 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:** Z. Gharat, M. Kronberg, K. Rose  
**NOES:** 0  
**ABSENT:** L. Molina, M. Sanders

**I, TOM CHANGNON**, Secretary to the Board of Education of the Stanislaus County Office of Education, do certify that the foregoing is a true and correct copy of the RESOLUTION adopted by the County Board of Education of the STANISLAUS COUNTY OFFICE OF EDUCATION at a regular meeting of the Board of Education on October 9, 2007, which RESOLUTION is on file in the office of the County Board of Education of Stanislaus County.

Date: October 9, 2007

Signed: \_\_\_\_\_



Tom Changnon, Stanislaus County Superintendent  
of Schools and Secretary to the Board of Education

**Submitter :** Ann Slade

**Date:** 11/02/2007

**Organization :** Santa Clara County Office Of Education

**Category :** Speech-Language Therapist

**Issue Areas/Comments**

**GENERAL**

**GENERAL**

Please reconsider the Elimination of Reimbursement for MAA billing. These monies assist in better serving our children and their families in a time where so little resources are available.

**Submitter :** Mrs. Cathy Reeves  
**Organization :** Somerton School District  
**Category :** Speech-Language Therapist

**Date:** 11/02/2007

**Issue Areas/Comments**

**GENERAL**

**GENERAL**

As a Language Pathologist in the Somerton School District I strongly oppose the rule change. This change would greatly reduce the Special Education Departments ability to purchase needed equipment and materials for the Special needs students in our district. The extra dollars that Medicaid generates increases the quality of services we are able to provide. To cut the transportation funding would greatly reduce the dollars available to provide students with busing times that meet their needs more specifically. Without the funding, transportation would be very limited and not beneficial for the families and students.

We currently are able to afford Speech aids that make a significant impact on the students who are in need of those services. Having Speech Aids allows for smaller therapy groups and increased time in therapy for therapist aren't spread as thin in the rural areas. Having increased Speech times also allows some students to exit from the therapy needs sooner that if they were only seen once a week in a larger group.

**Submitter :** Ms. gay vroble

**Date:** 11/02/2007

**Organization :** Ms. gay vroble

**Category :** Individual

**Issue Areas/Comments**

**GENERAL**

**GENERAL**

I agree that this reimbursement should be eliminated. This is expensive while preventing students from receiving their education in their local school/ community. This practice hinders Least Restrictive Environment (LRE) in the IDEIA. Often times in rural areas the cost of transportation is over \$100 a day for just one student. This money would be better used in staff or materials for the student instead of having the student spend wasted time in a van with no educational value. Thank you. Gay Vroble

**Submitter :** Elizabeth Touhey  
**Organization :** National Alliance for Medicaid in Education  
**Category :** Association

**Date:** 11/02/2007

**Issue Areas/Comments**

**GENERAL**

GENERAL

See Attachment

CMS-2287-P-606-Attach-1.PDF



National Alliance for Medicaid in Education  
Comments Opposing Rule 2287-P, submitted November 2, 2007

The National Alliance for Medicaid in Education, Inc., (NAME) strongly objects to the administrative cuts proposed in recently published Rule 2287-P. NAME finds the proposed rule particularly disturbing when states have made substantial gains in correcting "questionable" claiming practices identified nearly a decade ago. The proposed CMS funding cuts ignore the growing numbers of uninsured children in the U.S. and the increased need for school-based outreach and Medicaid enrollment assistance. Schools are the obvious place to reach large numbers of preschool through 12<sup>th</sup> Grade students and their families. Accordingly, NAME urges CMS to continue funding efficient and effective Medicaid administrative services provided by our nation's schools.

CMS has been called to task for inadequate oversight and inconsistent guidance which have contributed to improper claiming for school-based services. Unfortunately, the agency responded with this proposed rule to eliminate vital services rather than work with stakeholders to address the problems identified by federal reviewers. Twice Congress urged CMS to improve its guidance on school-based claiming,<sup>1</sup> based on findings of the Government Accountability Office (GAO) [see *Medicaid in Schools: Poor Oversight and Improper Payment Compromise Potential Benefit*]. However, Congress and the GAO have recommended that CMS improve its guidance and oversight of school-based claiming, not eliminate funding for services that improve access to health care for underserved impoverished and disabled children.

Absent leadership and technical assistance from CMS, state education and Medicaid agency personnel from across the country founded NAME five years ago to provide leadership, share best practices and promote integrity in Medicaid claiming for school-based services. To help address school-based claiming issues on a national level, NAME has made repeated attempts to engage CMS in public discourse with Medicaid and education staff directly involved in school-based claiming throughout the country. Although a central office staff member participated in one of NAME's five annual conferences, last minute no shows and very limited phone participation at NAME conferences seem to indicate the agency's indifference. NAME is aware that the federal education agency also offered CMS timely and relevant input on guidance published in 2003; however, there is no evidence that the U.S. Department of Education's comments were incorporated into the latest CMS school-based administrative claiming guide.

In addition to proposing cuts of transportation services that help children access Medicaid services at school, Rule 2287-P proposes to eliminate funding for school-based Medicaid administrative activities based on DHHS Secretary Leavitt's determination that "such activities are only necessary for the proper and efficient administration of the [Medicaid] State plan when conducted by employees of the State or local Medicaid agency." NAME believes that school personnel, rather than state or local bureaucrats, are best suited to reach out to potential Medicaid eligibles among the fifty-three million students they see daily in their local communities. The Administration's philosophy that only Medicaid agency employees can perform these activities efficiently and effectively is unfounded, and if put into practice, would prove cost prohibitive and garner poor results.

Despite inadequate oversight and inconsistent guidance from CMS, schools involved in Medicaid claiming have fixed previously identified problems and come into compliance with current CMS policy, a fact acknowledged by CMS staff members.<sup>2</sup> Schools and local governments have been working to resolve school-based claiming problems identified by the federal government. NAME urges CMS to do what Congress and the GAO have recommended: improve rather than eliminate the policy and procedures for school-based Medicaid claiming.

Respectfully submitted,

Elizabeth Touhey, President  
National Alliance for Medicaid in Education, Inc.

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<sup>1</sup> H.Rept. 106-577 for the Concurrent Resolution on the Budget for Fiscal Year 2001, and H. Rept 106-1033 for the Omnibus Consolidated and Emergency Supplemental Appropriations for Fiscal Year 2001

<sup>2</sup> L. Higgins, "Medicaid payments to schools in danger," *Detroit Free Press*, October 2, 2007.

**Submitter :** Tom Changnon  
**Organization :** Stanislaus County Office of Education  
**Category :** Academic

**Date:** 11/02/2007

**Issue Areas/Comments**

**GENERAL**

**GENERAL**

"See Attachments"

CMS-2287-P-607-Attach-1.DOC



November 2, 2007

Secretary Michael Leavitt  
Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
**Attention: CMS-2287-P**  
Mail Stop S-3-14-22  
75 Security Boulevard  
Baltimore, MD 21244

Dear Secretary Leavitt:

As the superintendent of Stanislaus County Office of Education in the upper Central Valley of California, I am very concerned with the proposed change in rules being introduced with CMS-2287-P and am submitting the following comments in opposition to this Centers for Medicare and Medicaid Services (CMS) proposed rule restricting local educational agency eligibility for Medicaid funding, published in the Federal Register on September 7, 2007. This rule would effectively eliminate federal reimbursement under the Medicaid program for the costs associated with school personnel who perform specified administrative activities, such as Medicaid outreach and referral, and monitoring of medical services. The proposed rule would also eliminate reimbursement for many of the transportation services required for special education students.

Schools play a key role in identifying children for Medicaid and connecting them to needed services in schools and the community. Effectively, schools serve as a gateway to health care for some of California's most vulnerable residents – special education students and children in families whose circumstances have limited their access to health care. School districts across California assist their county Medicaid administrative agencies in distributing information about the California program and other available services to individuals within our population that would otherwise not receive this much-needed care. This regulation will eliminate federal support for the continual school efforts to bring health services to medically compromised children.

The school districts within Stanislaus County vary in size from the largest with 32,584 students to the smallest with 80 students, but each district involved in this Medicaid reimbursement program recognizes the fiscal value. The financial impact of this regulation on small and urban California schools will be dramatic. While the \$103 million in federal Medicaid reimbursements for services provided by California school districts is considered modest compared to the overall federal Medicaid budget, it is critical funding for school districts that are committed to improving health care access for their students. These funds have been a vital source of support for schools that have hired additional school nurses or health aides, supported expanded outreach activities or developed school-linked medical services for high-risk populations.

*CMS-2287-P Letter*  
*Continued*  
*Page 2 of 2*

The main reason cited by CMS for these restrictive regulatory changes is concern to ensure that school-based administrative expenditures are recognized and claimed properly, consistent with Federal law. California was one of the first states to adopt new guidelines issued for this program in the *2003 CMS Medicaid School-Based Administrative Claiming Guide*. The California School-Based Medi-Cal Administrative Activities (MAA) program has been implemented in a comprehensive and systematic manner consistent with these guidelines, with required oversight at multiple levels. To my knowledge, there have been no published audit findings to gauge state compliance with these 2003 guidelines, yet these restrictive regulations are proposed to stem alleged widespread "waste, fraud and abuse."

California does not support a program where waste, fraud and abuse could occur. We have made excellent progress in complying with the requirements of the *2003 Guide*, and have implemented policies and procedures statewide that institute systemic controls designed to detect and limit non-compliant activities. Implementing CMS-2287 is an ill conceived "fix" that will only set back our efforts to ensure that all children come to school healthy and ready to learn.

I have attached **Resolution Number 2007-30 in Opposition to U.S. Department of Health and Human Services Proposed Rule CMS-2287-P** issued by the Stanislaus County Office of Education Board of Education indicating the strength in commitment to oppose this change in rules.

Thank you for your consideration of my comments on this important issue.

Sincerely,



Tom Changnon  
County Superintendent of Schools

c: Senator Dianne Feinstein  
Senator Barbara Boxer  
Representative George P. Radanovich

STANISLAUS COUNTY OFFICE OF EDUCATION  
STANISLAUS COUNTY, CALIFORNIA

RESOLUTION NUMBER: 2007-30

**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 Stanislaus County Office of Education 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:** Z. Gharat, M. Kronberg, K. Rose  
**NOES:** 0  
**ABSENT:** L. Molina, M. Sanders

**I, TOM CHANGNON**, Secretary to the Board of Education of the Stanislaus County Office of Education, do certify that the foregoing is a true and correct copy of the RESOLUTION adopted by the County Board of Education of the STANISLAUS COUNTY OFFICE OF EDUCATION at a regular meeting of the Board of Education on October 9, 2007, which RESOLUTION is on file in the office of the County Board of Education of Stanislaus County.

Date: October 9, 2007

Signed: \_\_\_\_\_



Tom Changnon, Stanislaus County Superintendent  
of Schools and Secretary to the Board of Education

**Submitter :**

**Date: 11/02/2007**

**Organization : Weller Consulting Group**

**Category : Individual**

**Issue Areas/Comments**

**GENERAL**

GENERAL

It is critically important to maintain this elemental healthcare option for our CMS students. Without so, our community will see additional longterm cost to address health concerns that could so easily be prevented with timely care.

Don't shift today's costs to future payers; it will only worsen our current healthcare crisis, and negatively impact the quality of life for those involved.

Please vote responsibly, as stewards for those who depend on you.

**Submitter :**

**Date: 11/02/2007**

**Organization :**

**Category : Academic**

**Issue Areas/Comments**

**GENERAL**

**GENERAL**

I strongly oppose the implementation of this rule change. Schools have become an important and cost-effective provider of essential health services for children with disabilities. 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 :** Mr. William M. Habermehl  
**Organization :** Orange County Superintendent of Schools (CA)  
**Category :** Local Government

**Date:** 11/02/2007

**Issue Areas/Comments**

GENERAL

GENERAL

See attachment

CMS-2287-P-610-Attach-1.PDF



ORANGE COUNTY BOARD OF EDUCATION  
ORANGE COUNTY, CALIFORNIA

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

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 outfitting buses with specialized equipment, transporting children to school for their medical appointments, identifying students who need screenings and evaluations, and connecting children and their families with other needed services in their community, and

Whereas, the loss of these resources could mean that schools have to lay off nurses and social workers, curtail their referral services, and/or scale back enhancements for school buses, and

Whereas, many of these 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 Orange County Board of Education 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.

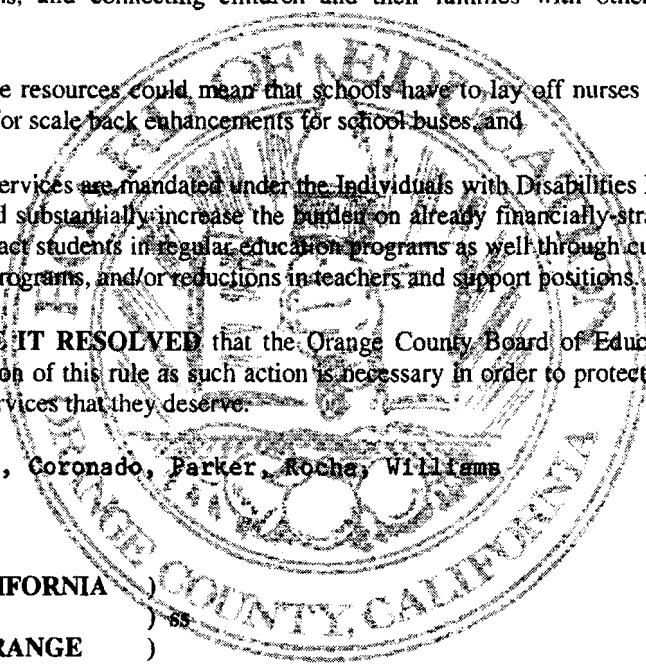
AYES: Bedell, Coronado, Parker, Roche, Williams

NOES:

ABSENT:

STATE OF CALIFORNIA )

COUNTY OF ORANGE )



I, Elizabeth Parker, President to the Board of Education of Orange 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 16<sup>th</sup> day of August 2007.

IN WITNESS THEREOF, I have hereunto set my hand and seal this 16th day of August 2007.

Elizabeth Parker, President  
Orange County Board of Education

**Submitter :** Mr. William M. Habermehl  
**Organization :** Orange County Superintendent of Schools (CA)  
**Category :** Local Government

**Date:** 11/02/2007

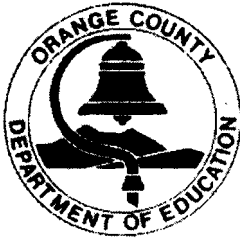
**Issue Areas/Comments**

**GENERAL**

GENERAL

See attachment

CMS-2287-P-611-Attach-1.PDF



November 2, 2007

The Honorable Secretary Michael Leavitt  
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, MD 21244

ELECTRONIC

**ORANGE COUNTY  
DEPARTMENT  
OF EDUCATION**

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**WILLIAM M. HABERMehl**  
County Superintendent  
of Schools

LYNN APRIL HARTLINE  
Deputy Superintendent

JOHN L. NELSON  
Associate Superintendent

Dear Secretary Leavitt:

As County Superintendent of Schools for Orange County, California, I am writing in opposition to CMS-2287-P, the proposal to eliminate reimbursement under Medicaid for school administration expenditures and costs related to transportation of school-age children between home and school.

CMS-2287-P proposes to discontinue Medicaid funding for the local school-based activities that introduce some of our most vulnerable, potentially eligible families to Medicaid and to the Medicaid-covered health services our students need. Medicaid reimbursement enables local school employees, through their trusting relationships with student families, to assist their local Medicaid administrative agencies and perform extensive outreach, enrollment, and health services coordination activities.

Loss of Medicaid funding would dramatically impact remote rural and urban southern California schools and substantially reduce their ability to fund activities such as the following.

- Outfit buses with specialized equipment
- Transport children to school for their medical appointments
- Hire staff to identify students who need screenings and evaluations
- Connect students and their families with health services in their communities
- Coordinate services to meet student needs required for No Child Left Behind
- Sustain Healthy Start centers and health clinics
- Hire nurses, social workers, and specialized health professionals

It is important that federal financial participation in the costs of Medicaid administration be available for serving students in our schools. The Centers for Medicare and Medicaid Services (CMS) approved the California School-Based Medi-Cal Administrative Activities Manual as compliant with the CMS 2003 Medicaid School-Based Administrative Claiming Guide. Additional CMS guidance would be a reasonable alternative to eliminating Medicaid reimbursement for school-based administration.

If CMS-2287-P were implemented the local impact would be extensive and compromise the wellbeing of our students.

Respectfully,

William M. Habermehl  
County Superintendent of Schools

WMH:ts

**ORANGE COUNTY  
BOARD OF EDUCATION**

DR. JOHN W. BEDELL

DR. ALEXANDRIA CORONADO

ELIZABETH PARKER

FELIX ROCHA, JR.

DR. KEN L. WILLIAMS

**Submitter :** Dr. Patty Vogel

**Date:** 11/03/2007

**Organization :** Retired

**Category :** Individual

**Issue Areas/Comments**

GENERAL

GENERAL

**Submitter :** Mrs. Larrabeth Bergstrom  
**Organization :** Santa Clara County Office of Education  
**Category :** Speech-Language Therapist

**Date:** 11/03/2007

**Issue Areas/Comments**

**GENERAL**

**GENERAL**

I support passage of HB I017 and SB578 to insure that reimbursement for administrative and transportation costs continue for the Medicaid program. Elimination of this reimbursement would greatly effect the quality of care for our disabled students. As a Speech/Language Pathologist working with sererely handicapped children, I appreciate this funding source which allows me to obtain items such as Augmentative Communication Devices for children who have no other means of accessing their world. I have used these funds to sturcture classrooms to maxamize opportunities for communication. For children who have very limited means of expression, this is more important than most people imagine. It is a cost effective means of helping students become more independent thus reducing the cost of future care. Please consider the implications of eliminating this crucial funding surce.

Thank you.

Larrabeth Bergstrom, M.A., CCC-SLP

**Submitter :** Dr. Susan Whitaker

**Date:** 11/03/2007

**Organization :** Spartanburg County School District No. 7

**Category :** Individual

**Issue Areas/Comments**

**GENERAL**

**GENERAL**

While we as school district personnel appreciate the opportunity to bill Medicaid for some of the very expensive services we provide to our students, it is important to realize that billing Medicaid imposes many new requirements and responsibilities. We now have to monitor Medicaid eligibility, help parents apply for and get Medicaid benefits, make referrals for services, coordinate and monitor these services, and provide general support and administrative oversight. This costs money. We have had to add staff to enable us to do this and do it well. The funds from Administrative Claiming allow us to coordinate and oversee the services appropriately. We do a great deal to identify students and help them become eligible for Medicaid - students who would otherwise "fall through the cracks." And we provide services that students would not otherwise receive as they do not have transportation, the parents don't know how to access the services, etc. What we provide for our children when they are young, results in savings later. We know that from numerous studies. It is so much better to allow Administrative Claiming and provide the funds so that we can help the appropriate individuals receive Medicaid benefits, refer/coordinate/monitor the provision of services, provide case management, and provide assistance, supervision and oversight than to eliminate this funding source and leave school districts to operate Medicaid programs without it. In the end, that will cost money, not save it. Let's do everything we can to get health benefits to our children early and not wait until it is too late.

Now, transportation is a different story. Schools have to transport students to school anyway. There is no need to bill Medicaid for a service that is being provided to students whether they receive a Medicaid billable service on that day or not. That truly is a waste of Medicaid funds. The paperwork to do the billing is extensive, and it makes little sense to bill the service to Medicaid anyway. I would suggest eliminating the payments for transportation to school (but if a student has to be transported solely for the provision of a Medicaid service allow billing for transportation in that case only).

Thank you for your consideration of these comments.

**Submitter :** Mrs. Gail Miluso  
**Organization :** Santa Clara County Office of Education  
**Category :** Speech-Language Therapist

**Date:** 11/03/2007

**Issue Areas/Comments**

**GENERAL**

**GENERAL**

As a speech pathologist serving special needs students, I am very concerned that the passing of CMS-2287-P will eliminate vital funds needed to obtain adaptive equipment, materials, etc. The mandates placed on the public school system require us to provide access to curriculum and placement in the least restrictive environment. In order for our most involved students to work to their potential and get the most out of their school experience; they need services and materials to do so. As the number of special needs students rapidly increases (most highly noted in the area of autism); the need for funds also increases. Many of these students are nonverbal and benefit from the use of augmentative communication devices. Please keep these funds available to make sure these children have a "voice" to interact with their world.

**Submitter :** Ms. Kathryn Baglien  
**Organization :** FAN (Family Access Network)  
**Category :** Individual

**Date:** 11/03/2007

**Issue Areas/Comments**

**GENERAL**

**GENERAL**

It is my strong request that the medicaid funding for MAC not be taken away from the schools. This money is instrumental in helping children and their families link to help for medical, dental, vision, and mental health through the FAN program, which is paid for by MAC. Help through this organization is also given in the shape of much needed school supplies, climate appropriate clothing, housing, food, etc. Children can then stay in and focus on school w/o having to worry about dental pain, poor vision, where they will sleep, where to get food, where to find replacements for blown out shoes, etc. Instead, they can focus on listening to the teacher and getting an education, which is what they need to break low income cycles. Please do not cut this MAC funding. So many depend on it. If you have any questions, please feel free to contact me at #541-389-6840. Thank you.



**Submitter :** tammie knight

**Date:** 11/03/2007

**Organization :** tammie knight

**Category :** Individual

**Issue Areas/Comments**

**GENERAL**

**GENERAL**

Transportation is for the low income families that cant afford to take their child or parent with out getting reimbursed. They wouldnt get the medical attention if they had to travel 25 or more miles everyother day

**Submitter :** Ms. Patricia Rast  
**Organization :** Petaluma City Schools  
**Category :** Academic

**Date:** 11/03/2007

**Issue Areas/Comments**

**GENERAL**

**GENERAL**

CMS's proposed rule 2287 should be rejected. School based Medicaid administrative claiming is warranted and delivers substantial benefits. You should consider the role that schools play in providing Medicaid access and in making children, families and communities healthier.

**Submitter :** Mary-Anne Bosward  
**Organization :** Santa Clara County Office of Education  
**Category :** Academic

**Date:** 11/03/2007

**Issue Areas/Comments**

**GENERAL**

**GENERAL**

The Santa Clara County Office of Education has made tremendous use of the MAA funds to increase the services we are able to provide to our Special Ed students! Examples of the use of funds includes, but is not limited to the following... specialized training for speech therapists, occupational and physical therapists and nurses; assistive technology (high tech - high cost) for non-verbal students; computers for the classrooms; remedial training for students who are working on passing the High School Exit Exam; additional staffing to support the needs of severely disabled students; specialized reading programs (both training and materials). Please continue to support our schools and students through this very valuable program!

**Submitter :** Chris Bosward

**Date:** 11/03/2007

**Organization :** Chris Bosward

**Category :** Individual

**Issue Areas/Comments**

**GENERAL**

GENERAL

It is critical that the MAA funding to schools be continued!

Do not let this program be the victim of poor judgment of our polititians... We need to invest in our nation's children and this program provides much needed funding to our schools.

**Submitter :** Angela Borland

**Date:** 11/03/2007

**Organization :** Angela Borland

**Category :** Individual

**Issue Areas/Comments**

**GENERAL**

**GENERAL**

As a parent of a young child just beginning his school career - I am imploring you to continue the MAA program to schools!!!

I have seen the benefits the program has brought to my child's school and know that there will need to be severe cuts in programs if the program is discontinued.

Please do not do that to the schools! Thank you....

**Submitter :** Gabe Borland  
**Organization :** Gabe Borland  
**Category :** Individual

**Date:** 11/03/2007

**Issue Areas/Comments**

**GENERAL**

**GENERAL**

The time to stand firm and make a decision that benefits our citizens of the future is now! Please do not eliminate the MAA program in the schools. Please stand up for our children and keep the MAA program intact!

**Submitter :** Hanley Yoffee

**Date:** 11/03/2007

**Organization :** Hanley Yoffee

**Category :** Physician

**Issue Areas/Comments**

**GENERAL**

GENERAL

As a physician, I know the MAA program is critical to the continued support of our children and their school programs. Please continue funding the program!!!

**Submitter :** Mr. Ken Lounds  
**Organization :** Clinton Co. RESA  
**Category :** Social Worker

**Date:** 11/04/2007

**Issue Areas/Comments**

**GENERAL**

**GENERAL**

See Attachment

CMS-2287-P-624-Attach-1.TXT



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):

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.

**Submitter :** Mrs. Janan Hughes  
**Organization :** Bellflower Unified School District  
**Category :** Academic

**Date:** 11/04/2007

**Issue Areas/Comments**

**GENERAL**

**GENERAL**

I am a principal of two elementary schools in Bellflower, California. I have been personally involved and have worked closely with and rely on a non-profit organization for several years. This organization, works to serve children through the schools, who are in need of physical and mental health services. One of the essential services that we are able to offer our families, through the MAA funding is our Case Managers. There are few sources of funding that are available to us to pay our Case Managers. This MAA funding in large part pays their salaries. It is hard to tell you how essential our Case Managers are to the schools. Some of our families are in positions that without the help they receive, attendance and success at school for their children would not occur. Having the Case Manager on site, gives our families a bit of comfort. By knowing there is someone on campus who knows them and how to refer them to the appropriate community resources, enroll them in Medical or Healthy Families, arrange for medical check-ups, and in many cases provide them with much needed eye glasses, that other wise they would have gone without, is priceless. Since I have been working in the school district I have seen what a difference it makes when children enter the classroom healthy and ready to learn. Our organization alone, working through just one school district, assisted 209 children last year with enrollment into the Medi-Cal or Healthy Families program. Schools are a logical place for families to access health services. Families are familiar and comfortable with the people and the school. The unique role played by schools as a health service portal is irreplaceable. Each principal in Bellflower has countless stories on the benefit of this program. For the sake of our children and their success and health, I urge you to continue your support for the school-based MAA program.

Janan Hughes,  
Principal

**Submitter :** Mrs. Amy Ziegler

**Date:** 11/04/2007

**Organization :** Mrs. Amy Ziegler

**Category :** Individual

**Issue Areas/Comments**

**GENERAL**

**GENERAL**

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.

**Submitter :**

**Date:** 11/04/2007

**Organization :**

**Category :** Individual

**Issue Areas/Comments**

**GENERAL**

**GENERAL**

We, in the educational field provide outreach services for many children who are eligible for Medicaid. This cut would effect not only our special needs children but also services needed by their families.

**Submitter :** Mrs. Lorie Gerkey  
**Organization :** CASE and Director of Exceptional Student Services  
**Category :** Individual

**Date:** 11/04/2007

**Issue Areas/Comments**

**GENERAL**

GENERAL

On behalf of AZ CASE and as the Director of Exceptional Student Services of Casa Grande Union High School District, I strongly oppose the implementation of this rule change. Schools have become an important and cost-effective provider of essential health services for students with disabilities. 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 also 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 implement this rule change.

**Submitter :** Ms. Jade Taylor  
**Organization :** Santa Cruz County Office Of Education  
**Category :** Social Worker

**Date:** 11/04/2007

**Issue Areas/Comments**

**GENERAL**

**GENERAL**

As the MAA coordinator for the Santa Cruz County Office of Education I have had the opportunity to observe the MAA revenues expand outreach to high risk populations in the alternative education department. Many of the young people connected to health and dental services by school staff had never received consistent medical care in the past. School staff have described grateful recipients of orthodontic screenings who state " My jaws hurt and I was ashamed to smile in front of people." Dental caries and poor health care are rampant in our population. We urge your support re: an amendment to Section 814 of HR 3162.



**Submitter :** Mrs. Vanessa Spring

**Date:** 11/04/2007

**Organization :** Mansfield City Schools

**Category :** Academic

**Issue Areas/Comments**

**GENERAL**

**GENERAL**

It is vital that the Medicaid funding be reinstated, Mansfield School District has a large population of socioeconomic disadvantaged families and once at school are able to receive necessary nurse and therapy attention.

CMS-2287-P-630-Attach-1.TXT

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.

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### **Major Issues and Concerns**

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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.

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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.

**Submitter :** Dr. Mary Estes  
**Organization :** University of North Texas  
**Category :** Academic

**Date:** 11/04/2007

**Issue Areas/Comments**

**GENERAL**

**GENERAL**

Elimination of the reimbursement would create an undue hardship on our children with disabilities and their families. Please continue Medicaid reimbursement. See attachment.

CMS-2287-P-631-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

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**Submitter :** Mrs. Jacqueline Ward  
**Organization :** Kingston K-14 School District  
**Category :** Academic

**Date:** 11/04/2007

**Issue Areas/Comments**

**GENERAL**

GENERAL

See Attachment

CMS-2287-P-632-Attach-1.DOC

CMS-2287-P-632-Attach-2.DOC

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

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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.

**Submitter :** d nep  
**Organization :** crps  
**Category :** Speech-Language Therapist

**Date:** 11/04/2007

**Issue Areas/Comments**

**GENERAL**

**GENERAL**

I don't like to time survey just to prove I provide outreach and monitor health services for my students and families. But the funds help support a number of on going health services. Please reconsider dumping MAA in California or at least come up with another funding model for states to draw upon funds for delivery of existing MAA services. Thanks

**Submitter :** Mrs. Nancy Unger

**Date:** 11/05/2007

**Organization :** Volusia County Schools, Volusia County, FL

**Category :** Academic

**Issue Areas/Comments**

**GENERAL**

GENERAL

Please See Attachment! Thank-you.

CMS-2287-P-634-Attach-1.DOC

CMS-2287-P-634-Attach-2.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.

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### **Conclusion**

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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.

**Submitter :** Ms. Kimberly Weaster  
**Organization :** n/a  
**Category :** Individual

**Date:** 11/05/2007

**Issue Areas/Comments**

**GENERAL**

**GENERAL**

I DO NOT SUPPORT this elimination of reimbursement for school administration expenditures and costs related to transportation of school age children. The passage of this proposed change will place further financial burden on schools and will potentially eliminate needed services for students with exceptionalities in other areas. I DO NOT SUPPORT this proposal.

**Submitter :** Miss. Jenna Schaberger  
**Organization :** Miss. Jenna Schaberger  
**Category :** Health Care Provider/Association

**Date:** 11/05/2007

**Issue Areas/Comments**

**GENERAL**

GENERAL

"See Attachment"

CMS-2287-P-636-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

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