

Submitter : Mrs. Susan Vaughn

Date: 11/06/2007

Organization : National Association of State Head Injury adminis

Category : Other Association

Issue Areas/Comments

GENERAL

GENERAL

See Attachment

CMS-2287-P-960-Attach-1.DOC



National Association of State Head Injury Administrators

4330 East West Highway, Suite 301, Bethesda, MD 20814
Voice: 301-656-3500 • Fax: 301-656-3530 • www.nashia.org

November 6, 2007

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Kenneth H. Currier
Direct: 301-656-3145
khcurrier@nashia.org

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

To Whom It May Concern:

The National Association of State Head Injury Administrators (NASHIA) is responding to your proposed rulemaking (NPRM) published in the *Federal Register* (CMS-2287-P) on September 7, 2007, that calls for the elimination of reimbursement under Medicaid for school-based administration expenditures and certain transportation costs for students with disabilities. NASHIA is concerned that the proposed rule will impose a significant financial burden on local school districts which will severely impact children with disabilities, including those with traumatic brain injuries, as well as students in regular education programs. Federal Medicaid reimbursement for administrative services is critically important for ensuring that schools are able to provide the appropriate outreach activities to link children to medical services, identify those students who may need medical screening and provide referral services in the community. Transportation reimbursement is necessary to accommodate students with special needs in order to transport children with disabilities to appropriate services.

Therefore, NASHIA is opposed to CMS-2287-P as it will impose a significant financial burden on local school districts, which are already under funded for special education and related services.

Sincerely,

William, A.B. Ditto, President
NASHIA Board of Directors

cc: Kenneth L. Currier

Submitter : Ms. Roberta Brown

Date: 11/06/2007

Organization : Ms. Roberta Brown

Category : Individual

Issue Areas/Comments

GENERAL

GENERAL

I strongly oppose the implementation of this rule change. Schools are important, cost-effective, and in many cases, primary providers of essential health services for disabled children. These children must be transported to school in small vans with special equipment and/or special staffing to meet their needs, which is their entitlement under federal law. The loss of this funding would severely impact school districts and their ability to provide services to all disabled children.

In addition, districts provide important outreach services to all children, providing information on Medicaid eligibility and services. They also provide essential and cost-effective care coordination for children with severe disabilities. This cut would impact not only funding but also services to families.

At this time in our history when so much attention is paid to the amount of money the United States is sending to other parts of the world, I strongly urge you to remember that our first duty is to the citizens of this country and especially to the most vulnerable among us, for that is the true test of a society.

Submitter : Mr. William Goodyear
Organization : City College of San Francisco
Category : Individual

Date: 11/06/2007

Issue Areas/Comments

GENERAL

GENERAL

See attachment

962

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

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

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

Submitter : Dr. Carter Ward
Organization : Missouri School Boards Association
Category : Other Association

Date: 11/06/2007

Issue Areas/Comments

GENERAL

GENERAL

See Attachment

CMS-2287-P-963-Attach-1.DOC

Missouri School Boards' Association
Helping School Boards Succeed



November 5, 2007

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

Re: *Comments on Proposed Rule CMS-2287-P*

On behalf of Missouri's 3,600 local school board members, the Missouri School Boards' Association (MSBA) strongly opposes the Centers for Medicare and Medicaid Services (CMS) proposed rule [CMS-2287-P] to eliminate reimbursement under Medicaid for school administration expenditures and certain transportation costs published in the *Federal Register* on September 7, 2007 and respectfully requests that the CMS not enact the proposed program changes as set forth in proposed rule CMS-2287-P.

Under the proposed rule, schools would be denied reimbursement for mandated, necessary administration services undertaken by school employees or contractors. These changes would create considerable hardships for public schools. In addition, the proposed rule is flawed in that it: 1) contradicts the terms of the statute to allow states flexibility in administering the state Medicaid plan; 2) exceeds Secretarial authority; and 3) discriminates against schools.

Further, cutting funding for Medicaid outreach and services in a school setting is neither sound fiscal or social policy. In proposing this rule, CMS will impose a significant financial burden on local school districts, estimated to cost more than \$3.6 billion over the first five years – including over \$150 million to Missouri's school children in this time period. Conversely, the proposed federal savings of this rule represents less than 0.2% of 2006 federal Medicaid expenditures—a minimal impact on the federal budget.

More importantly, this rule would create a lost opportunity to reach our most vulnerable children. Every school day, over nine hundred thousand students attend more than 2,000 public schools in Missouri, uniquely situating schools to efficiently reach the majority of disadvantaged youth and their families. If finalized, this rule will impede us from serving these populations.

1.) Statutory Authority

Under the federal-state Medicaid program, collaboration with other public agencies is a consistent statutory theme. Collaboration is paramount in the case of children, because of the unique requirements of the early and periodic screening, diagnostic and treatment (EPSDT) benefit, which requires states to perform EPSDT awareness and outreach, as well as help Medicaid-eligible children and their families access services.

Schools are and have been a strategic partner in this process. They are ideal places to identify Medicaid-eligible children and connect them to needed services in schools and their communities, since children must attend school and they have access to professional specialists on site. As CMS itself indicated, in its Medicaid School-Based Administrative Claiming Guide, "the school setting provides a unique opportunity to enroll eligible children in the Medicaid program, and to assist children who are already enrolled in Medicaid to access the benefits available to them."

Missouri School Boards' Association
Comments on Proposed Rule CMS-2287-P

Page 1 of 4

Because schools are such an effective location for outreach, many state Medicaid programs have entered into interagency agreements with local school systems. These agreements cover a range of activities including outreach, helping families through the Medicaid application process, and providing assistance to arrange necessary health care services for children.

School involvement in the Medicaid program is not only common among states, it is also expressly contemplated in statute. The statute's eligibility determination provisions expressly designate elementary and secondary schools as "qualified entities" for purposes of making presumptive and permanent eligibility determinations in order to afford eligible children and adults the ability to promptly apply for medical assistance and be enrolled. In addition, CMS' own State Medicaid Manual encourages state Medicaid agencies to coordinate EPSDT administrative activities with schools.

Furthermore, with respect to students with disabilities, Congress clearly intended to preclude the Secretary of Health and Human Services (HHS) from denying payment for Medicaid-covered services provided pursuant to a child's Individualized Education Program (IEP). Under the Medicare Catastrophic Coverage Act of 1988 (P.L. 100-360), school districts are allowed to receive payment from Medicaid as the primary payer for Medicaid services provided to Medicaid-eligible students under the Individuals with Disabilities Education Act (IDEA). Such services may include diagnostic, preventive, and rehabilitative services; speech, physical and occupational therapies; and transportation for such services. This proposed rule would expressly contradict the intent of this statute by reversing current policy that allows federal matching funds for transportation provided to children with special health care needs who receive health care services while they are at school.

2.) Secretarial Powers

In its proposed rule, CMS relies on its authority under §1903(a)(7) of the Act to limit federal payments for administrative services to payments "found necessary by the Secretary for the proper and efficient administration of the state plan." In making this assertion, the Secretary of HHS finds that these activities performed specifically by school employees are not "necessary...for the proper and efficient administration of the State [Medicaid] plan."

MSBA believes that Secretarial authority in this regard cannot be construed to limit the power of states to administer their plans, or to act in the best interest of beneficiaries, or to involve other agencies in plan administration—which is exactly what this rule would do. Such action constitutes an overstep of Secretarial powers and a willful disregard for Congressional intent. As noted above, Congress itself has involved schools in the administration of plans, therefore, as a matter of law the Secretary cannot find that school administration is improper or inefficient.

In addition, this rationale makes little sense. State Medicaid programs enter into interagency agreements with local school systems precisely because they are effective and efficient locations through which to reach families and provide services. School-based outreach and enrollment activities are successful because they use school staff that are trusted by families and are already in the schools and in contact with children and families. It is inconceivable to think that state agencies would be able to effectively manage a program of this size without relying on local agency personnel to help administer and communicate information about the program.

Secondly, the Secretary's power to deny federal financial participation is tied to the duty of making findings. In this case, CMS points to several audits and the failure of its 2003 Administrative Claiming Guide to halt errors related to school administration claiming. However, the reports of abusive billing that CMS cites took place well before states were required to implement the 2003 guidance. Furthermore, the fact that audits are happening is not a valid basis for halting federal administrative payments. Were audits the basis for such a disallowance, there would be no payment under federal law for any medical assistance costs or state administrative service undertaken by either the state agency or any other agency.

In the world of accounting, audits are a commonplace way of improving the fiscal management of a program, not dismantling it. Negative audit findings should not reverse worthwhile public policies, but rather should inform the process of improving their fiscal integrity. In issuing this rule, CMS would rather eliminate an entire program than accept responsibility for improving its accountability.

3.) Discriminates Against Schools

MSBA believes that the proposed rule overtly discriminates against schools since it attempts to disqualify local school districts from receiving Medicaid reimbursement for performing the same activities that other local agencies do in administering the state Medicaid plan. Despite statutory authority, case law, and precedent that establish an irrefutable basis for schools to receive Medicaid reimbursement, CMS seems set on prohibiting schools from receiving federal Medicaid dollars.

MSBA questions whether CMS is proposing that Medicaid agency staff should be stationed in schools to carry out administrative functions essential to securing health care services to Medicaid eligible children who need them. If this is the case, it should be noted that many state Medicaid agencies do not employ outreach and enrollment workers, service coordination personnel, or other personnel essential to the enrollment of children and carrying out EPSDT health care access obligations. As the statute illustrates, state agencies are expected to rely on other public agency staff to carry out their obligations. For those states that might have the resources available to commit their own employees into the schools, this certainly would be an inefficient approach.

In addition, the fact that other federal and local sources of funding exist to help provide health services to students with disabilities does not absolve the federal Medicaid program of its responsibility to provide payment for Medicaid services to Medicaid-eligible students. This issue was clearly decided by Congress with passage of the Medicare Catastrophic Coverage Act of 1988, which allows Medicaid to be the primary payer for Medicaid services for Medicaid-eligible students with disabilities. Schools should not be penalized financially, just because other departments of the federal government also have a responsibility to provide for these children. To propose so, is especially troublesome given that the federal government is woefully behind in its commitment to fund special education. In fact, current funding for IDEA is less than half of what Congress promised three decades ago to states and local school districts to implement this federal mandate.

4.) Impact on Services

The loss of federal reimbursement for administrative and transportation services provided by school districts would have a devastating impact on a schools' ability to provide needed services to Medicaid-eligible children. If finalized, this rule will risk low-income children not being identified for and receiving needed medical services.

The loss of this funding will have permeating effects on other programs within schools. With Congress failing to fully fund IDEA, Medicaid reimbursement helps districts plug some of these funding holes. In light of this, these cuts will likely impact students in regular education programs since districts are mandated to offer many special education services. This could mean a variety of things—from larger class sizes, to cuts in electives and after school activities, to reductions in teachers and support positions. Otherwise, governments may be forced to replace lost Medicaid dollars by raising state and/or local taxes.

5.) Financial Impact

Despite these very real and substantial costs, CMS indicates that this rule will not have a “significant economic impact” on local school districts. This finding is based on the assertion that the estimated cost (\$635 million in 2009) of the rule is only “about one eighth of one percent of the total annual spending on elementary and secondary schools” and therefore does not meet the 3 to 5 percent threshold of annual revenues or costs in determining whether a rule has a “significant” economic impact.

This rationale is flawed for a couple of reasons. As CMS clearly knows, not all school districts currently claim or receive FFP for administrative and transportation services. Federal funding is spread unevenly

between states, among districts, and between elementary and secondary schools. Therefore, to compare the cost of the proposed rule to overall nationwide spending for elementary and secondary education minimizes its financial impact. Additionally, a large percentage of school districts' budgets are largely fixed due to contractual obligations and operational costs. Therefore, discretionary funds such as Medicaid reimbursement dollars have a much more significant impact on the availability of resources than if all aspects of a district's budget were flexible.

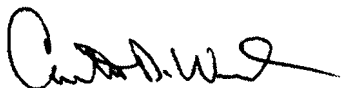
A more realistic financial analysis would: 1) examine the financial impact of the proposed cuts only on districts that actually claim for reimbursements; 2) take into consideration the unique aspects (such as fixed costs) of school districts budgets; and 3) include the likely loss of state Medicaid funding that would result from schools no longer being able to sustain these programs.

Conclusion

Unfortunately, this rule demonstrates that the Administration has chosen to rely on bureaucratic arguments in order to retreat from supporting the health needs of our most vulnerable children. Local school board members urge CMS to rescind this proposal and to reaffirm its commitment to low-income and disabled children by continuing to invest in school-based administrative and transportation services. In order to ensure that low-income children are enrolled in Medicaid and are able to access the health care services that they need, schools must be a valued partner in the process. Local school board members want to work together to provide for our nation's children—it is in the best interest of all of us to ensure that they are healthy and able to learn.

Thank you for this opportunity to comment on CMS-2287-P.

Sincerely,



Dr. Carter Ward
Executive Director

Submitter :

Date: 11/06/2007

Organization :

Category : Academic

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 on specialized vehicles and the loss of this funding would severely impact our school district and our ability to provide services to our disabled students. We also provide important outreach services to our families. This cut would not only impact our funding but also the services to our children.

Submitter : Ms. Darlene DeMore
Organization : PA DPW/Office of Medical Assistance Programs
Category : State Government

Date: 11/06/2007

Issue Areas/Comments

GENERAL

GENERAL

see Attachment

CMS-2287-P-965-Attach-1.DOC



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF PUBLIC WELFARE
P.O. BOX 2675
HARRISBURG, PENNSYLVANIA 17105

OFFICE OF MEDICAL
ASSISTANCE PROGRAMS

www.dpw.state.pa.us/omap

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

To whom it may concern:

COMMENT to CMS 2287-P

REGULATION: CMS Proposed Rule Regarding Medicaid Payment for School-Based Administrative Activities and Transportation Services

The Department of Education and the Department of Public Welfare of the Commonwealth of Pennsylvania (hereinafter referred to as PDE and DPW) submit these comments regarding Notice of Proposed Rulemaking *CMS-2287-P: Medicaid Program; Elimination of Reimbursement under Medicaid for School Administration Expenditures and Costs Related to Transportation of School-Age Children between Home and School.*

Since the implementation of the school-based Medicaid program in Pennsylvania in the 1992-93 school years, the Commonwealth has had a successful relationship with the Centers for Medicare and Medicaid Services (CMS) regarding our school-based administrative claiming and special education transportation programs. PDE and DPW take great pride in our joint partnership and our successful partnership with CMS in creating a program that is both beneficial to Pennsylvania children and local education agencies and operated with fiscal responsibility and efficiency.

The proposed rule would amend 42 CFR § 433.20 to eliminate administrative FFP (at 50% administrative rate) for any administrative activities conducted by school employees, school contractors, or anyone under the control of a public or private educational institution.

While the primary business of state and local education agencies should be and is educating our children, reality showcases the recognition that schools are an important focal point in identifying and intercepting children who are at risk for health and social ills, children *who would not otherwise receive needed services* because of

parents who are unaware of health care services or programs that can help their families or otherwise unable to access such services and programs. These children may then become at risk of increased medical issues due to lack of proper, timely treatment, and become an even greater burden on our medical system, and, ultimately, our Medicaid programs.

Schools serve a varied array of students, ranging from top-performing scholar/athletes to extremely medically fragile students. Our educators have needed to become experts not only in their instructional materials (see the *No Child Left Behind Act of 2001*, highly qualified teacher requirement), but also in managing a class containing physically and mentally disabled children. Schools are a refuge to many students who have little or no parental involvement at home. Numerous times during the day, school personnel intervene with students who suffer from physical or emotional problems. Child abuse, drug and alcohol abuse, teen pregnancy, and malnourishment are just a few of the non-educational issues facing school personnel. The ability to continue to identify and deal with these issues and finance these specialized services is key to the problems posed by CMS-2287-P. The elimination of federal funding will reduce or eliminate the resources available to conduct these activities that are critical to the health and welfare of our children.

Pennsylvania schools have historically worked with county agencies to seek remedies for this population of children. DPW believes that schools are appropriate agencies to carry out its mission to identify, enroll, and coordinate service for its recipients. If schools are forced to eliminate administrative services for this population, the burden will fall on this country's emergency rooms that are already overcrowded and ill-equipped to properly serve these children. The proposed rule will merely result in shifting outreach and coordination activities from schools to other public and private agencies, agencies that many times already rely on Medicaid as a primary funding source, and will certainly look to Medicaid to fund the influx this proposed change will bring.

The proposed rule would also amend 42 CFR §§431.53 and 440.170 to eliminate federal financial participation (at the state service match rate) for any transportation from home to school, and back for school-age children. This would also include specialized transportation.

Proposed cuts would directly affect the nation's special education population. Our special needs students can neither walk nor ride the regular school, where they receive medically necessary Medicaid services to address their needs; they are transported in small, expensive buses and vans that accommodate their unique physical or mental health needs. Special education students are transported to receive medically necessary Medicaid services to address their needs, not because they want a ride to school.

In the preamble to the proposed rule, CMS has explained that the administrative claiming and transportation reimbursement programs are susceptible to fraud and abuse. Those incidents should not lead to the elimination of a program beneficial to the health, welfare, and future value of our country's youth. Certainly, where problems exist, we should increase oversight and tighten up loopholes to discourage and prevent abuse.

The Commonwealth, its representatives, citizens, and children join in the hope that CMS will reconsider its pending actions, for the sake of the children we all serve.

Respectfully,

John J. Tommasini
Director, Bureau of Special Education
Pennsylvania Department of Education

Michael Nardone
Deputy Secretary for Medical Assistance Programs
Pennsylvania Department of Public Welfare

Submitter : Ms. Tanya Kennedy

Date: 11/06/2007

Organization : Humboldt Unified School District

Category : Academic

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 on specialized vehicles and the loss of this funding would severely impact our school district and our ability to provide services to our disabled students. We also provide important outreach services to our families. This cut would not only impact our funding but also the services to our children.

Submitter : Ms. jan johnson
Organization : Humboldt Unified School District
Category : Occupational Therapist

Date: 11/06/2007

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 on specialized vehicles with trained aides and the loss of this funding would severely impact our school district and our ability to provide services to our disabled students. Although often these children have physical disabilities we also have children who have emotional and behavioral disabilities. These children can be a danger to themselves and others when on a school bus with non-disabled children. The specialized school buses can be equipped to meet safety needs of a variety of disabilities; something not possible on regular school buses We also provide important outreach services to our families. This cut would not only impact our funding but also the services to our children.

Submitter :

Date: 11/06/2007

Organization :

Category : Individual

Issue Areas/Comments

GENERAL

GENERAL

See attachment

CMS-2287-P-968-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.

Submitter : Mrs. Carol DeCarvalho

Date: 11/06/2007

Organization : SCCOE

Category : Physical Therapist

Issue Areas/Comments

GENERAL

GENERAL

As a physical therapist working directly with children with special needs, I see how these funds directly benefit children. I urge you not eliminate reimbursements.

Submitter : Mr. Andre Robinson
Organization : Michigan Developmental Disabilities Council
Category : State Government

Date: 11/06/2007

Issue Areas/Comments

GENERAL

GENERAL

I am writing on behalf of the Michigan Developmental Disabilities Council, the designated state council on DD, authorized under Subtitle B of the DD Assistance and Bill of Rights Act of 20000 (DD Act).

Our comments on the proposed rule come out of a review by our Education Work Group. We are mainly concerned with how some of the changes will significantly impact the reimbursement by the schools for administrative expenditures and costs related to transportation of school age children between home and school, services received by persons in the educational system with DD.

Under the proposed rule, federal Medicaid payments would no longer be available for administrative activities performed by school employees or contractors, public or private, and for transportation from home to school and back for school-aged children with an Individualized Educational Program (IEP) or an Individualized Family Service Plan (IFSP) established pursuant to IDEA.

" Under section 1903 (a) (7) of the Social Security Act, federal payment is currently available at a rate of 50% of amount expended by a state as found necessary by the Secretary for the proper and efficient administration of the state plan. CMS has previously recognized that schools perform activities that provide support for the Medicaid State plan, however the 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) of being necessary for the proper and efficient administration of the State plan.

o The CMS technical assistance guide published in 1997 states that schools present a wonderful opportunity for Medicaid outreach. Schools are a primary outreach setting, and without their services, many children would not be linked to Medicaid eligibility and necessary medical care and services. The fact that Medicaid is able to provide outreach to the majority of children in one setting is both cost effective and a most efficient care delivery mechanism.

o If CMS is using the OMB A-87 test for reasonable and allocable costs, it is clear that services meet the test criteria and should be allowed.

o Reference is made to overlapping Medicaid activities with educational activities. The majority of states now perform RMTS to identify properly covered activities and allocate the cost between what is educational and what is Medicaid-related. To infer that school-based allocation methodologies are invalid is an assault against school based programs.

" Since the start of the program, the Federal government has recognized that transportation is essential to the administration of the State plan, to ensure that beneficiaries have access to covered services. Furthermore, CFR 431.53 require that the State plans specify that the Medicaid agency will ensure necessary transportation for recipients to and from providers.

o The proposed regulations indicate that transportation is not appropriate coverage because beneficiaries participate in other activities in addition to receiving Medicaid-covered services. Medicaid policy regarding any type of medical transportation does not restrict the beneficiary from participating in any other activities before returning home from the place of treatment. It is unreasonable to apply this judgmental statement only to specialized medical transportation provided by schools.

" Section 1903(c) of the Act, as amended in 1988, prohibits the Secretary from denying or restricting Federal Medicaid Payment to States for covered services furnished to a child with a disability on the basis that the services are included in the child's IEP or IFSP established pursuant to the IDEA.

Thank you for considering our comments. Please contact council staff at (517) 334-6123 with questions.

Submitter : Nancy Maxson

Date: 11/06/2007

Organization : Ventura Unified School District

Category : Other Health Care Professional

Issue Areas/Comments

GENERAL

GENERAL

The MAA program has provided our students with the opportunity to receive services that they would not otherwise have access to. It has also encouraged collaboration within our county between public and private providers, public health and social services. It would be devastating to our district if these services and the funds they provide were lost. In addition, the school nurses, physical and occupational therapists, psychologists, counselors and other 'health' professionals have immediate access to the students here at the schools, which allows us to help the kids at a central location rather than make the parent (who may not have transportation or may work 2 or 3 jobs) go to a clinic. We can provide most of the basic health care services at the schools and with early diagnosis, may be able to prevent even further problems from occurring. I would strongly oppose any elimination of the Medicaid program and the reimbursement system, unless it meant more allowable reimbursements for school based services.

Submitter : Dr. Trudy Arriaga
Organization : Ventura Unified
Category : Academic

Date: 11/06/2007

Issue Areas/Comments

GENERAL

GENERAL

As Superintendent of the Ventura Unified School District, it is vitally important that the MAA program continue in our school district. The opportunity to ensure healthcare for our children without insurance is critical to the well being of our children and their ability to excel in their academic performance. MAA has been the catalyst to make our employees aware and proactive about communicating Medical coverage to the parents of all students. As the superintendent, it is critical that this program continue to benefit our children as it directly correlates to their individual success and wellness of a community. MAA has strengthened the awareness for services provided in our community and the benefit to all children is invaluable. I strongly urge and encourage the continuation of MAA. This is a program we cannot afford to be without as we work toward closing the academic achievement gap and ensuring the success of all students.

Submitter : Ms. Mary Squellati

Date: 11/06/2007

Organization : Economic Opportunity Commission/LuciaMarUnifiedSch

Category : Other Practitioner

Issue Areas/Comments

GENERAL

GENERAL

Our first priority at our Nipomo Family Resource Center, a school-based collaborative, is our students' academic achievement and without meeting the students basic needs first this is not possible. Without Medi-Cal Administrative Activities, MAA reimbursement funding, we could not provide necessary services, such as family resources, counseling, community referrals, parenting education, health and nutrition counseling, substance abuse prevention materials, and overall support for families in need. MAA reimbursement monies are a necessity for meeting our students academic, health, safety, and social needs. Please continue the MAA funding for the well-being of our youth who are our future.

Submitter : Ms. Sharon Walsh

Date: 11/06/2007

Organization : The Division for Early Childhood (DEC) of the Coun

Category : Other Association

Issue Areas/Comments

GENERAL

GENERAL

See attachment.

CMS-2287-P-974-Attach-1.DOC



**The Division for Early Childhood of the Council for
Exceptional Children (DEC)**

November 6, 2007

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

These comments are submitted in collaboration with the Council for Exceptional Children (CEC) on behalf of the Division for Early Childhood of the Council for Exceptional Children (DEC). DEC is a professional membership organization whose mission is to promote policies and advance evidence-based practices that support families and enhance the optimal development of young children who have or are at risk for developmental delays and disabilities. DEC appreciates this opportunity to provide comments 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.

DEC is deeply concerned about the devastating impact that the proposed 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

DEC has major issues with the proposed rule. We believe it should be withdrawn. We 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.'" We 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.

DEC believes 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. We believe that this proposed rule prevents a necessary dialogue between federal officials, state Medicaid officials, other state officials (including individuals responsible for general education, programs for children with disabilities, developmental disabilities, and public health), services providers, and representatives of affected Medicaid populations.

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, DEC believes 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.

DEC urges the Secretary 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 Medicaid-eligible children who receive services under Part B and Part C of the Individuals with Disabilities Education Act and for considering our recommendations.

For further information please contact:

Sarah Mulligan, DEC Executive Director 406-543-0872

Mark Innocenti, DEC President 435-797-2006

Bonnie Keilty, DEC Governmental Relations Committee Chair 704-687-7998

Sharon Walsh, DEC Consultant 703-250-4935

Submitter : Mrs. Janie Welty

Date: 11/06/2007

Organization : Educator

Category : Academic

Issue Areas/Comments

GENERAL

GENERAL

It is critical that you OPPOSE Rule 2287-p!!!! Many children are going to have their health needs go UNMET because of the proposed elimination of the Medicaid Administrative Match funding. Schools have access to students daily, they have the trust and confidence of the communities that they serve (students, siblings and parents) and they are in the position to promote access and share health insurance information with students. This is a very efficient way to reach children in need!!!! Do what is right for the health of OUR children, oppose Rule 2287-p

Submitter : Angela Plecker

Date: 11/06/2007

Organization : Bath County Public Schools

Category : Nurse Practitioner

Issue Areas/Comments

GENERAL

GENERAL

I think it would be very difficult to remove reimbursement from small school divisions. We are mandated by law to provide certain services to our students yet we are not given the funding to support them. Small school divisions that are not given alot of federal or state funds due to small numbers have to rely on local government funds that are not always there. This extra source from reimbursement makes a huge difference to this school division. Please do not eliminate these sources of reimbursement for schools.

Submitter : Dr. Paul Haughey
Organization : Uxbridge Public Schools
Category : Local Government

Date: 11/06/2007

Issue Areas/Comments

GENERAL

GENERAL

Implementation of these regulations will pose an enormous financial burden on already cash-strapped schools and early childhood providers. We are a small public school district that is counting every dime and watching every expenditure closely.

I strongly believe CMS-2287-P will dessimate districts like ours.

Submitter : Mrs. Lori Baniewicz
Organization : Harbor Creek School District
Category : Academic

Date: 11/06/2007

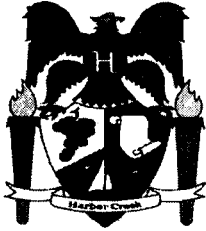
Issue Areas/Comments

GENERAL

GENERAL

See attachment

CMS-2287-P-978-Attach-1.DOC



HARBOR CREEK SCHOOL DISTRICT
6375 BUFFALO ROAD
HARBORCREEK, PA 16421

November 8, 2007

Leslie V. Norwalk, Acting Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-2287-P, Mail Stop S3-14-22,
7500 Security Boulevard, Baltimore, MD 21244

Re: File Code CMS-2287-P
Proposed Amendments to Medicaid Implementing
Regulation, 42 C.F.R. §§ 433.20 and 440.170

Dear Ms. Norwalk:

I am writing as a representative of the Harbor Creek School District on behalf of the students, staff, administration, and taxpayers. Currently, the Harbor Creek School District serves over 2200 students, with 362 of the students are designated in need Special Educations services. The Harbor Creek School District is aware and concerned over the reduction of the Medicaid program through the proposed revision of Section 433.20 and 440.170. The proposed revisions will impose a significant financial burden on the Harbor Creek School District, which is estimated to cost \$100,000 in just the first year. As a result of these cuts, schools will be forced to limit services or replace lost Medicaid dollars by passing the costs to taxpayers. CMS-2287P will make it more difficult for schools to provide needed services to students with disabilities at a time when the federal government is already woefully behind its initial commitment to fund 40% of the national per pupil expense to provide these services.

In both Section 1903(c) of the Social Security Act and, more recently, in Section 612(a)(12) of the Individuals with Disabilities Education Act, 20 U.S.C. § 1412(a)(12), Congress has plainly recognized that federal and state funding sources other than public education are available to meet the often extraordinary costs of providing special education and related services to children with disabilities, and that these other funding sources, expressly including Medicaid, are to be the sources of *first* resort for these children.

In the case of administrative costs, the proposed revision not only fails to assign responsibility where Congress plainly intended it to be assigned, it fails also to serve the purpose that CMS proposes in its analysis: "the proper and efficient administration of the State plan." 72 FED. REG. No. 173, at 51398 (Sept. 7, 2007). The Secretary does not "question the legitimacy of the types of Medicaid administrative activities provided in schools," *id.*, but has apparently determined that such administrative activities are more efficiently performed by state and local Medicaid agency staff. In reality, this is not the case. The assignment of administrative duties to Medicaid staff will simply establish a duplicate bureaucracy at the state and federal levels, not, as the Secretary intends, promote "efficient administration of the State plan." The staff who provide services in the public schools to children who are both disabled within the meaning of the IDEA and eligible for Medicaid are the occupational therapists, physical therapists, speech and language therapists, behavior specialists, mobile therapists, and orientation and mobility trainers, among others, who are either employees of, or contractors for, the various local education agencies. They therefore necessarily fall within the supervisory responsibility of special education or student services administrators employed by those agencies, a responsibility that cannot be ceded to non-educators employed by state and local Medical

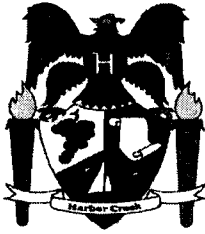
Assistance Offices. The proposed regulation thus will have the inevitable effect of encouraging the establishment of an additional state and local bureaucracy for the purpose of overseeing Medicaid paperwork and billing by public school employees and contractors without eliminating the existing bureaucracy within the public schools that supervises the work of these same employees and contractors. Such redundancy hardly promotes "efficiency."

Specialized transportation services for children with disabilities falls squarely within the definition of "related services" under the IDEA, *see* 34 C.F.R. § 300.34(c)(16), as does every other form of Medicaid-supported school-based program or service. Neither the proposed revision to Section 440.170(a)(1) nor the commentary accompanying it offers the slightest basis for distinguishing transportation from other historically-recognized school-related Medicaid services. Indeed, CMS continues to recognize the importance of funding community-based specialized transportation for purposes other than public school attendance. Such service is critical to the development of independence and integration of persons with disabilities into the community. For most school-aged children with disabilities, school is not only an important but is often the *only* means of community contact and integration. The proposed revision shifts the enormous burden of this critical service entirely onto the state and local education system without any corresponding upward adjustment of federal support under the IDEA or other education programs. This concentration of fiscal burden is exactly what Congress sought to avoid by enacting the aforementioned provisions of both the Social Security Act and the IDEA.

We appreciate the opportunity to offer our concerns to you. We hope you will receive them as they are intended: a good faith effort to work with CMS as a fiscal and programmatic partner in meeting the needs of the most vulnerable in our society.

Sincerely,

Lori J. Baniewicz
Director of Special Education



HARBOR CREEK SCHOOL DISTRICT
6375 BUFFALO ROAD
HARBORCREEK, PA 16421

November 8, 2007

Leslie V. Norwalk, Acting Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-2287-P, Mail Stop S3-14-22,
7500 Security Boulevard, Baltimore, MD 21244

Re: File Code CMS-2287-P
Proposed Amendments to Medicaid Implementing
Regulation, 42 C.F.R. §§ 433.20 and 440.170

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In the case of administrative costs, the proposed revision not only fails to assign responsibility where Congress plainly intended it to be assigned, it fails also to serve the purpose that CMS proposes in its analysis: "the proper and efficient administration of the State plan." 72 FED. REG. No. 173, at 51398 (Sept. 7, 2007). The Secretary does not "question the legitimacy of the types of Medicaid administrative activities provided in schools," *id.*, but has apparently determined that such administrative activities are more efficiently performed by state and local Medicaid agency staff. In reality, this is not the case. The assignment of administrative duties to Medicaid staff will simply establish a duplicate bureaucracy at the state and federal levels, not, as the Secretary intends, promote "efficient administration of the State plan." The staff who provide services in the public schools to children who are both disabled within the meaning of the IDEA and eligible for Medicaid are the occupational therapists, physical therapists, speech and language therapists, behavior specialists, mobile therapists, and orientation and mobility trainers, among others, who are either employees of, or contractors for, the various local education agencies. They therefore necessarily fall within the supervisory responsibility of special education or student services administrators employed by those agencies, a responsibility that cannot be ceded to non-educators employed by state and local Medical

Assistance Offices. The proposed regulation thus will have the inevitable effect of encouraging the establishment of an additional state and local bureaucracy for the purpose of overseeing Medicaid paperwork and billing by public school employees and contractors without eliminating the existing bureaucracy within the public schools that supervises the work of these same employees and contractors. Such redundancy hardly promotes "efficiency."

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We appreciate the opportunity to offer our concerns to you. We hope you will receive them as they are intended: a good faith effort to work with CMS as a fiscal and programmatic partner in meeting the needs of the most vulnerable in our society.

Sincerely,

Lori J. Baniewicz
Director of Special Education

Submitter : Mr. Jerry DeGriek

Date: 11/06/2007

Organization : City of Seattle

Category : Local Government

Issue Areas/Comments

GENERAL

GENERAL

I am the Public Health Manager and Policy Advisor for the City of Seattle. I work in the Director's Office of the City's Human Services Department. The City strongly opposes proposed Rule 2287-P. We believe that the impact of this rule, if enacted, would be that fewer low-income children will enroll and access needed Medicaid health services. In order to reach high need children and help them enroll and be connected with the health services they need, it is important to be able to reach them where they are. Schools represent a primary venue to reach children and their families. The capacity of school staff such as nurses and family support workers to be able to help connect children with health services will be severely and negatively impacted should you adopt the proposed rule. In Seattle, the school district's family support worker program, funded in part by the City, would be seriously compromised and there would be far fewer staff available to enroll children into Medicaid and to help them access services.

The City does not agree at all with the premise of the proposed rule. CMS has determined that, "activities performed by school staff are no longer necessary for the efficient administration of any state's Medicaid program." There is no justification or rationale for this determination. Also, we believe that states, not the federal government, are in the best position to judge what is needed to create efficient systems to assure Medicaid enrollment and access.

CMS has alleged fraud and abuse as reasons for the proposed rule, but fails to provide evidence of this. Also, these alleged abuses, if they have taken place, could be dealt with effectively with oversight and guidance as are in the 2003 Guide.

The proposed rule will hamper the ability of states to develop effective systems to enroll and serve children eligible for Medicaid. We encourage you to withdraw the proposed rule. Please contact me at jerry.degriek@seattle.gov, or 206-684-0684, if I can provide you with additional information. Thank you for this opportunity to comment.

Jerry DeGriek

Submitter : Dr. Susan Allen
Organization : Harrison School District
Category : Academic

Date: 11/06/2007

Issue Areas/Comments

GENERAL

GENERAL

File Code: CMS-2287-P

I strongly urge those with oversight responsibilities for the school-based administration costs for Medicaid expenses, referred to in Arkansas as ARMAC, to support the continuation of this resource for schools. Our district uses the funds to support vision and hearing screenings and health-related supplies for our special education and general education classrooms. With shrinking funds and rising student needs, this funding as been integral to providing basic health-related services.

Again, I respectfully request the continuation of this vital resource to public education.

Submitter : Mrs. LINDA WILSON

Date: 11/06/2007

Organization : Mrs. LINDA WILSON

Category : Individual

Issue Areas/Comments

GENERAL

GENERAL

I was fortunate to have had medical coverage for my children through my employer for most of their young years. Today most employers do not offer affordable coverage for families. It is critical for parents to be aware of the services available to them if they can not afford or have no way to secure family medical coverage. These people would not know about programs for their children if they were not informed in a safe, caring environment such as the school their children attend. They know that the information they get at the schools is correct and confidential. They can take advantage of what is already in place to make sure their children are healthy and can mature into productive community members who in turn may provide these services for those who follow. The health care issue in this country is frightening and controversial, but the information given out at the schools is straight forward and non-committal. We must keep this process in place and protect not only our future citizens, but the entire population of today.
Thank you

Submitter : Mrs.
Organization : Mrs.
Category : Academic

Date: 11/06/2007

Issue Areas/Comments

GENERAL

GENERAL

I oppose the implementation of rule change. These funds help desperately with our Special Ed. students.

Submitter : Ms. Julie Mabie

Date: 11/06/2007

Organization : Gilroy Unified School Distric

Category : Nurse

Issue Areas/Comments

GENERAL

GENERAL

MAA is a wonderful opportunity to obtain funds for Health Services. We already are experiencing shortages of an adequate number of Nurses, Clerks, etc. Every day we do education and referrals for Health related services for our students/families. It is an integral part of our position to obtain medical, dental, vision, mental health, etc. services for the children that we serve. Preventative care can not be over-estimated. Rather than have to give medical care to a Type II Diabetic for the next 50 years (very expensive), it would be far more effective and far reaching to teach and refer students to programs that stress health, exercise, and a healthy diet (ie, an overall healthy lifestyle.) It would be a travesty to cut this type of funding to the Schools that really use and benefit from the Services. A sickly child can not learn! Thank you.

CMS-2287-P-984

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

Submitter :

Date & Time: 11/06/2007

Organization :

Category : Academic

Issue Areas/Comments

GENERAL

I oppose the implementation of the rule change. School districts provide special transportation for students with special needs as well as outreach programs to the families and the lack of funding would impact the school district's ability to provide these needed services to this population.

CMS-2287-P-985

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

Submitter : Ms. Jane Patrick

Date & Time: 11/06/2007

Organization : Otter Tail Family Services Collaborative

Category : Other Association

Issue Areas/Comments

GENERAL

See Attachment

Working Together...Serving Families...Improving Lives

November 6, 2007

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

RE: File code CMS-2287-P



Dear Centers for Medicare and Medicaid Services:

On behalf of the Otter Tail Family Services Collaborative in Minnesota, we are writing to express opposition to the proposed rule that the Center for Medicare and Medicaid Services (CMS) announced on September 7, 2007. This proposed rule would eliminate Medicaid reimbursement for administrative costs for services provided to students with disabilities as required by the Individuals with Disabilities Act (IDEA). We urge you to withdraw implementation of the proposed rule since we believe promulgation will be harmful to the most vulnerable of our school districts' children - those with disabilities who are also members of low-income families.

We are concerned that this rule will reduce the availability of, and access to, needed health care for these students. Medicaid reimbursement for administrative services is critically important to ensure that schools are able to provide appropriate outreach activities that link children to medical services, identify those students who may need medical screening, and provide referral services in the community. Since 2000, our Collaborative and the eight school districts comprised of nearly 10,000 students have increased mental health services to children experiencing emotional and severe emotional disorders. In part, such services have been made possible by the funding mechanisms allowed by school-based administrative claiming of Medicaid funds. This proposed rule would eliminate such funding and the services to these children in need.

The Medicare Catastrophic Coverage Act of 1988 allows school districts to receive Medicaid payments for health services delivered to Medicaid eligible children. Children with disabilities are often in need of additional services, including the administrative costs of providing school-based services such as outreach for enrollment purposes, coordination and/or monitoring of medical care. A rule to prohibit schools from claiming these expenses would contradict existing law and seriously impede the ability of states and school districts to provide these services. Major reductions in Medicaid reimbursements will severely restrict the ability of Minnesota's family services and mental health collaboratives, in coordination with local school districts, to provide much-needed mental health care services to disabled children.

We urge you to reconsider implementing this proposed administrative change and to work with states and school districts to ensure that all children receive the health services that they deserve. Without access to appropriate health care, children with disabilities will experience additional challenges in their efforts to make progress consistent with the No Child Left Behind goals and objectives.

Thank you for your time and consideration.

Sincerely,

Jane Patrick

Jane Patrick, Collaborative Coordinator
 Otter Tail Family Services Collaborative

John Dinsmore

John Dinsmore, CEO Group Chairperson
 Otter Tail Family Services Collaborative

530 W. Fir, Fergus Falls, MN 56537 and on the web at www.otfsc.org

Coordinator: Jane Patrick • Phone: (218) 736-3458 • Fax (218) 998-3763 • e-mail: patrick@prtcl.com

Submitter : Mrs. Patrice Sparks
Organization : elementary school
Category : Other Health Care Professional
Issue Areas/Comments

Date: 11/06/2007

GENERAL

GENERAL

Transportation and corresponding services are very important. Please reconsider cutting them, as it will not fare well with those who need these services.

Submitter : Mrs. Lisa Doyle
Organization : Lexington R-V School District
Category : Individual

Date: 11/06/2007

Issue Areas/Comments

GENERAL

GENERAL

See attachment

#987

FILE:///ELECTRONIC%20COMMENTS/ELECTRONIC%20COMMENTS/E-Comments/Active%20Files/Missing%20file1.txt

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

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

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

Submitter :

Date: 11/06/2007

Organization :

Category : Academic

Issue Areas/Comments

GENERAL

GENERAL

Do not eliminate this reimbursement!!! It is needed to provide additional therapists for children with autism and language disorders. The monies also provide for occupational therapist services. Special Ed students are always getting the short end as the laws are never fully funded. Please don't take away this money!

Submitter : Mr. Jesus Vaca

Date: 11/06/2007

Organization : Ventura Unified School District

Category : Academic

Issue Areas/Comments

GENERAL

GENERAL

To Whom It May Concern,

As a practicing school principal, I know about the importance of attendance in relation to learning. Yet, many of our students do not attend school in a consistent manner due to their lack of Health Insurance. The MAA program is the catalyst that makes our teachers and staff aware and proactive to share this vital information with our parents who lack medical insurance. This in turn has maintained our students, parents and community well informed and aware of the medical coverage available through Medi-cal. Without the MAA program thousands of children and young adults will not access the medi-cal program and thus continue to lose out on classroom instruction. Than you in advance for your attention of this important matter.

Jesus Vaca