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NC Commission on Children with Special Health Care Needs

Jarrett Barnhill, MD, Chair

November 1, 2007

Centers for Medicare & Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244

Response to CMS-2287-P

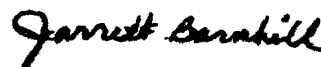
On behalf of the North Carolina Commission on Children with Special Health Care Needs, I would like to express the Commission's disapproval of the CMS Proposed Rule 2287-P. This proposed rule will eliminate federal reimbursement under Medicaid for costs of certain administrative and transportation services for students with disabilities.

The Commission's charge is to monitor and evaluate the availability and provision of health services for special needs children in North Carolina. In North Carolina, 49% of schoolchildren live below the poverty line. Our public schools serve nearly 193,000 children who receive special education services and the impact to these students would be tremendous. At this time, IDEA funds a small percentage of the overall costs to serve the students. When Congress passed the Medicare Catastrophic Coverage Act of 1988, it allowed Medicaid to reimburse school districts for Individualized Education Program services to Medicaid-eligible children as long as the services are covered in the Medicaid State Plan. These services have been vital for children with special needs in our state.

CMS-2287-P will impose a major financial burden on local school districts and will make it more difficult for schools to provide the much needed services to students with disabilities. This regulation will also disallow federal payment for services such as outfitting buses with specialized equipment and transporting children to much needed medical services in the community. The future of our state relies on how well we can improve the health and well-being of our students.

The North Carolina Commission on Children with Special Health Care Needs appreciates your consideration of our concerns and urges you to preserve the capacity of all schools to provide these critical services to Medicaid-eligible children. Thank you for your attention to this important matter.

Sincerely,



Jarrett Barnhill, MD
Commission Chair



Capistrano Unified School District

Excellence in Education

33122 Valle Road, San Juan Capistrano, CA 92675

Telephone (949) 234-9380/FAX 489-86

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October 30, 2007

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ARNOLD W. CARTER

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

SUBJECT: Stop CMS-2287-P

Dear Secretary ^{Sir,} Leavitt:

As Superintendent for Capistrano Unified School District, California, I am writing to respectfully urge you to stop implementation of CMS-2287-P.

Capistrano Unified School District earned \$1,829,513 through California School-Based Medi-Cal Administrative Activities (SMAA) performed during the 2004/2005 fiscal year, the most recent year claimed. The revenue has enabled our district to continue identifying children for Medi-Cal and connecting them to appropriate health services in school and in our community.

Loss of SMAA revenue would substantially reduce our ability to provide instructional services and improve infrastructure. For example, lower class sizes and technological improvements, along with increased custodial services are major areas where we need financial support. Other items that need financial support are transportation and special education as expenses continue to rise. The addition of SMAA revenue would greatly assist in minimizing the overall impact to the district's budget.

Respectfully,

A. Woodrow Carter
Interim Superintendent

AWC:jb

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IS
ABUSE

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FERGUS FALLS PUBLIC SCHOOLS

• 1519 PEBBLE LAKE ROAD, FERGUS FALLS, MINNESOTA 56537 • (218) 998-0544 • Fax (218)998-3952 •

• OFFICE OF THE SUPERINTENDENT •

Gerald Ness, Superintendent
jness@fergusfalls.k12.mn.us

November 1, 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 Fergus Falls Public School District, I am 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 and transportation 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 district's 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.

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 transportation for diagnostic, preventive and rehabilitative services and therapies, as well as 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 for claiming these expenses would contradict existing law and seriously impede the ability of states and school districts to provide these services, which are mandated under IDEA.

The federal government is only funding approximately 20 percent of the national average per pupil expenditure for each child in special education instead of the 40 percent that Congress promised to pay when IDEA was first enacted. Major reductions in Medicaid reimbursements will severely restrict the ability of states and local school districts to provide much-needed 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,



Jerry Ness, Superintendent

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Kirksville R-III School District

Administrative Offices
1901 E. Hamilton
Kirksville, Missouri 63501-3904

Phone (660) 665-7774
Fax (660) 665-3281

October 25, 2007

Center for Medicaid Services
Attn. CMS-2287-P
Mail Stop S3-14-22
7500 Security Blvd.
Baltimore, MD 21244

Ladies and Gentlemen:

Kirksville R-III is very proud of the Division of Special Education in our District. Professional teachers are trained to treat each child as an individual. Visit our website, www.kirksville.k12.mo.us to find out more about the services we offer our students!

Medicaid funds help pay salaries for Occupational Therapists, Physical Therapists, and Speech Therapists.

Professional Staff:

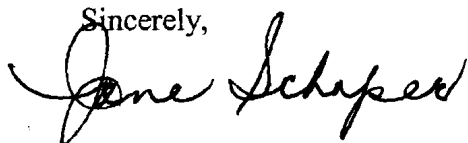
Sarah Erhart	Speech Therapist
Deborah Gering	Speech Therapist
Jennifer Hamilton	ECSE Speech Therapist

Krista Snow	Occupational Therapist
Jeff Silvernail	Occupational Therapist
Stacie Hudson	Occupational Therapist

Kristen Gillette	Physical Therapist
------------------	--------------------

Thank you for the funds we receive to help us employ highly qualified, caring staff to implement our mission that ALL students will achieve their potential and become productive citizens.

Sincerely,



Jane Schaper
Assistant Superintendent



EDENTON-CHOWAN SCHOOLS

OFFICE OF THE SUPERINTENDENT

Post Office Box 206 Edenton, North Carolina 27932
Telephone: (252) 482-4436 Fax: (252) 482-7309
www.ecps.k12.nc.us

Allan T. Smith, *Superintendent*

November 2, 2007

Secretary Michael O. Leavitt
Department of Health and Human Services

Administrator Leslie V. Norwalk
Centers for Medicare and Medicaid Services

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

Dear Secretary Leavitt and Administrator Norwalk:

I am writing to go on record as strongly opposing the regulation proposed by the Centers for Medicare and Medicaid Services (CMS) published in the Federal Register that would eliminate school-based reimbursements now paid with Medicaid dollars (CMS 2287-P). This rule eliminates services provided to special needs students including medical care plans, referral and scheduling of multiple clinicians and practitioners, parent outreach to ensure that eligible children enrolled in the Medicaid program and transportation costs to implement the program.

In Chowan County, these changes in funding would represent a loss of services to more than 300 identified special needs students we currently serve. If these dollars are lost, it will only exacerbate the existing deficit in state supported funding for Chowan County's special needs children.

I respectfully request that you withdraw CMS 2287-P.

Sincerely,

Allan T. Smith, Ed.D
Superintendent

112

1234 Market Street
Philadelphia, PA 19107-3780
(215) 580-7800
Fax (215) 580-3636



Southeastern Pennsylvania Transportation Authority
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General Manager
Faye L. M. Moore

November 6, 2007

Centers for Medicare and Medicaid Services
US Dept. of Health and Human Services
Attention: CMS-2287-P
Post Office Box 8017
Baltimore, MD 21244-8017

Re: Notice of Proposed Rulemaking
Docket Number CMS-2287-P
Reimbursement – Transportation for School-Age Children

Dear Administrator McClellan:

The Southeastern Pennsylvania Transportation Authority (SEPTA) offers these comments in response to the Notice of Proposed Rulemaking (NPRM) concerning Elimination of Reimbursement Under Medicaid for School Administration Expenditures and Costs Related to Transportation of School-Age Children Between Home and School, published in the Federal Register on September 7, 2007, beginning at 72 F.R. 51397.

SEPTA has grave concerns about the cost and human and service impacts of the proposed changeover. Essentially, SEPTA believes that the proposed rule should be withdrawn pending comprehensive analyses of its potential impact, associated costs, and direct conflict with existing regulations and federal directives. SEPTA understands that these regulations propose new definitions of eligible expenditures and costs associated with transportation of school-age children with disabilities who are eligible for Medical Assistance (MA). However, inasmuch as the proposed changes appear to encourage passing Medicaid-funded transportation (MAT) responsibilities to public transportation agencies, such as SEPTA, without adequate funding (a practice known as "HHS client-shedding", but referred to in this NPRM as "negative transfer"), SEPTA has an interest in these proposed regulations and therefore submits its comments.

The Americans with Disabilities Act Excludes School Transportation from Public Transit's ADA Paratransit Requirement.

ADA Complementary Paratransit trips for pupils to and from elementary and secondary schools are ineligible trips and are not now provided by public transit.¹ Current statutes and regulations do not permit public transit to assume responsibility for school transportation of children with disabilities. The Americans with Disabilities Act (PL 101-336) of 1990 specifically excludes public school transportation from its definition of "designated public transportation" (Subtitle B, Part I, Sec. 221 – Definitions, (2)): *The term "designated public transportation" means transportation (other than public school transportation) by bus, rail, or any other conveyance (other than transportation by aircraft or intercity or commuter rail transportation (as defined in Section 241) that provides the general public with general or special service (including charter service) on a regular and continuing basis.*

¹ A non-school trip for a pupil (e.g., for a late afternoon appointment) is an eligible trip.

For this reason, U. S. Department of Transportation (USDOT) ADA regulations do not address school transportation, either as a form of public transportation requiring provision of complementary paratransit service, or with regard to vehicle design and accessibility. USDOT regulations cover school bus operations in 49 CFR, Part 605, where public transit properties are prohibited from providing designated school service in federally funded vehicles.

ADA Paratransit Systems are not designed to provide the level of service this population requires.

Even if federal regulations permitted SEPTA to provide school trips, there are significant issues associated with adding school trips by child Medicaid registrants to SEPTA's present paratransit ridership:

- Increased competition for scarce paratransit resources when capacity is already strained: Adding school trips by children will damage the availability of existing service to those who have no other transportation option—ADA paratransit registrants—and for whom such service is a civil right. SEPTA cannot immediately accommodate 500 additional weekday trips, 70% of which are at peak hours, and continue to meet FTA's requirement of zero ADA capacity denials. Moreover, to complete procurements for additional contact transportation and new vehicle purchases, 7 to 9 months would be required.
- Higher service level these passengers require: Co-mingling MA-eligible school riders and ADA service will compromise present service quality, especially on-time performance. SEPTA offers public transit, not medical transportation. Historically, among southeastern Pennsylvania MATP users, almost 3,000 of the 5,000-plus daily scheduled MATP paratransit trips have been behavioral health trips, with one in three requiring an escort on the vehicle and some requiring individual personal care attendants. All require custodial (hand-to-hand) service and some, through-door service. About 800 of those behavioral health clients have been children, some with profound mental health issues, many with both physical and cognitive disabilities. ADA paratransit service does not offer and is not required to provide aides on vehicles, personal care attendants, through-door service, or medical transportation. Its transit and paratransit operations are not covered by HIPAA. And transit cannot simply purchase additional vehicles to segregate disparate populations according to level of service—the inefficiency and higher cost involved make this step prohibitively expensive.
- Driver/aide employment and training: SEPTA drivers are not trained to work with at-risk populations such as this. Additional background checks (child abuse registry) and training would be required, adding costs.
- Cost impacts: In the case of SEPTA, for example, the proposed rule makes such service insupportable. SEPTA's fare for ADA paratransit riders (\$4) is already well below the cost of providing current service (\$26 per trip for vehicles without aides). Two years ago, SEPTA estimated that adding 500 peak hour trips by MA-eligible adults each weekday would incur an additional \$3.6 million in costs of transportation, added vehicles and staff. As described above, if those 500 trips were school trips they would require added outlays for aide/driver hiring and training and increased insurance due to liability concerns. Because aides are required, more vehicles would be necessary than when transporting adults.

Executive Order 13330 ("Human Services Transportation Coordination")

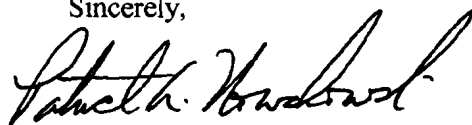
Executive Order 13330 (February 2004) mandates coordinated provision of human service transportation in 62 federal programs and establishes the Interagency Transportation Coordinating Council on Access and Mobility, which represents 11 federal departments, including DHHS. This federal interagency initiative at the national level was created to overcome obstacles to cooperation and develop coordinated human service delivery systems. Nonetheless, even though CMS may believe that this NPRM represents the spirit of Coordination, the actions it proposes in the absence of any funding will, de facto, impede Coordination (and require states to undertake less efficient, more costly, non-coordinated transportation.)

Regulatory Impact Statement

Section V of the NPRM (p. 51401) acknowledges that the proposed regulations clearly will impose major costs on state and local governments. Shifting costs of Medicaid paratransit for school-age children, which the NPRM estimates as \$635 million for FY2009 and \$3.6 billion over the first five years, to other entities without any funding ignores both the extraordinarily high costs of operating this service due to the needs of this passenger group, and the capital expenditures to purchase the many additional vehicles required to transport these new riders and their aides. Costs imposed on state or local authorities and their public transportation agencies by this proposed rule obviously far exceed the thresholds for the Regulatory Flexibility Act (\$100 million) and Unfunded Mandates Reform Act (\$130 million). These Acts oblige the Centers for Medicare and Medicaid Services to perform a financial impact analysis of the numbers of Medicaid paratransit trips potentially being shifted to other agencies.

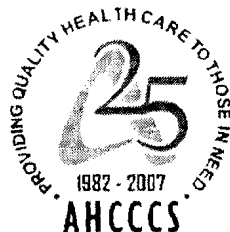
Thank you for this opportunity to comment on these proposals.

Sincerely,



FOR Faye L. M. Moore
General Manager

Janet Napolitano, Governor
Anthony D. Rodgers, Director



113
801 E. Jefferson, Phoenix, AZ 85034
P.O. Box 25520, Phoenix, AZ 85002
Phone: 602-417-4000
www.azahcccs.gov

October 31, 2007

Mr. Kerry Weems
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

Dear Mr. Weems:

As Director of the Arizona Health Care Cost Containment System (AHCCCS), I am sharing my concerns about the proposed regulations regarding the elimination of Medicaid reimbursement for school-based health services and the elimination of transportation coverage, published at 72 Federal Register 51397 (September 7, 2007). AHCCCS is the state agency that administers Arizona's Medicaid program, which covers over one million members.

To begin with, it is critical to consider the value of Medicaid reimbursement for school-based health care. School districts play a critical role in ensuring that students receive necessary medical services, and in some cases, the only way some students get the services they need. Numerous studies show that having access to health care services reduces the risk that illness or injury will go untreated or create economic hardships for families.¹ Research also shows that children with health insurance and access to health care services are less likely to receive their care in the emergency room, and they do better in school.² There is no question that the lack in needed, as well as preventive medical care impacts a child's overall well-being, along with his or her performance in school. By cutting these payments to schools, students could be forced to remain at home rather than attending school. Or if they do attend school with untreated chronic health care problems, they will not be attentive learners, will frequently be absent, and will not achieve their fullest potential.

Currently, the Medicaid Administrative Claiming program reimburses contracted Local Education Agencies (LEA) for outreach and administrative activities. This program would be eliminated in its entirety if the proposed rules are implemented as published. The reimbursement to Arizona LEAs was approximately \$4 million during the last state fiscal year. In addition, the proposed rules would eliminate reimbursement for transportation from home to school and school to home for Medicaid-eligible services on school grounds that are deemed necessary through an Individualized Education Plan is rendered during the same day on school grounds, could no longer be claimed. In the last state fiscal year, Arizona LEAs received approximately \$7.7 million in reimbursement from transportation services. The majority of the type of transportation services currently covered in the Direct Service Claiming program in Arizona would be eliminated.

¹ Dubay, L., & Kenney, G. M., Health Care Access and Use Among Low-Income Children: Who Fares Best? *Health Affairs*, January/February 2001, vol. 20(1), pp. 112-21

² Children's Health Assessment Project, 2002 The Health of Arizona's School Children: Key finding of Two Surveys by Louis Harris and Associates, The Flinn Foundation, 1993.

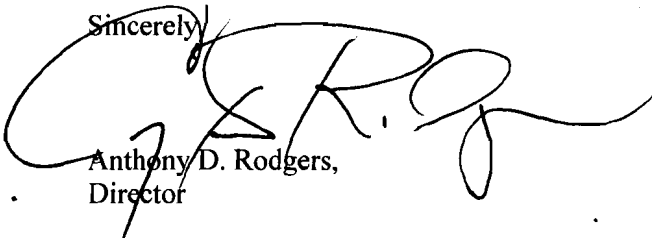
In reviewing the notice and proposed rule, it appears that CMS has significant concerns regarding accountability in the use of Medicaid funds. The notice asserts costs related to certain activities are "not necessary for the proper and efficient administration of the State plan, nor do they meet the definition of an optional transportation benefit." 72 Fed. Reg. 51397, 51398. While I support ensuring the integrity of the Medicaid program, the solution is not to scrap the program altogether, removing billions of dollars from programs that coordinate care, particularly in the early identification of child health needs for Medicaid-eligible students. Rather, steps should be taken at the federal level to ensure school-based administrative claiming is conducted appropriately with limitations and guidelines set by the Centers for Medicare and Medicaid Services.

There is a long history of federal Medicaid policy whereby CMS has recognized the essential link between Medicaid, schools, and providing health care for low-income children with health care needs. In 1975, with the passage of the Education for All Handicapped Children Act (EAHCA; Public Law 94-142), followed by the Individuals with Disabilities Education Act (IDEA; Public Law 105-17) in 1997, Congress enabled the provision of specialized services for students with disabilities. In keeping with that objective, Congress also passed the Medicare Catastrophic Coverage Act of 1988 (MCCA; Public Law 100-360). This legislation works to assist schools by providing reimbursement for the delivery of some of the mandated medical IDEA services. With the passage of IDEA, Congress demonstrated it understood there would be a fiscal impact to states by the mandate. Congress agreed to provide additional funding to states to implement IDEA requirements. Most recently in 2004, when IDEA was reauthorized in Public Law 108-446, according to the Act, the purpose of IDEA was to ensure children with disabilities have a free and appropriate public education with an emphasis on special education and related services designed to meet their unique needs and prepare them for further education, employment and independent living, and to ensure that the rights of children and their parents are protected. IDEA also intended to assist states, localities, educational services and federal agencies to provide for the education of all children with disabilities and to assess, and ensure the effectiveness of, efforts to educate children with disabilities. Specifically, section 611 of the Act provides that a state can receive up to 40% of the average per pupil expenditures. Unfortunately, since IDEA's initial passage and reauthorization, Congress has failed to fully deliver on the initial promised funding. As a result, states and local districts have worked to meet the requirements of IDEA in spite of continuing federal funding shortfalls.

Furthermore, Medicaid is a federal/state partnership that gives states discretion in establishing service and program reimbursement methodologies consistent with program goals and that assures maintenance of effort within budget neutrality targets. However, such proposed regulatory cuts in payments to schools for providing healthcare undermine the State's discretion and, as a result, threaten services that ensure that children with serious and chronic conditions can get the health care they need so they can go to school.

I urge you to reconsider the proposed changes to school-based Medicaid claiming and allow school districts to continue to claim administrative and transportation costs associated with providing health services to Medicaid-eligible students with special needs. Thank you for this opportunity to comment on the proposed regulation.

Sincerely,


Anthony D. Rodgers,
Director

Stokes County Schools

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ADMINISTRATION
Nelson Jessup
Superintendent

October 31, 2007

Secretary Michael O. Leavitt
Department of Health and Human Services

Administrator Leslie V. Norwalk
Centers for Medicare and Medicaid Services

Re: CMS 2287-P

Dear Secretary Leavitt and Administrator Norwalk:

On behalf of the Stokes County Board of Education, I am writing to strongly oppose the regulation proposed by the Centers for Medicare and Medicaid Services (CMS) published in the Federal Register that would eliminate school-based reimbursements now paid with Medicaid dollars (CMS-2287-P). The funding the Stokes County School System has and is receiving from the Medicaid Administrative Claim and Medicaid Fee for Service is vital to this school system. Since the 2001-2002 school year through October 2007, this school system has received \$222,061.73 from MAC. This school system just started the Fee for Service during the 2005-2006 school year and has received funding in the amount of \$257,937.95 through October 31, 2007.

The impact of losing these funds would be felt by all students in Stokes County. This county is presently using these dollars to support the special needs children. Without this funding, in order to meet the mandates and requirements of serving special needs students, 1150 in Stokes County Schools, regular instructional programs would be impacted because other local, state and federal funds would have to be shifted, if allowable, to meet the special children mandates. This school system is not receiving enough other state and federal dollars to provide the funds needed even though grant writing is done

each year to obtain monies available. It is difficult to employ teachers certified in the special needs area and in order to provide related services the school system is contracting with outside vendors who charge a very expensive hourly rate.

On behalf of the Stokes County Board of Education, I respectfully request that you withdraw CMS 2287-P.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Nelson Jessup". The signature is written in a cursive style with a large, sweeping initial "M".

M. Nelson Jessup
Superintendent, Stokes County Schools



Pelican Rapids Public Schools

P.O. Box 642
Pelican Rapids, Minnesota 56572-0642

DEBORAH WANEK, Superintendent
Phone (218) 863-5910 • Fax (218) 863-5915

115
GLENN MOERKE
High School Principal
Phone 863-5910

CRYSTAL THORSON
Elementary Principal
Phone 863-2911

DONALD BECK
Activities Director
Phone 863-5910

November 1, 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 Pelican Rapids Public School District, I am 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 and transportation 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 district's 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.

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 transportation for diagnostic, preventive and rehabilitative services and therapies, as well as 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 for claiming these expenses would contradict existing law and seriously impede the ability of states and school districts to provide these services, which are mandated under IDEA.

The federal government is only funding approximately 20 percent of the national average per pupil expenditure for each child in special education instead of the 40 percent that Congress promised to pay when IDEA was first enacted. Major reductions in Medicaid reimbursements will severely restrict the ability of states and local school districts to provide much-needed 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,

Deborah Wanek, Superintendent

116-

Calexico

Unified School District

P. O. Box 792
901 Andrade Avenue
Calexico, CA 92232-0792
(760) 768-3888 X-3010
FAX: (760) 768-3856

David Alvarez
Superintendent
dalvarez@calexico.k12.ca.us

November 2, 2007

HHS Secretary 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

Dear Secretary Leavitt:

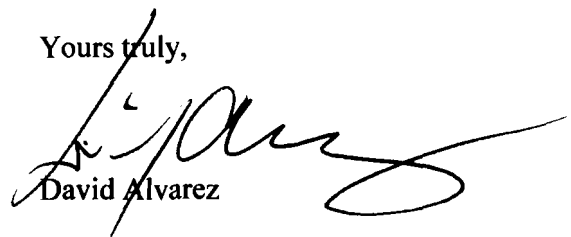
As Superintendent for Calexico Unified School District, California, I am writing to respectfully urge you to stop implementation of CMS-2287-P.

Calexico Unified School District earned \$44,508 through California School-Based Medi-Cal Administrative Activities (SMAA) performed during the 2004/2005 fiscal year, the most recent year claimed. The revenue has enabled our districts to continue identifying children for Medi-Cal and connecting them to appropriate health services in school and in our community.

Loss of the SMAA revenue would substantially reduce our ability to hire nurses, social workers and specialized health professionals, 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 within the community, coordinate services to meet student needs required for NCLB, and sustain Healthy Start centers and health clinics.

As you can see, Calexico Unified School District stands to lose funding for much needed services with the continued implementation of CMS-2287-P. Therefore, we respectfully ask that you consider our plea and discontinue the implementation of CMS-2287-P.

Yours truly,



David Alvarez

DA:s



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STATE OF WASHINGTON
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
P.O. Box 45502, Olympia, Washington 98504-5502

October 31, 2007

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

Dear Sirs:

This letter is in response to the Proposed Rule listed in the Federal Register/Volume72, number 173/ Friday, September 7, 2007 **Medicaid Program; Elimination of Reimbursement Under Medicaid for School Administration Expenditure and Costs Related to Transportation of School Age Children Between Home and School.**

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 quality health care. Beginning in 1989, the state of Washington implemented a Medicaid Administrative Match program to so that children and their families could benefit from this distinctive setting. In 2003, the program was updated to reflect the requirements outlined in May 2003, Centers for Medicare and Medicaid Services, Medicaid School-Based Administrative Claiming Guide.

Washington State acknowledges that CMS has long-standing concerns regarding improper billing for administrative costs, but we are equally concerned that CMS plans to end a program that has helped many Washington State children gain access to affordable, quality health care. Washington State recommends that CMS instead consider the "Specialized Medicaid Staff" model as a viable alternative to program elimination. The model combines safeguards against improper and fraudulent billing with program preservation. The State of Washington presented the model to Region X CMS in January 2006.

Under the Specialized Medicaid Staff (SMS) model proposed by Washington State, select school district staff would receive intensive training in Medicaid services, outreach, referrals, eligibility, and the application process. Teaching and administrative staff would identify students who are potentially eligible for Medicaid and direct these students to the SMS for connection with appropriate Medicaid eligibility/services. Typically, Specialized Medicaid Staff would be counselors, school nurses and social workers. SMS would be responsible for outreach, application assistance, coordination of Medicaid services, and diffusion of information to potentially eligible students and their families.

October 31, 2007
Page Two

There would be a number of positive results from this program revision. Most important, children and their families would gain from services provided by well-informed staff. School districts would also benefit from decreased administrative burden. Finally, from the monitoring perspective, the presence of fewer but more knowledgeable program staff would simplify the process and improve program adherence.

In summary, Washington State contends that schools are a critical link to ensure that students get the health care that they need in order to learn and grow into independent and responsible citizens. If CMS eliminates administrative claiming, that important link will be broken. Although our state is sensitive to the CMS concerns regarding inappropriate or fraudulent claiming, we think that a measured and thoughtful response is in order. To that end, Washington strongly recommends that CMS convene a workgroup of participating states to explore options similar to the model proposed in 2006.

Sincerely,

A handwritten signature in cursive script, appearing to read "Douglas Porter".

Douglas Porter, Assistant Secretary
Health and Recovery Services Administration



South Carolina
Department of Education

Together, we can.

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

To Whom It May Concern:

The South Carolina Department of Education (SCDE) Office of School-Based Health Finance (OSBHF) respectfully submits this comment letter on proposed rule CMS 2287-P that would eliminate Medicaid reimbursement for school-based administrative expenditures and costs related to the transportation of school-aged children between home and school. This rule will impose a negative financial impact on South Carolina schools. Without federal financial participation or Medicaid reimbursement, South Carolina schools will be forced to either shift costs associated with school-based administrative and transportation services to already limited and dwindling state resources, eliminate or reduce the quality of services provided, or seek additional revenues through tax increases. Additionally, this rule will create significant barriers for South Carolina children with disabilities trying to access and maintain health insurance coverage through Medicaid.

We urge the Centers for Medicare and Medicaid Services (CMS) to not eliminate funding for these needed school-based services. We appreciate the opportunity to provide you with the following comments.

I. Background

B. Medicaid and Schools

We take issue with this section of the proposed rule whereby it is "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". School-based administrative claiming and transportation serve Medicaid-eligible students in the very locations where they and their families can be reached most efficiently - the school setting. In fact, CMS' 2003 Medicaid School-based Administrative Claiming Guide states the following:

"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. Medicaid, a joint state-federal program, offers reimbursement for both the provision of covered medical services and for the costs of administrative activities, such as outreach, which support the Medicaid program." The Guide states further that "contemporary schools are engaged in a variety of activities that would not traditionally be thought of as education. In carrying out the mission of meeting the educational needs of their students, schools find themselves delivering many different services to students that help ensure that students come to school healthy and ready to learn and that students can benefit from instructional services More and more schools are engaged in Medicaid outreach activities to inform students and their families about the availability of Medicaid and the State Children's Health Insurance Program and to assist them in applying for these programs. . . . Expenditures for administrative activities in support of these school-based services, including outreach and coordination, may be claimed as costs of administering the state Medicaid plan"

To now take the position that school-based services such as outreach, informing, and care coordination are "not necessary for the proper and efficient administration of the Medicaid program" is short-sighted, unreasonable and is contrary to long-standing policy and beliefs that schools are important and integral components in ensuring that healthy children learn better. It is also interesting that at a time when Congress and the President are both proposing to expand the State Children's Health Insurance Program or S-CHIP to ensure health insurance access and coverage for even more of our nation's children, the CMS is advocating eliminating outreach activities performed by schools - one of the institutional entities that has proven to be highly effective in identifying children in need of health insurance coverage and providing them and their families with outreach and other eligibility information.

Also, as more and more children obtain health insurance coverage through S-CHIP, it is critical that sufficient and appropriate case management be maintained to ensure quality and appropriateness of such medical services. Schools, given their unique role in the community and the trusting relationships they have cultivated with parents and families, enhance our community health care delivery system. As such, schools and school districts should be allowed to obtain Medicaid reimbursement for outreach and/or case management activities. CMS has, in the recent past, eliminated Medicaid reimbursement for case management activities. Now, through this rule, outreach activities are to be discontinued for reimbursement. It should be our goal to improve our current health care delivery system and provide access to health care for our children and other vulnerable populations of our citizenry.

For CMS to eliminate Medicaid reimbursement for both case management and administrative outreach activities is nefarious and threatens the existing health care community infrastructure.

D. Improper Billing

CMS indicates in this rule that it "has long-standing concerns about improper billing by school districts for administrative costs and transportation services." In lieu of implementing CMS 2287-P to eliminate Medicaid reimbursement for these services, we recommend that CMS use its rulemaking authority in a more constructive manner by defining clear guidance, criteria and limitations specifically for claiming federal financial participation for allowable costs of schools related to Medicaid administrative and transportation activities. CMS' Office of Inspector General's (OIG's) previous reviews of states' school-based Medicaid claiming programs have surely provided valuable insight both to CMS and states that can result in better guidance about the program overall and more effective oversight by CMS.

If CMS were to discontinue Medicaid reimbursement for every provider group that had problems with billing, there would be no provider groups available to then bill Medicaid. The past billing efforts of school districts have not been criminal. Granted, a small portion of this provider community has encountered problems in correctly billing Medicaid; but such is not justification for disallowing an entire provider group from billing Medicaid. States and school districts are eager to work with CMS to clarify incorrect and improper billing practices and to develop policies for the program that will ensure its quality and preserve the original intent of the program to reimburse school districts for legitimate activities they perform in support of Medicaid.

II. Provisions of the Proposed Regulations

This proposed rule specifies "that FFP under the Medicaid program will not be available for school-based administrative and certain transportation costs unless conducted by employees of the State or local Medicaid agency." Federal financial participation in the costs of outreach, informing, and care coordination is available to **all public entities** performing such activities on behalf of the Medicaid program. As evidenced by federal law and the Medicaid and School Health Technical Assistance Guide, August 1997, Congress and the federal government have encouraged Medicaid to share in schools' costs for meeting the medical needs of students with disabilities. The Medicare Catastrophic Coverage Act of 1988 expressly allows Medicaid to reimburse school districts for state plan covered services (including transportation) that schools provide pursuant to the Individualized Education programs of Medicaid-eligible children with disabilities. This rule singles out this one class

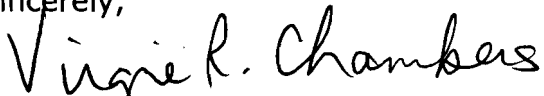
November 5, 2007

of public entities - school districts - and disallows reimbursement for their outreach activities. Such provision is beyond CMS' rulemaking authority.

We concur with the National School Board Association's (NSBA) 2006 letter that a rule to prohibit schools from claiming administrative and transportation expenses would not only contradict existing law but also circumvent Congressional intent. Likewise, a 2007 letter from the Council of Great City Schools, the Council of Administrators of Special Education, the National Association of State Boards of Education and others noted, "At a time when the federal government is funding barely 18 percent of the national average per-pupil expenditures for each child in special education instead of the 40 percent that Congress promised to pay when IDEA was first enacted, major cutbacks in Medicaid reimbursements will severely restrict the ability of states and local school districts to provide much-needed health care services to disabled children."

South Carolina is proud of its school-based Medicaid administrative claiming program. We recognize that schools are active participants in the day-to-day lives of our students. As such, they are active partners in ensuring not only the educational but also the health well-being of our children. We respectfully request that CMS continue to recognize and support this unique role of schools by continuing to contribute federal funds, as promised by Congress, for all school-based health services, including administrative claiming and transportation activities.

Sincerely,


Virgie R. Chambers
Director
Office of School-Based Health Finance

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**Sweet, Stevens,
Katz & Williams LLP**

Practice Limited to Education and Employment Law

CHARLES N. SWEET
ELLIS H. KATZ
JANE M. WILLIAMS
HOLLIE B. JOHN
GINA K. DEPIETRO
MICHAEL J. CONNOLLY
STEPHEN J. JACOBSON
SHARON W. MONTANYE
MARK FITZGERALD
JONATHAN P. RIBA
RICHARD B. GALTMAN
JENNIFER DONALDSON

November 5, 2007

OF COUNSEL
ANDREW E. FAUST

PAUL L. STEVENS
(1947-2001)

VIA FEDERAL EXPRESS

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:

We represent the Chester County Intermediate Unit ("CCIU") and the Berks County Intermediate Unit ("BCIU"), two regional public education agencies that serves thousands of children with disabilities in Chester and Berks Counties, located in southeastern Pennsylvania. CCIU, BCIU, and the thirty public school districts that they serve in meeting the needs of preschool and school-age children with disabilities are deeply concerned by the curtailment of the Medicaid program embodied in the proposed revision of Sections 433.20 and 440.170 of the Medicaid implementing regulations. The intent of Congress could not be more clear concerning the overlapping responsibilities of the Medicaid program and the public schools to meet the needs of children with disabilities. These proposed revisions could not more blatantly contravene that intent.

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 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, however, 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."

The Secretary appears to justify the proposed change as much on "inconsistent application of Medicaid requirements by schools," *id.*, as on inefficiency. The commentary accompanying the regulations offers absolutely nothing to substantiate this accusation of "inconsistency." If, however, public school administrators are more "inconsistent" in applying Medicaid guidelines than are state and local Medicaid staff, the solution appears rather straightforward: provide the same training and information to local education agencies that CMS has provided, and presumably still provides, to Medicaid staff.

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. If you have any questions or concerns about these comments, do not hesitate to contact the undersigned at (215) 348-5862, or

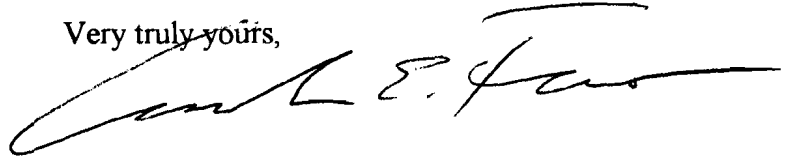
 *Sweet, Stevens,
Katz & Williams LLP*

Practice Limited to Education and Employment Law

Leslie V. Norwalk, Acting Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
November 5, 2007
Page 3

Dr. Ron Farkas, Director of Student Services, Chester County Intermediate Unit, at (484) 237-5120, or Dr. Arlene Otis, Director of Student Services, Berks County Intermediate Unit, at (610) 987-8510.

Very truly yours,



Andrew E. Faust
SWEET, STEVENS, KATZ & WILLIAMS LLP

cc: Dr. Joseph O'Brien, Executive Director
Dr. Nancy Allmon, Executive Director
Dr. Ron Farkas
Dr. Ambrose Finnegan
Dr. Arlene Otis
Ms. Beth Liddle
Chester and Berks County Superintendents and
Administrators of Special Education,



**AMERICAN
PUBLIC
TRANSPORTATION
ASSOCIATION**

November 6, 2007

Centers for Medicare and Medicaid Services
Department of Health and Human Services
Attn: CMS-2287-P
Post Office Box 8017
Baltimore, Maryland 21244-8017

RE: Comments to Docket Number CMS-2287-P

Administrator McClellan:

On behalf of the more than 1,500 member organizations of the American Public Transportation Association (APTA), I write to provide comment on the Centers for Medicare and Medicaid Services' (CMS) Notice of Proposed Rulemaking (NPRM) concerning Elimination of Reimbursement Under Medicaid for School Administration Expenditures and Costs Related to Transportation of School-Age Children Between Home and School, published September 7, 2007, at 72 FR 51397.

About APTA

APTA is a non-profit international trade association of more than 1,500 public and private member organizations, including transit systems; planning, design, construction and finance firms; product and service providers; academic institutions; and state associations and departments of transportation. More than ninety percent of Americans who use public transportation are served by APTA member transit systems.

The Proposed Rule Will Force States to Splinter Coordinated Transportation Plans or Lose Federal Funding

The determination that transportation is "only necessary for the proper and efficient administration of the State plan when conducted by employees of the State or local Medicaid agency" flies in the face of the concept of coordinated transportation planning dictated by Executive Order 13330 (EO 13330), *Human Services Transportation Coordination*, issued February 24, 2004. That Executive Order directs the Secretary of Health and Human Services to promote interagency cooperation in the provision of transportation services. To determine that transportation is only necessary when performed 'in-house' directly contradicts EO 13330 and fails to recognize the efficiencies available when transportation is a coordinated undertaking. Moreover, it is unlikely that most local agencies could economically or practically substitute 'in-house' services for those available through partnership with local public transportation agencies.

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- Chair*
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Commuter and Intercity Rail
- President*
William W. Miller

The proposed rule should be withdrawn and the matter submitted to the Interagency Transportation Coordinating Council, created by EO 13330, to ensure any future CMS rulemaking remains consistent with the United We Ride Program and the Executive Order.

The Proposed Rule Abandons Long-Standing Practices Without Authority

As recognized in the NPRM itself, this rule abandons CMS' own guidance, specifically the May 2003 "Medicaid School-Based Administrative Claiming Guide," CMS' May 21, 1999 letter to State Medicaid Directors, and the 1997 guidance in "Medicaid and School Health: A Technical Assistance Guide." Although the underlying statutory basis for transportation services has not changed in any significant aspect and no change in underlying facts is cited, CMS seeks to reinterpret that statutory basis as it applies new definitions of necessity. With at least ten years of guidance issued by CMS and intervening reauthorization of the program, it is clear that Congress believes the long standing practices were consistent with Congressional intent. We believe it is beyond CMS' authority to make this drastic alteration in the program without specific legislative direction.

The Proposed Rule is a Poor Response to Perceptions of Abuse

The NPRM discusses, in section I.D., CMS' concerns with fraud, abuse, and improper allocation of costs. Rather than address specific concerns or allegations, CMS has elected to eliminate virtually all reimbursement for school transportation, without regard to necessity. We suggest this draconian response is not only unwise but, as explained above, effected without legislative authority and should be immediately rescinded. CMS' admitted inability to adequately regulate or oversee its program does not justify ending the program.

This Proposed Rule Would Effectively Transfer the Costs of Transporting Children to Local Public Transportation Agencies

The result of this proposed rule is inescapable – the \$3.6 billion dollars cited in the NPRM would amount to a \$3.6 billion burden on state and local authorities. Public transportation agencies, already overtaxed by the most extensive ridership in 50 years would find themselves responsible for unreimbursed expenses of transporting thousands of students in complementary paratransit services designed for persons whose disabilities limit them from using fixed route transit services.

Taken together with CMS' August 24, 2007 proposal to severely limit reimbursement for non-emergency medical transportation services provided by public transportation agencies (Notice of Proposed Rulemaking, Non-Emergency Medical Transportation, 72 FR 48604, docket number CMS-2234-P, this amounts to a major abdication of CMS responsibility and an unprecedented shift of financial burdens from CMS to state and local authorities and their public transportation agencies. Clearly, CMS' analysis under the *Unfunded Mandates Reform Act* and otherwise is substantially flawed. To conclude that local government *always* had the responsibility to pay these massive costs but that CMS has somehow gratuitously provided funding over the years

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10:30 am

Page 1 of 2

Young, Sheila L. (CMS/OSORA)

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From: Nixon, Karen E. (CMS/OSORA)
Sent: Wednesday, October 31, 2007 10:01 AM
To: Young, Sheila L. (CMS/OSORA)
Subject: FW: Save the MAA Program

Please handle... Thanks

From: White, Jacquelyn Y. (CMS/OSORA)
Sent: Tuesday, October 30, 2007 6:10 PM
To: Nixon, Karen E. (CMS/OSORA)
Subject: FW: Save the MAA Program

Please control. Thank you.

From: Kerry Weems (OA)
Sent: Tuesday, October 30, 2007 5:28 PM
To: White, Jacquelyn Y. (CMS/OSORA)
Subject: FW: Save the MAA Program

From: paul johnson [mailto:unclepljj@earthlink.net]
Sent: Tuesday, October 30, 2007 1:24 AM
To: Weems, Kerry (CMS/OA)
Subject: Save the MAA Program

Kerry N. Weems Acting Administrator,

As the Department Chair of the Disabled Students Programs and Services at City College of San Francisco, I would like to comment on the importance of the MAA Program to our students and their family members – especially their minor children. As you are probably aware, disability and low income tend to be tied together. Making students with disabilities aware of Medi-Cal resources is very important in helping them to maintain a healthy lifestyle and deal with medical problems that might otherwise derail their educational plans.

I urge you not to eliminate the MAA for the following reasons:

- The MAA program is an efficient way of reaching the target audience where they are already involved as opposed to having to go somewhere else to get information.
- Students come to our counselors for information when they are dealing with issues, oftentimes medical, that impede their educational process so we are ideally situated to disseminate information.
- In our institution with its multiple campuses in local neighborhoods, we are ideally situated to disseminate information across cultural and ethnic barriers.
- The program helps to insure adequate medical care for disabled students and their families who are often low income and uninsured.
- The program helps become aware of Medi-Cal services available through our Student Health

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Center.

- MAA helps insure that students with disabilities, many of whom have impaired immune systems, receive necessary vaccinations

Among other things needed for success in college, adequate medical services such as hospital and emergency room care, doctor's visits, vision care, prescription drugs, mental health and other services are vital to students with disabilities (as well as to all students). The MAA Program makes students aware that these services are often available through Medi-Cal for them and their minor children. For these reasons I urge you to continue the MAA program.

Sincerely,

Paul L. Johnson
Department Chair
Disabled Students Programs and Services
City College of San Francisco
50 Phelan Avenue, R323
San Francisco, CA 94112

Home address:
643 Webster Street, Apt. 5
San Francisco, CA 94117

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AMERICAN
PSYCHOLOGICAL
ASSOCIATION

November 6, 2007

Secretary Michael O. Leavitt
Centers for Medicare & Medicaid Services
U.S. Department of Health and Human Services
7500 Security Boulevard
Baltimore, MD 21244

File Code: 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

Dear Secretary Leavitt:

On behalf of the 148,000 members and affiliates of the American Psychological Association (APA), I would like to thank you for the opportunity to comment on the September 7 Proposed Rule regarding the elimination of reimbursement under Medicaid for school administration expenditures and costs related to transportation of school-age children between home and school. We appreciate the time and effort that the Centers for Medicare and Medicaid Services (CMS) dedicates towards drafting these proposed regulations to provide for much-needed beneficiary protections and to ensure fiscal integrity in the provision of Medicaid school-based services.

APA is the largest scientific and professional organization representing psychology in the United States and is the world's largest association of psychologists. Comprised of researchers, educators, clinicians, consultants, and graduate students, APA works to advance psychology as a science, a profession, and a means of promoting health, education and human welfare. APA has a long-standing commitment to promoting the optimal development and care of low-income children and children with disabilities.

The issues below highlight several concerns regarding the proposed regulations. We hope that you will consider these comments as you work to develop the final regulation.

FISCAL INTEGRITY AND EFFICIENCY

The proposed rule to eliminate reimbursement under the Medicaid program is based on a Secretarial finding that the activities related to school administration

expenditures and costs related to transportation of school-age children between home and school is “not necessary for the proper and efficient administration of the State plan.”

The elimination of these reimbursements would inevitably shift the financial responsibility to individual school districts. It is estimated that the elimination of Medicaid reimbursement for school-based services will provide a savings of \$3.6 billion in federal funds over the next five years. However, there is no corresponding increase in funding for the Individuals with Disabilities Education Act (IDEA) that will enable schools and early childhood providers to make up for the reduction in Medicaid reimbursements for these critical services.

APA supports fiscal integrity in school-based administrative and transportation expenditures, but recommends that this be achieved through clarification and enforcement of rules rather than elimination of eligibility for federal financial participation (FFP) of school-based providers. The current proposed rule would reverse longstanding Medicaid policy and eliminate successful school-based initiatives undertaken by school personnel.

OUTREACH AND ENROLLMENT OF LOW-INCOME CHILDREN

The majority of Medicaid eligible (yet uninsured) low-income children attend school and as such, schools play a significant role in providing outreach and enrollment to these children.

In 2000, the Department of Health and Human Services, the Department of Agriculture, and the Department of Education published a guide to school-based health care outreach stating that schools represent “the single best link” for identifying and enrolling eligible low-income children in health coverage and encouraged state Medicaid agencies to provide schools with financial support for their outreach enrollment activities.

The proposed rules would severely restrict schools’ ability to fund critical outreach and enrollment services to this vulnerable population.

EARLY INTERVENTION

Medicaid’s Early and Periodic, Screening, Diagnostic and Treatment Services (EPSDT) mandate requires that all Medicaid beneficiaries under age 21 must receive all necessary services listed in section 1905(a) of the Social Security Act to correct or ameliorate physical or mental illnesses and conditions, regardless of whether those services are covered under a state’s Medicaid plan. The mandate also requires that states inform families about the availability of EPSDT services and assist them in accessing health care services for their children.

Many school systems have contracted with states so that school nurses and staff

inform families about EPSDT and help coordinate the care of those children enrolled in special education who have special health care needs. As currently written, the proposed rule would limit reimbursement for these services to Medicaid's own employees, a private corporation, or employees of other public agencies. Such restrictions could financially disrupt the continuation of already successful school-based EPSDT programs.

This potential conflict between the EPSDT mandate and the proposed rules would severely restrict the ability for states to meet their responsibility under EPSDT and hamper necessary access to services for children.

TRANSPORTATION

The determination that transportation is "only necessary for the proper and efficient administration of the State plan when conducted by employees of the State or local Medicaid agency" may conflict with the concept of coordinated transportation planning dictated by Executive Order 13330 (EO 13330), Human Services Transportation Coordination, issued on February 24, 2004. The Executive Order directs the Secretary of Health and Human Services to promote interagency cooperation in the provision of transportation services. To determine that transportation is only necessary when performed by employees of the State or local Medicaid agency fails to recognize the efficiencies available when transportation is a coordinated effort.

CMS' previous guidance from the May 2003 "Medicaid School-Based Administrative Claiming Guide," the May 21, 1999 letter to State Medicaid Directors, and the 1997 guidance in "Medicaid and School Health: A Technical Assistance Guide" all supported and offered guidelines for the provision of reimbursement for transportation. With this longstanding guidance issued by CMS and intervening reauthorization of the program, the current proposed rule is an unanticipated divergence from previous practices, with potentially far-reaching consequences.

Combined with CMS' August 24, 2007 proposal to limit reimbursement for non-emergency medical transportation services provided by public transportation agencies (Notice of Proposed Rulemaking, Non-Emergency Medical Transportation, 72 FR 48604, docket number CMS-2234-P), this is a significant shift of financial burden from CMS to state and local authorities and their public transportation agencies. At the same time, this may have an inadvertent negative impact on the availability of necessary transportation services for Medicaid-eligible children to access school-based health care services.

INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA)

APA urges CMS to continue to provide funding for a school-based holistic approach to health care that includes reimbursement for transportation services. The proposed rule may conflict with statutory and regulatory provisions regarding

Medicaid coverage of related services under IDEA. Medicaid has been used to fund some services under IDEA (72 Fed. Reg. at 45202). This coverage is appropriate and the Medicaid statute specifically provides that the Secretary cannot prohibit or restrict coverage of Medicaid services simply because the services are included in an Individualized Education Plan (IEP) or Individualized Family Service Plan (IFSP) for IDEA services (42 U.S.C Section 1396b(c)).

An IEP/IFSP is developed for eligible individuals with disabilities and describes the range of services and supports needed to assist individuals in benefiting from and maximizing their educational and developmental opportunities. Section 602 (22) of IDEA classified medical care necessary to permit a child to obtain a free and appropriate public education to be “related services.”

APA recognizes that transportation to and from providers, including school-based providers, is provided for direct medical services. However, the elimination of FFP for transportation of children with an IEP or IFSP would impact children’s receipt of “related services,” which can subsequently impact their overall functioning. Since several factors are known to cause mental health conditions, denying funding for “related services” can negatively impact children’s overall functioning that might be correlated with their “direct medical” condition.

In addition, Congress addressed the intersection between Medicaid and IDEA within the *Medicare Catastrophic Coverage Act of 1988* (Public Law 100-360) in which it clarified that Medicaid coverage is available for Medicaid services provided to Medicaid-eligible children under an IEP/IFSP.

While the proposed rule does not explicitly restrict access to services in school and early childhood settings, it would make it less desirable for Medicaid programs to use school settings to provide services, and could inadvertently make it more difficult to meet Medicaid’s original intent to fund necessary medical assistance to promote growth and development and prevent or ameliorate disabilities and conditions.

There are many services that relate to children in special education that could be considered either management of their educational needs or their health services. Compelling a distinction between the two needs for reimbursement purposes can be complicated and is likely to result in a loss of important services and supports.

APA recommends reimbursement for school-based administrative and transportation services as legitimate Medicaid expenses so long as these activities further the efficient operation of the system (e.g., scheduling, transportation, outreach, translation, etc.) to meet Medicaid’s goal for children, to promote growth and development.

Thank you for your consideration of these comments concerning the proposed regulations on the Medicaid program school administration expenditures and

transportation costs (CMS-2287-P). We welcome the opportunity to work with CMS in helping to provide for beneficiary protections and to ensure fiscal integrity in the provision of Medicaid reimbursement for administrative and transportation services. For additional information, please contact Day Al-Mohamed, J.D., in APA's Public Interest Government Relations Office at (202) 336-6061.

Sincerely,

A handwritten signature in black ink, appearing to read "Annie Toro". The signature is fluid and cursive, with a large initial "A" and "T".

Annie Toro, J.D., M.P.H.
Associate Executive Director
Public Interest Directorate

From: Braxton, Shawn L. (CMS/OSORA)
Sent: Wednesday, November 07, 2007 10:23 AM
To: Hayes, Yolanda K. (CMS/OSORA); Gaskins, Nikia L. (CMS/OSORA)
Subject: FW: Public Submission

Shawn Braxton
Technical Advisor
Division of Regulations Development-B
Regulations Development Group
Office of Strategic Operations & Regulatory Affairs
(410) 786-7292
shawn.braxton@cms.hhs.gov

>-----Original Message-----

>From: OC AIMS Support [mailto:AIMSSupport@OC.FDA.GOV]
>Sent: Tuesday, October 30, 2007 4:17 PM
>To: Braxton, Shawn L. (CMS/OSORA); Jones, Martique S. (CMS/OSORA)
>Subject: FW: Public Submission

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>
>

>-----Original Message-----

>From: no-reply@erulemaking.net [mailto:no-reply@erulemaking.net]
>Sent: Tuesday, October 30, 2007 1:26 PM
>To: OC AIMS Support
>Subject: Public Submission

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>Please Do Not Reply This Email.

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>Public Comments on Medicaid Program; Elimination of Reimbursement Under
>Medicaid for School Administration Expenditures and Costs Related to
>Transportation of School-Age Children Between Home and School:=====

>

>Title: Medicaid Program; Elimination of Reimbursement Under Medicaid
>for School Administration Expenditures and Costs Related to
>Transportation of School-Age Children Between Home and School FR
>Document Number: 07-04356 Legacy Document ID:

>RIN: 0938-AP13
>Publish Date: 09/07/2007 00:00:00
>Submitter Info:

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>First Name: Shawna
>Last Name: Reeves
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>City:
>Country: United States
>State or Province:
>Postal Code:
>Organization Name:

>

>Comment Info: =====

>

>General Comment: Centers for Medicare & Medicaid Services (CMS)
>should not pass the proposed rule, file CMS-2287-P, eliminating
>Medicaid coverage for special education students? transportation. In
>passing this regulation, CMS will further exacerbate an already dire

>situation for children with disabilities and their families who are
>seeking proper treatment for
>their disabilities. Instead of
>eliminating the provision of payment for transportation, CMS should
>modify it to address its real
>concerns: the wide latitude for abuse of discretion by school districts.
>

> While admitting that, despite the fact that transportation is not
>expressly pointed to in the Medicaid statute, transportation is
>essential to the administration of the State plan, to ensure that
>beneficiaries have access to covered services, CMS does not find a
>valuable reason to
>provide this same access to special needs students. Instead, CMS
>believes that special
>education and transportation do not directly relate and support the
>Medicaid State plan or waiver services, that transportation services
>are essentially school functions, that transportation to school is not
>medically necessary to gain access to providers, and that the costs of
>improper billing by school districts makes the cost of continuing this
>benefit prohibitive. This position is simply untenable and will pose
>serious consequences to students with severe disabilities. The
>proposal spends a good amount of time discussing CMS' concerns with
>improper billing by school districts. Citing the mounting costs of the
>administrative program and the abuse by districts of the Medicaid
>service, CMS proposes cutting administrative services for schools,
>including transportation, altogether. However, this action would not
>best meet the needs of the State plan, and would instead risk the
>health of a special class of students unable to attend district schools
>due to their disabilities. Rather than cutting out this admittedly
>problematic regulation, CMS should modify it to include only those
>cases where children must be transported to a private or
>out-of-district provider to receive their daily medical services.
>

> Instead of completely eliminating Medicaid coverage of school
>transportation, CMS should re-write this proposed rule to address its
>underlying concerns: namely, the skyrocketing costs billed by schools.
>While CMS' May 1999 letter to State Medicaid Directors instructing that
>schools could bill for transportation only for students with an IEP on
>days when that child receive a covered medical service seems stringent,
>it in fact leaves wide latitude for abuse considering the broad range
>of covered services. CMS has reason to believe that in many instances,
>transportation would already be provided to a child's district special
>day class.

>However CMS overlooks the fact that, in other cases, a child's
>disability is so severe that he or she is unable to attend a mainstream
>district school, or even a special day class within the district. In
>those cases, the child must attend an out-of-district public school, a
>non-public school placement (NPS), or a residential facility,
>to-and-from which districts are not automatically providing
>transportation. In cases where children would receive covered medical
>services every day on one of these sites, and the district must send
>the child to these placements because of their particular medical
>needs, CMS' regulations should still provide for transportation, for in
>these instances, transportation to- and from school would be medically
>necessary to gain access to providers. Written in this manner, the
>regulations would preclude schools from billing for normal
>transportation of special education students receiving adequate
>services within the district, while still providing an option for
>students with extreme needs who might not otherwise be served.
>

> Providing transportation for students with IEPs who must attend either
>a private placement or a placement outside of the district because the
>home district cannot provide for the student's physical or emotional
>medical needs is absolutely necessary for the proper and efficient
>administration of the State plan. SSA 1903(a)(7). Without
>providing funding for transportation of these students, CMS risks

>chilling districts? already extremely reticent attitudes towards
>sending students to private or out-of-district expensive facilities
>equipped to handle their medical needs. Transportation is a necessary
>component to the State plan. For example, if a visually impaired
>student cannot access a school for the blind, whose staff consists of
>professionals trained to help her adapt to everyday life, that student
>will be at a loss not only educationally, but also on a more basic,
>functioning level. Similarly, a child suffering from extreme emotional
>disturbance who requires a small, highly-structured environment to make
>progress often cannot be adequately served in a traditional public
>school, or even an SDC.

>With transportation as an
>added cost, districts will be much less likely to approve referrals to
>an NPS or other facility that provides the kind of physical and mental
>health services supported by
>Medicaid. In eliminating
>the possibility of transportation, CMS also risks strong-arming
>districts into violating the IDEA, which requires that districts ?shall
>ensure that a continuum of alternative placements is available to meet
>the needs of children with disabilities for special education and
>related services.? 34 C.F.R. ? 300.115; 20 U.S.C. ? 1412(a)(5). The
>costs of providing transportation could become a prohibitive factor for
>already under-funded districts; therefore, an NPS or placement outside
>of the district will be left for only the direst of cases, and many
>children will be left without a proper placement on the required,
>meaningful continuum. The State plan will surely focus on providing
>for the overall mental and physical health of State residents, and by
>incentivizing districts to keep children in mainstream schools or SDCs,
>a class of the most needy citizens, students with extreme disabilities,
>will be left improperly treated. See 42 U.S.C. ?
>1396(a).

>
> Congress did not intend for CMS to take the drastic action of
>cutting all transportation for schoolchildren. The Medicare
>Catastrophic Coverage Act of 1988 specifically 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.
>Though the Senate Finance Committee has raised concerns about the costs
>of Medicaid administrative services in schools, it would be contrary to
>congressional intent to just eliminate these services. Clearly
>Congress has considered the overlap of Medicaid and school district
>responsibilities in addressing the needs of students with disabilities,
>and has come down on the side that aid may not be restricted for the
>sole reason that duties overlap. Writing the regulation to include
>transportation for special needs students attending NPS or
>out-of-district placements would be more in line with Congressional
>intent than the current proposal.

>
> CMS may wish to keep the regulations as mandating that
>transportation will only be provided when it is conducted by the State
>or local Medicaid agency; however, this contention is absurd.
>Administrative services are best provided by the most efficient carrier
>? not by the government agency providing the funding. Mandating that
>State or local Medicaid agencies must physically transport students
>would be perhaps the most inefficient administration imaginable. CMS
>must revise this section of the regulations to allow for district?s to
>order the most efficient transportation, in doing so, CMS will save
>costs for itself, the district, and taxpayers.

>
> CMS? proposed regulations are unworkable and pose serious
>consequences to a very susceptible group of children. Yet, issues with
>these regulations can be resolved in a way that suits the needs of CMS
>and its budget, school districts, Congress, and most importantly
>children with severe disabilities. In re-drafting the regulations to
>include transportation for students that must attend an NPS or
>out-of-district placement due to their medical needs, CMS will provide

>for the most efficient administration of the State plan.

>

124



"Equity and
Excellence"

Ocean View School District

17200 Pinehurst Lane
Huntington Beach
California 92647-5569
714/847-2551
Fax: 714/847-1430
Web: www.ovsd.org

Interim District Superintendent
Edward A. Sussman, Ed.D.

Board of Trustees
Tracy Pellman, President
Debbie Cotton, Clerk
John Briscoe, Member
George Clemens, Member
Norm Westwell, Member

October 31, 2007

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

Subject: Stop CMS-2287-P

Dear Secretary Leavitt:

As Superintendent for Ocean View School District, State of California, I am writing to respectfully urge you to stop implementation of CMS-2287-P.

Ocean View School District earned \$21,701.00 through California School-Based Medi-Cal Administrative Activities (SMAA) performed during the 2004/2005 fiscal year, the most recent year claimed. The revenue has enabled our District to continue identifying children for Medi-Cal and connecting them to appropriate health services in school and in our community.

Loss of the SMAA revenue would substantially reduce our ability to connect students and their families with health services in their communities and to provide and coordinate services to meet students' health needs.

Respectfully,

Edward A. Sussman, Ed.D.
Interim District Superintendent

125-(8)

G. L. Snowden Elementary School

301 S. Farmersville Blvd.
Farmersville, CA 93223 Fax

(559) 747-0781
(559) 747-2709

September 22, 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

Gentlemen:

I am submitting my comments *in opposition to the new rules regarding Medicaid* reimbursement for school based administration and transportation.

Should this regulation be approved and adopted, our students and their families would no longer be provided with services from health aides, guidance technicians, counselors, and District accident insurance. This reimbursement is critical to operation of our school site. These services are necessary to the provision of services required under the state plan .

Please do not consider any rule to eliminate Medicaid reimbursement.

Sincerely,

Eloesa A. Gonzalez

Petal School District

OFFICE OF THE SUPERINTENDENT
P. O. DRAWER 523
PETAL, MISSISSIPPI 39465
PHONE (601) 545-3002

126-1

October 16, 2007

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

To Whom It May Concern:

RE: Comments in reference to file code CMS-2287-P

Many Mississippi school districts participate in the Medicaid School-based Administrative Claiming program that provides additional resources to health related programs and to address the health risks our children face. As one of these districts, Petal Schools has great concerns about the CMS-2287-P proposal.

If the proposal for eliminating reimbursement under the Medicaid programs for costs of school-based administrative and transportation services passes, Mississippi school districts stand to lose between \$4 million and \$5 million per year. This would have a tremendous negative impact on low income students and their families. For many of these students, the only constant in their lives is school; thus, making schools the most convenient and accessible means of providing much needed health related services.

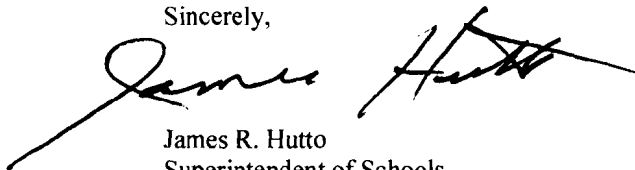
The Mississippi Department of Education has addressed a major concern of CMS by establishing an office within the department to provide school districts with the training and technical support for processing claims and helping ensure that the funds are put back into health related programs to address the health risks facing our children today. Many Mississippi school districts have been able to utilize these funds to support important services for low income children.

Many of our school districts are using these funds to provide needed services such as school nurses, social workers, counselors, mental health therapists, occupational and physical therapists that districts would not otherwise be able to provide. These services which more and more students and families need are essential to help districts ensure that "no child is left behind". Unless we as schools help children and families get the basic services which these funds allow, we cannot expect students to achieve academically. The loss of these dollars will not be replaced by other programs, many of which are currently underfunded.

Since its inception, the Medicaid school-based administrative claiming program has undergone many policy changes making it more difficult to comprehend all aspects of the Medicaid program. To address the policy implications of improper billing, CMS should provide more and better training, monitoring, and auditing to ensure proper billing policies are followed rather than eliminate the program.

We implore you on behalf of the many low income students to continue reimbursement under the Medicaid programs for costs of school-based administrative and transportation services.

Sincerely,



James R. Hutto
Superintendent of Schools

127 (3)

DR. ZENOBI A W. SMALLWOOD
Superintendent

MICHAEL T. CONNER
Assistant Superintendent

Public Schools of Gates County

Office of the Superintendent
205 Main Street - P.O. Box 125
GATESVILLE, NORTH CAROLINA 27938
(252) 357-1113

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G. Douglas Lilley
Paulette E. Wester

November 1, 2007

Secretary Michael O. Leavitt
Department of Health and Human Services

Administrator Leslie V. Norwalk
Centers for Medicare and Medicaid Services

Re: CMS 2287-P

Dear Secretary Leavitt and Administrator Norwalk:


We are writing to strongly oppose the regulation proposed by the Centers for Medicare and Medicaid Services (CMS) published in the Federal Register that would eliminate school-based reimbursements now paid with Medicaid dollars (CMS 2287-P.) This rule would eliminate services provided to special needs students including medical care plans, referral and scheduling of multiple clinicians and practitioners, parent outreach to ensure that eligible children are enrolled in the Medicaid program and transportation costs to implement the program.

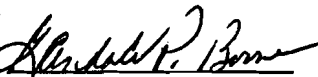
It is estimated that the proposed cuts would cost school districts around the country more than \$615 million in annual funding and \$3.5 billion over five years. In Gates County, these changes would represent a loss of \$900,000 in claims annually and \$4,500,000.00 over a five year period for the more than 328 special needs students we currently serve. If these dollars are lost, it will only exacerbate the existing deficit in state supported funding for Gates County's special needs children.

The Gates County Board of Education respectfully requests that you withdraw CMS 2287-P.

Sincerely,

The Gates County Board of Education


Name
Chairman


Name
Vice Chairman

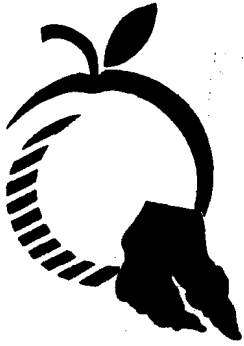

Name
Board Member


Name
Board Member


Name
Board Member

Name
Board Member

128
44



October 22, 2007

Secretary Michael O. Leavitt
Department of Health and Human Services

Administrator Leslie V. Norwalk
Centers for Medicare and Medicaid Services

RE: CMS 2287-P

Dear Secretary Leavitt and Administrator Norwalk:

We are writing to strongly oppose the regulation proposed by the Centers for Medicare and Medicaid Services (CMS) published in the Federal Register

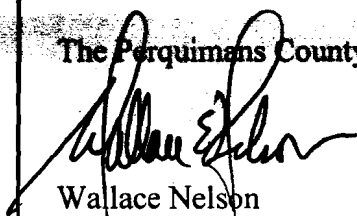
dollars (CMS 2287-P). This rule would eliminate services provided to special needs students including medical care plans, referral and scheduling of multiple clinicians and practitioners, parent outreach to ensure that eligible children are enrolled in the Medicaid program and transportation costs to implement the program.

It is estimated that the proposed cuts would cost school districts around the country more than \$615 million in annual funding and \$3.5 billion over five years. In Perquimans County, these changes would represent a loss of \$7,335.00 annually and \$36,678.00 over a five year period for the more than 240 special needs students we currently serve. If these dollars are lost, it will only exacerbate the existing deficit in state supported funding for Perquimans County's special needs children.

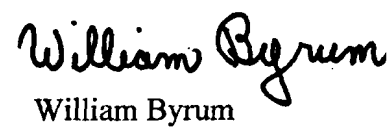
The Perquimans County Board of Education respectfully requests that you withdraw CMS 2287-P.

Sincerely,

The Perquimans County Board of Education



Wallace Nelson
Board Chairman


Walter Leigh
Vice Chairman


William Byrum
Board Member


Gail Hill
Board Member


Gloria Mason
Board Member


Helen Shaw
Board Member

PERQUIMANS
COUNTY SCHOOLS

P.O. Box 337

Phone (252) 426-5741
Fax (252) 426-4913
Website
<http://www.pcs.k12.nc.us/>

Dwayne K. Stallings
Superintendent

Board of Education
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Walter Leigh, Vice-Chair
William Byrum
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Bear Valley Unified School District

Educating for Success

BEAR VALLEY SCHOOLS

Big Bear Elementary
North Shore Elementary
Baldwin Lane Elementary
Fallsvale Elementary
Big Bear Middle
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Chautauqua High

☐ P.O. Box 1529 ☐ 42271 Moonridge Road ☐ Big Bear Lake, Ca 92315 ☐ (909) 866-4631 ☐ Fax (909) 866-2040 ☐

September 25, 2007

129 (4)

Secretary Mike Leavitt
The U.S. Department of Health and
Human Services
200 Independence Avenue, S.W.
Washington D.C. 20201

Dear Secretary Leavitt

We are very concerned regarding the CMS-2287 proposed elimination of reimbursement to schools for their contribution to the administration of the States' Medicaid (Medi-Cal) program. In rural, geographically isolated communities such as ours, the local school district is the *primary* outreach center to connect children with physical and mental health services, including those covered by Medi-Cal.

Our agency *relies* upon the staff members of Bear Valley Healthy Start, affiliated with the Bear Valley Unified School District, for their identification and referral of clients. They are on the front lines, dealing with the students on a daily basis. *They* are the ones who are finding out which children don't have medical insurance and/or who need Medi-Cal covered services, helping connect those families with both insurance and services in the community, and **if you eliminate their funding, we will not be able to reach those who most need our services.**

It is a shame that some schools in other states have been found to have abused the system. However, using the malfeasance of others in order to punish those who **are** diligently performing a required service is wrong and **will devastate our entire community.**

We appreciate your support in this matter, and would be grateful if the needs of our children could be taken into consideration before the implementation of any proposed cuts to the funding of such an important program.

Sincerely,



Tanya Perry
Healthy Start Supervisor
Bear Valley Unified School District



**SAVANNAH R-III
SCHOOL DISTRICT**

408 WEST MARKET
SAVANNAH, MO 64485-0151

A Growing District for Growing Minds 130

DEPARTMENT OF SPECIAL EDUCATION

Janet Smith, Director
smithj@mail.savannah.k12.mo.us
Phone (816) 324-3123 Fax (816) 324-5594

September 21, 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

To Whom It May Concern:

Ending School District Administrative Claiming under Medicaid would do a great disservice to the underprivileged children of our nation.

In today's society, school districts do not just meet the educational needs of their students. School nurses, counselors, teachers, therapists and administrators spend an inordinate amount of time screening students for health concerns, vision and hearing delays, as well as concerns with their emotional well-being. School officials refer parents to medical facilities, schedule appointments, and in some instances, provide transportation. They also refer children to public agencies and programs when their health and safety are at risk. Without these services, many children will go without the medical and mental health services they desperately need.

In this day of limited educational funding at both the federal and state levels, districts need the SDAC funds to pay for these services. Districts would either have to cut back on these services or cut other programs. Any way you look at it, the district's instructional programs would suffer; either by not meeting the medical and mental health needs of it students, or by reduced instructional expenditures.

If SDAC funds are cut, there will be children left behind.

Respectfully,

Sara Bruner M. S. CCC/SLP
Speech/ Language Pathologist
Savannah R- III School District

The mission of the Savannah R-III School District is to nurture, inspire, challenge and encourage every child, by providing an education which allows them to obtain the skills necessary to become productive members of society.



Mountain Communities Family Resource Center
P.O. Box 1902, Frazier Park, CA 93225

131 (1)

October 8, 2007

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

This letter is written in response to your proposed rule (CMS-2287-P) for the Elimination of Reimbursement under Medicaid for School Administrative Expenditures and Costs Related to Transportation of School-Age Children between Home and School. After reading the proposed rule, I have the following comments:

I am opposed to this rule due to the fact that the State of California's plan has taken into consideration the abundant rural areas located outside state agency reach, where Family Resource Centers like ours, provide the appropriate outreach, eligibility intake, information and referral, coordination and monitoring of health services, interagency coordination and translation related to our outreach services. The Mountain Communities Family Resource Center (MCFRC) provides these services to numerous unincorporated towns with the population of approximately 12,000. There are no state agencies in our area.

CMS must recognize that the outreach we provide on a daily basis is part of a collaborative effort to support the Medicaid State plan since the state can not provide these services in our area. Our fiscal agent, El Tejon Unified School District, does not currently and has never claimed any transportation related activities. Besides those employed at the Family Resource Center, only the School District Nurse's time is claimed through the MAA process for the appropriate services i.e. direct medical services, MediCal outreach, referral and monitoring of MediCal services.

This proposed ruling would affect our Family Resource Center greatly as approximately 30% of our day to day funding would be removed. Our activities are proper and efficient so as to support the administration of the State plan. If there are parts to a house that need replacing, replace the parts, not the entire house!

If the proposed rule is adopted, I would like to know who will provide our community members with the outreach and resources currently provided by our site.

Sincerely,

Anne Weber
Coordinator
Mountain Communities Family Resource Center
El Tejon Unified School District



Building a strong foundation
for learning and creativity

October 11, 2007

132
(53)

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

SUBJECT: DOCKET ID # CMS-2287-P

Please accept this letter as written support for the continuation of the Medicaid Reimbursement Program currently available to school districts in California.

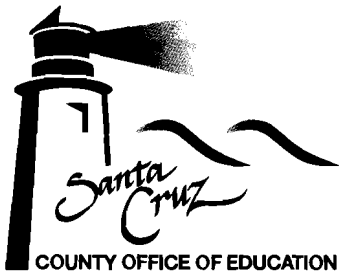
The continued allocation of these funds is absolutely necessary to maintain the level of support our students require and deserve. As you are aware, the last decade has brought a significant increase in the number of disabled children, especially with Autism, English learners, children of socioeconomically disadvantaged families, and an increase of Migrant Education programs.

The above mentioned special needs children require additional resources from school districts and more support from school staff. These children have made it necessary to increase staff such as behavior specialists, offer additional counseling services, be able to provide special evaluations and health screenings and refer families to needed services in our community. Transportation related activities that support Medicaid covered services as well as program planning, Medicaid training, policy development, and interagency coordination related to medical services, are all vital to the well-being of our children - *the next generation of Americans.*

Lastly, Medicaid reimbursements "free up" local and state dollars so we can reduce class size not only in regular classrooms but directly reduce the size of special education classes as well.

Thank you so much for listening to the needs of the school districts from states across this great nation and for your support in this important matter.

Sincerely,



BOARD OF EDUCATION
Ms. Mary Bryant
Mrs. Shirley Flack
Mr. Arnold Levine
Mr. Jack Dilles
Mrs. Kathy Mann
Mr. James M. Maxwell
Mr. Dana M. Sales
www.santacruz.k12.ca.us

Michael C. Watkins, Superintendent • 809-H Bay Avenue • Capitola, CA 95010-2199 • 831-476-7140 • Fax: 831-476-5294

SANTA CRUZ COUNTY BOARD OF EDUCATION

RESOLUTION NO. 07-10

132 (9)

**OPPOSITION TO U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
Centers for Medicare & Medicaid Services
Rule CMS-2287**

WHEREAS, U.S. Department of Health and Human Services has published a proposed rule (CMS-2287-P) 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 counseling, nurse services, 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 will certainly mean children in urgent need of medical and dental care services will not receive the necessary care in an appropriate medical setting, in a timely fashion in order to avoid unnecessary suffering and/or the cost of providing emergency services in a more expensive setting, 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 county offices of education 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 IS RESOLVED, that the Santa Cruz 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.

ADOPTED, at a regular meeting of the Santa Cruz County Board of Education on the 18th day of October 2007, by the following vote:

Ayes:
Noes:
Abstain:
Absent:



Jack Dilles, Vice-President
Santa Cruz County Board of Education



Michael C. Watkins, Secretary
Santa Cruz County Board of Education

134

November 1, 2007

Dear Secretary Leavitt,

RE: Stop CMS-2287-P

Attached is a Resolution in **Opposition to US Department of Health and Human Services Rule CMS 2287**. This Resolution was adopted by the Greater Anaheim Special Education Local Plan Area (GASELPA) School Board at a regular meeting held October 17th, 2007. The GASELPA Board is comprised of six School Board members, one representative from each member district: Anaheim Union High School District, Centralia, Cypress, Magnolia, and Savanna Elementary Districts, and Los Alamitos Unified School District. These districts are located in Orange County, California, and together educate over 57,000 students, including approximately 6700 students identified with special needs.

The Greater Anaheim SELPA received \$61,420.00 of SMAA reimbursement for the 2004-05 fiscal year. Loss of this funding would have significant impact on the six districts in this SELPA, and will substantially increase the burden on these already financially -strapped districts, as well as severely impact both disabled children and children in general education programs. The \$61,000.00 represented support for special transportation, health personnel, specialized equipment, and staff who have the expertise to connect families with other needed services in the community. Although the federal government will continue to require schools to provide these necessary services, districts will do so without any reimbursement, resulting in even more of an impact to programs for general education students.

Thank you for your support on this important matter.

Sincerely,



Candy Miller
Regional Administrator, Greater Anaheim SELPA



135

252 Waterford Street, Edinboro, Pennsylvania 16412

NORTHWEST TRI-COUNTY INTERMEDIATE UNIT

PHONE 814-734-5610

1-800-677-5610

FAX 814-734-5806

TDD 814-734-1098

http://www.iu5.org

Date: 8/24/07

Time: 11:30 a.m.

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Person's Name: Michael Leavitt

Company Name: Department of Health & Human Services

Fax Number: 202-690-7203

From: Valerie Luebke, TANF Specialist, Erie, Pennsylvania

Message:

Dear Mr. Leavitt:

Please be advised that I do not support regulation CMS-2287-P, regarding ACCESS funding. Support of this regulation would limit ACCESS funding to school districts and intermediate units in Pennsylvania, thus having a negative affect on educational programs in this area.

Thank you for noting my opinion.

Sincerely,

Valerie Luebke

Total Number of Pages: 1
(Includes this cover sheet)

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252 Waterford Street, Edinboro, Pennsylvania 16412

NORTHWEST TRI-COUNTY INTERMEDIATE UNIT

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FAX 814-734-5806
TDD 814-734-1098
<http://www.iu5.org>

Date:	<u>8/24/07</u>
Time:	<u>11:30 a.m.</u>

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Person's Name:	<u>Michael Leavitt</u>
Company Name:	<u>Department of Health & Human Services</u>
Fax Number:	<u>202-690-7203</u>

From: Karen Tuminello, TANF Specialist, Erie, Pennsylvania

Message:

Dear Mr. Leavitt:

Please be advised that I do not support regulation CMS-2287-P, regarding ACCESS funding. Support of this regulation would limit ACCESS funding to school districts and intermediate units in Pennsylvania, thus having a negative affect on educational programs in this area.

Thank you for noting my opinion.

Sincerely,

Karen Tuminello

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