



**BlueCross BlueShield
of Florida
Health Options®**

Health Options and its Parent, Blue Cross and Blue Shield
of Florida, are Independent Licensees of the Blue Cross
and Blue Shield Association

#18

April 19, 2006

Sharon Blackshire
2002 Bonisle Circle
Palm Beach Gardens, FL 33418

BCBSF Provider Number: Z067F

Dear Sharon Blackshire:

Thank you for your request to become a participating provider with Blue Cross Blue Shield of Florida and Health Options, Inc.

After review of our network and business needs, we have determined we cannot grant your request at this time.

Your request will be kept on file for at least one year and, if our network or business needs change, we will reconsider your request. No additional requests for the above network(s) will be acknowledged during the next year.

We appreciate your continued interest.

Sincerely,

Mona Stromer
Network Manager
Network Management & Development

CERTIFIED: #70001670000496845870

SOUTH FLORIDA REGION

8400 N.W. 33rd Street • Suite 100
Miami, FL 33122
1-800-955-7635

3230 W. Commercial Blvd. • Suite 400
Ft. Lauderdale, FL 33309
Telephone 1-800-955-7635

770 Northpoint Parkway • Suite 200
West Palm Beach, FL 33407
Telephone 1-800-955-7635

186 N.W. Central Park Plaza
Port St. Lucie, FL 34986
Telephone 1-800-955-7635

900-423-0206

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#19

September 26, 2007

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

RE: CMS 2287-P

To Whom It May Concern: :

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 community *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,

Eileen Hofer R.N., Allan Hofer Pharm.D.

Eileen Hofer, R.N.

Dr. Allan Hofer, Pharm.D.

P.O. Box 2471
Big Bear City, CA.

92314

NODAWAY-HOLT R-VII SCHOOL DISTRICT

20



Bruce Skoglund, Superintendent

318 South Taylor Street

GRAHAM, MISSOURI 64455

(660) 939-2137

FAX (660) 939-2200

Quality Education Today For A Successful Tomorrow



October 01, 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:

It is my understanding that you are considering eliminating School District Administrative Claiming under Medicaid. I would hope you would consider keeping this program and not try to find savings at the cost of children.

I have been involved with public education for 23 years as a teacher and administrator. In that time, I have seen a large increase in the percentage of children attending school with disabilities, both physical and mental. Also over that time, I have seen Federal funds fluctuating in the amounts available to be used to help these needy children. In the end, federal funds continue to fall further and further behind in covering the actual cost of educating these individuals. School districts are then faced with either not meeting the needs of these kids, or taking funds away from other kids. I find either choice unacceptable and would hope you would agree.

With the every increasing demand for public education to solve the problems of society, we need to make sure our schools have the funding necessary to give us at least a fighting chance. Please try to find a way to keep funding your portion of the medical and mental health needs of these students and keep SDAC funds available to our public school children.

Sincerely,

Bruce Skoglund

Superintendent

Nodaway-Holt R-VII School District

Jenny Saunders
Jr./Sr. High Principal / AD
318 South Taylor Street
Graham, MO 64455
(660) 939-2135
Fax (660) 939-2201

Karma Coleman
Elementary Principal
409 Hickory Street
Maitland, MO 64466
(660) 935-2514
Fax (660) 935-2242

Hanford Elementary School District

714 N. White Street
P.O. Box 1067
Hanford, CA 93232

(559) 585-3600

Superintendent
Dr. Paul J. Terry

Governing Board
Robert A. Garcia
Jeff Garner
Lupe Hernandez
Denrtis Hill
Timothy L. Revious

September 24, 2007

Re: File Code CMS-2287-P
Public Comment Submission

To Whom It May Concern:

I am the Special Services Analyst at the Hanford Elementary School District in Hanford, California. We, at Hanford Elementary, are very concerned with the proposal to eliminate Medical Administrative Activities (Medicaid) reimbursement. The special needs of children and their families are impacting districts throughout the United States. We do not believe that these issues are unique to our district, but that all districts deal with these issues on a daily basis.

Many students and their families require assistance from us regarding their physical and mental health needs. Year after year the needs increase exponentially. We have used MAA monies consistently to fund the staff needed to assist families so that the children we serve can receive necessary services and support. Not only do we assist families in applying for medical insurance, but we also aid families in acquiring the services of outside agencies. Districts can't only consider mathematics and reading when thinking of a student's education. Violent home lives, drug exposure, severe physical conditions, and many more family situations are impacting our students and how they learn. We truly believe the services we've been able to provide make a huge difference in a child's ability to learn and succeed in life. It is frightening to think of how this will be accomplished without MAA funding.

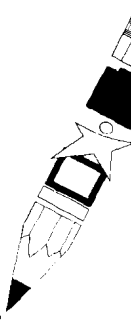
Please consider the colossal impact your decision will have on students and their families and **vote to keep the Medical Administrative Activities reimbursement program.**

Sincerely,



Jammy Johnson
Special Services Analyst
Hanford Elementary School District

*In Relentless
Pursuit
of Knowledge*



#21



22

September 19, 2007

Administrative Center

7301 N. 58th Avenue
Glendale, AZ 85301
(623) 842-8100

Bicentennial North

7237 W Missouri
(623) 842-8290

Bicentennial South

7240 W. Colter
(623) 842-8295

Challenger

6905 W. Maryland
(623) 842-8314

Coyote Ridge

7677 W. Bethany Home
(623) 842-8215

Desert Garden

7020 W. Ocotillo
(623) 842-8214

Desert Spirit

7355 W. Orangewood
(623) 842-8216

Discovery

7910 W. Discovery
(623) 842-8213

Don Mensendick

5535 N 67th Avenue
(623) 842-8260

Glendale American

8530 N. 55th Avenue
(623) 842-8280

Glendale Landmark

5730 W. Myrtle
(623) 842-8304

Glenn F. Burton

4801 W. Maryland
(623) 842-8270

Harold W. Smith

6534 N 63rd Avenue
(623) 842-8230

Horizon

8520 N. 47th Avenue
(623) 842-8200

Isaac E. Imes

6625 N 56th Avenue
(623) 842-8220

Melvin E. Sine

4932 W. Myrtle
(623) 842-8240

Sunset Vista

7775 W. Orangewood
(623) 866-4017

William C. Jack

6600 W. Missouri
(623) 842-8250

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

Dear Secretary Leavitt:

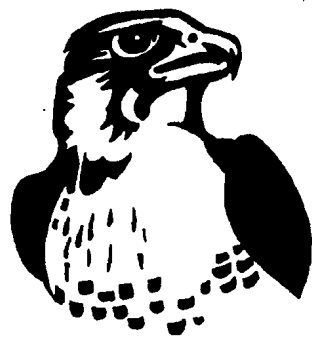
As you are aware, schools play a key role in identifying children for Medicaid and connecting them to needed services in schools and the community. As an urban school district working with low-income children and families, we are regularly providing administrative and transportation services so that our students can access the health care services that they need.

Our district is very concerned that the rules proposed in CMS-2287-P would reduce the availability of and access to needed health and developmental services for students with Individual Education Plans and other low-income children with special needs, for whom school is their primary site for healthcare delivery. Our district relies on these reimbursements so we can adequately fund a variety of medically necessary services such as providing specialized equipment on buses to meet medical needs of children, 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.

The loss of these resources could mean that our district will need to curtail referral services, and/or scale back enhancements for school buses. I urge you to consider the impact that CMS-2287-P will have on the physical well-being of our students and to withdraw the proposed rule so that we can continue to provide students with the administrative and transportation support that they need.

Sincerely,

Sandra D. Johnson, Ed.D.
Superintendent



Farmersville Junior High School
Jenifer S. Ahlstrand, Principal

“FALCONS”

September 29, 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:

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 our Health Aides, guidance technicians, and District accident insurance. Some sites would lose counselors. This reimbursement is critical to the operation of our school site, and these services are necessary to providing services required of our Single School Plan.

Please do not consider any rule to eliminate Medicaid reimbursement. Thank you.

Sincerely,

Jenifer S. Ahlstrand
Jenifer S. Ahlstrand

25

Waldron Public Schools

2007 SEP 18 AM 2:03

9/18/07

Fax to: (202) 690-7203
Subject: CMS 2287

Superintendent
James E. Floyd
479 637-3179

High School Principal
Lou Gregorio
736 W. Hwy 80
Waldron, AR 72958
479 637-3405

Middle School Principal
Steven Rose
2975 Rice St.
Waldron, AR 72958
479 637-4549

Elementary Principal
Tammy Goodner
1895 Rice St.
Waldron, AR 72958
479 637-2454

Dear Mr. Michael Leavitt,

We are desperately saddened to hear that our District's ARMAC funds are in jeopardy! Please, for the sake of our students and staff, say NO on CMS 2287!

Sincerely,

Rebekah Cagle

Rebekah Cagle
Waldron Public Schools
Coordinated School Health
Cell: 479 207-1748

Central Office
1560 W. 6th St.
Waldron, AR 72958
Phone: 479 637-3179
Fax: 479 637-3177



26

Waldron School District

1560 West 6th Street
Waldron, Arkansas 72958
(479)637-3179

James Floyd, Superintendent
Bruce Sikes, High School Principal

Steven Rose, Middle School Principal
Bill Yates, Elementary Principal

DATE: 9/12/07

TIME: _____

ATTENTION: Mr. Leavitt

2007 SEP 18 AM 2:03

FROM: Kimberly Bennett, Program Coord.

SUBJECT: STOP CMS 2287!!!

NUMBER OF PAGES 1 (Including this page)

MESSAGE: Dear Mr. Leavitt,

Please stop CMS 2287!!!

I would greatly appreciate your support in continuing the ARMAC program. This program is extremely important to our district and many others. Please help us!!

Thank you, Kimberly Bennett

PLEASE NOTIFY US IMMEDIATELY BY PHONE (479-637-3179) IF NOT RECEIVED PROPERLY.

SENT BY: ch
Fax (479) 637-3177

27

Waldron School District

1560 West 6th Street
Waldron, Arkansas 72958
(479)637-3179

2007 SEP 19 AM 2:03

James Floyd, Superintendent
Bruce Sikes, High School Principal

Steven Rose, Middle School Principal
Bill Yates, Elementary Principal

DATE: 9/12/2007

TIME: _____

ATTENTION: Mr. Leavitt

FROM: Kelley Hale

SUBJECT: CMS 2287

NUMBER OF PAGES 1 (Including this page)

MESSAGE:

Dear Secretary Leavitt:
Please don't move forward
with CMS 2287. We desperately
need this program.

Sincerely, Kelley Hale, JSLC Program Director

PLEASE NOTIFY US IMMEDIATELY BY PHONE (479-637-3179) IF NOT RECEIVED PROPERLY.

SENT BY: ch
Fax (479) 637-3177

28

Waldron School District

1560 West 6th Street
Waldron, Arkansas 72958
(479)637-3179

2007 SEP 13 AM 2:03

James Floyd, Superintendent
Bruce Siker, High School Principal

Steven Rose, Middle School Principal
Bill Yama, Elementary Principal

DATE: 9/13/07

TIME: 9:45am

ATTENTION: MR. Michael, Leavitt

FROM: Shelly Daud M.S., L.P.E.

SUBJECT: CMS 2287

NUMBER OF PAGES 2 (Including this page)

MESSAGE: MR. Leavitt,

Please don't mail forward with CMS 2287! I work in a school-based mental health program at Waldron Schools. I have witnessed first hand the positive impact this program has had on students. There are many students who would not receive therapy if they were not seen in the school or they would not be seen consistently due to parents work schedules or general apathy. If a child has a mental illness left untreated it will effect their academic performance.

PLEASE NOTIFY US IMMEDIATELY BY PHONE (479-637-3179) IF NOT RECEIVED PROPERLY.

SENT BY: ch
Fax (479) 637-3177

Sincerely,
Shelly Daud M.S., L.P.E.

29

BOARD OF TRUSTEES

Dr. Kenneth Turney
Ms. Debra Sarkisian
Mrs. Juliana Warren
Mr. Phil Hamilton
Dr. Larry Poland
Ms. Carole Ferraud,
Superintendent

Bear Valley Unified School District

*** RECEIVED ***
Oct 01, 2007 12:23:20 WS# 20
OSNUM: 100120071006
OFFICE OF THE SECRETARY
CORRESPONDENCE
CONTROL CENTER
Educating for Success

BEAR VALLEY SCHOOLS
Big Bear Elementary
North Shore Elementary
Baldwin Lane Elementary
Fallsview Elementary
Big Bear Middle
Big Bear High
Chautauque High

☐ P.O. Box 1529 ☐ 42271 Moonridge Road ☐ Big Bear Lake, Ca 92315 ☐ (909) 866-4521 ☐ Fax (909) 866-2040 ☐

RECEIVED

2007 SEP 31 P 12:04

OFFICE OF THE SECRETARY

September 25, 2007

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,

Carole Ferraud

Carole Ferraud
Superintendent
Bear Valley Unified School District

30

POST OFFICE BOX 1000, WEAVERVILLE, CALIFORNIA 96093

School (530) 623-5533

fax (530) 623-5548

Rosalind Morris, Principal

District Office (530) 623-4136

fax (530) 623-1964

Robert Lowden, Superintendent

RECEIVED

Weaverville Elementary School

September 19, 2007

CONFIDENTIAL THE SECRETARY RECEIVED
09 19 2007 12:16:30 WS# 20
OSNUM# 100220071039
OFFICE OF THE SECRETARY
CORRESPONDENCE
CONTROL CENTER

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

Dear Secretary Leavitt:

I am writing to urge you to take action regarding President Bush's Administrative Budget proposal for Medicaid funding cuts. If these proposed budget cuts are approved, ALL reimbursement provided to schools through the Medi-Cal Administrative Activities (MAA) Program would be eliminated. **MAA administrative activities slated for elimination include transportation services for disabled students and outreach services to ensure that students are receiving services under the Medicaid program.**

I strongly encourage you to address the President's proposal before the budget is passed through the regulatory process without public or congressional input.

The committee should be aware, that California received more than \$100 million in MAA reimbursements for the academic fiscal year of 2003/04. **These reimbursements are desperately needed in our schools in order to provide appropriate services to students, especially after the education budget cuts implemented in the last several years.**

The projected 2005/06 California reimbursement to schools through MAA activities performed may reach \$150 million. Weaverville Elementary School received approximately \$70,000 in the 2005/06 school year. This money is critical to us especially with the possible reduction of our Forest Reserve Funds that continues to hang over our heads. This is legitimate reimbursement vital in ensuring access to health and mental health services and programs serving our most vulnerable population -- our children and their families.

I urge you to take this very important step on behalf of America's future and do not allow the state of California or the nation lose this program. **Please take action to ensure that the President's proposal to eliminate MAA administrative funding can not be done arbitrarily through regulatory action.**

Sincerely,



Robert Lowden
Superintendent

WILSON AREA SCHOOL DISTRICT
2040 WASHINGTON BOULEVARD
EASTON, PA 18042-3890
Phone 484-373-6000
Fax 610-258-6421

31

DOUGLAS WAGNER
SUPERINTENDENT

RICHARD H. MALE
SECRETARY- BUSINESS MANAGER

October 8, 2007

Centers for Medicare and Medicaid Services
Department of Health and Human Services
7500 Security Boulevard
Baltimore, MD 21244

Attention: CMS-2287-P, Mail Stop S3-14-22

Please accept our comments regarding Centers for Medicare and Medicaid Services proposed rule (CMS-2287-P) published in the Federal Register on September 7, 2007. The proposed rule would eliminate federal reimbursement under the Medicaid program for the costs of certain activities based on a Secretarial finding that these 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. As a result, schools would no longer be eligible to receive federal Medicaid payments for transporting students with special needs from home to school and back as well as for administrative activities performed by school employees or contractors. We would like you to fully consider how this proposed rule will impact the Wilson Area School District's ability to provide additional services to students with disabilities.

As the proposed rule (CMS-2287-P) will impose a significant financial burden on Colonial Intermediate Unit 20 (CIU20), the Wilson Area School District (WASD) will experience a significant impact. Currently this revenue source is used to offset the transportation costs the WASD pays to CIU 20 to transport our students. In addition, it will make it more difficult for all schools to provide needed services to students with disabilities and will deny federal payment for services such as outfitting buses with specialized equipment, identifying students who need screenings and evaluations, and connecting children and their families with other needed services in the community, creating financial hardships for intermediate units and districts.

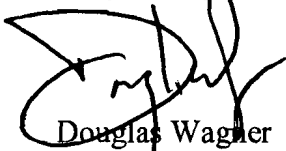
Furthermore, based on these determinations, under the proposed rule (CMS-2287-P), federal Medicaid payments will no longer be available for administrative activities performed by school employees or contractors, or anyone under the control of a public or private educational institution. This again will mean less funding available to purchase

Page Two
October 8, 2007

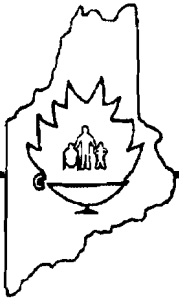
supplies, equipment, etc. for students with special needs. Lastly, we utilize a portion of these monies for administrative clerical support necessary to meet ACCESS billing requirements.

In summation, as a result of the loss of this funding, the cost of providing special education services and other necessities to students with disabilities will increase thereby causing a financial burden on consortium districts and the intermediate units. The proposed rule will make it difficult for all schools and intermediate units to provide needed services to students with disabilities at a time when the federal government is already seriously behind in their commitment to fund special education. Intermediate units will be forced to increase the cost of services provided to districts. Districts will be forced to cut educational services, go to referendum, or replace lost Medicaid dollars with additional state and local taxpayer dollars. Historically, blended funding has been utilized to holistically meet the needs of children and families and is the continual right direction to best meet the complex needs of this very vulnerable population.

Respectfully,

A handwritten signature in black ink, appearing to read 'Douglas Wagner', written over the printed name.

Douglas Wagner
Superintendent of Schools



MADSEC

32

Maine Administrators of Services for Children with Disabilities

Kennebec Centre • 675 Western Avenue, Suite 2 • Manchester, ME 04351 • (207) 626-3380 • FAX (207) 626-3347

Web: www.madsec.org • E-Mail: info@madsec.org • jadams@madsec.org

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MSAD # 3

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Dominic DePatsy
Cape Elizabeth

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Erin Chase
MSAD #15

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Sharon Goguen
MSAD #56

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Biddeford

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Barbara Gunn
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Program

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Executive Director

Jill V. Adams

Administrative Asst.

Pamela W. Ouellette

October 11, 2007

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

From: Maine Administrators of Services for Children with
Disabilities (MADSEC)
Maine School Boards Association (MSBA)
Maine School Superintendents Association (MSSA)
Maine Principals Association (MPA)

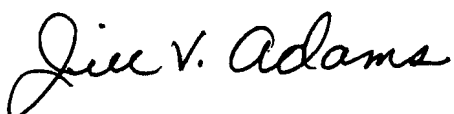
Re: Public comment File Code CMS-2287-P

Please accept these comments to the proposed regulations at 72 Federal Register 5139, published on September 7, 2007. We limit our comments to the proposed elimination of Medicaid reimbursement for specialized transportation as our state plan has never provided for the reimbursement for administrative claiming in the school setting.

CMS has provided an overly simplistic approach to justify the elimination of reimbursement for specialized transportation costs that stem from costs associated with the transportation of children with disabilities from home to school to home. What CMS fails to address is that in many cases the costs incurred with providing specialized transportation to students from home to school and from school to home are far above and exceed the normal costs of providing transportation services to students. These additional costs of specially adapted vehicles and the creation of bus routes would not otherwise exist, but for the children's disabilities, which stem from an

underlying medical condition. CMS fails to even attempt to address these additional medically based transportation costs in this proposed rule, but would lump those costs in the category of costs that schools have to bear as part of their educational function. CMS fails to acknowledge that in many cases, if it were not for the specialized transportation and medical services received in school; many children would not be able to receive an education in any measure. This proposal, which seeks to re-define the definition of a covered service, is in direct violation of Congressional intent as indicated at 42 U.S.C. § 1396b(c), which states: "**Treatment of educationally-related services** -Nothing in this subchapter shall be construed as prohibiting or restricting, or authorizing the Secretary to prohibit or restrict, payment under subsection (a) of this section for medical assistance for covered services furnished to a child with a disability because such services are included in the child's individualized education program established pursuant to part B of the Individuals with Disabilities Education Act [20 U.S.C. 1411 et seq.] or furnished to an infant or toddler with a disability because such services are included in the child's individualized family service plan adopted pursuant to part H of such Act." CMS is simply attempting to circumvent this congressional mandate by simply labeling specialized transportation as a non-covered service in these proposed regulations in an effort to severely restrict the flow of Medicaid reimbursement dollars to schools. We oppose this attempt by CMS to circumvent Congressional intent through the promulgation of these proposed regulations and accompanying interpretation as found in the commentary.

Sincerely,



Jill V. Adams, Executive Director, MADSEC

Cc: Susan Gendron, Commissioner, Maine Department of Education
Senator Susan Collins
Senator Olympia Snow
Representative Tom Allen
Representative Michael Michaud

October 18, 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

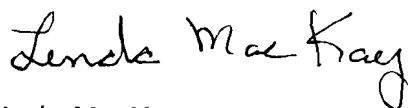
This letter is written in response to your proposed rule (CMS-2287-P) for the Elimination of Reimbursement under Medicaid for School Administrative Expenditures and Costs Related to Transportation of School-Age Children between Home and School. After reading the proposed rule, I have the following comments:

Our mountain communities are very isolated and have no other local social service agencies in our region. We are the sole provider to help families with Medicare and Medicaid issues in our communities.

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. Much of the daily business of the MCFRC is helping families with Medical applications and/or assisting families go access medical services. If the MCFRC didn't exist or was limited in its funding – the families of the mountain communities would often go without this important assistance.

Please don't throw the baby out with the bath water. The MCFRC is provided with enough funding through the reimbursement under this program that we will be critically hampered in providing families with support on vital health issues if this funding is discontinued. Our local school district is our fiscal agent. If there is fraud within the system it should be stopped, but where the program is working and benefiting families appropriately it should continue. You have a lot of power to make a difference in the lives of the families in our communities.

Sincerely,



Linda MacKay
Family and Community Liaison
Mountain Communities Family Resource Center
El Tejon Unified School District



34

COLONIAL INTERMEDIATE UNIT 20

A Regional Service Agency

6 Danforth Drive
Easton, PA 18045-7899

Telephone (610) 252-5550 • FAX (610) 252-5740
Business Office FAX (610) 923-6229
Special Programs FAX (610) 559-7103
TDD/TTY Hearing Impaired (610) 252-3786

September 28, 2007

Centers for Medicare and Medicaid Services
Department of Health and Human Services
7500 Security Boulevard
Baltimore, MD 21244

Attention: CMS-2287-P, Mail Stop S3-14-22

Please accept our comments regarding Centers for Medicare and Medicaid Services proposed rule (CMS-2287-P) published in the Federal Register on September 7, 2007. The proposed rule would eliminate federal reimbursement under the Medicaid program for the costs of certain activities based on a Secretarial finding that these 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. As a result, schools would no longer be eligible to receive federal Medicaid payments for transporting students with special needs from home to school and back as well as for administrative activities performed by school employees or contractors. We would like you to fully consider how this proposed rule will impact Colonial Intermediate Unit 20's ability to provide additional services to students with disabilities.

The proposed rule (CMS-2287-P) will impose a significant financial burden on Colonial Intermediate Unit 20 which is estimated to lose approximately a half million dollars of funding over five years. Currently, this revenue source is used to offset the cost of transportation our districts pay CIU 20 to transport their students. In addition, it will make it more difficult for all schools to provide needed services to students with disabilities and will deny federal payment for services such as outfitting buses with specialized equipment, identifying students who need screenings and evaluations, and connecting children and their families with other needed services in the community, creating financial hardships for intermediate units and districts.

Furthermore, based on these determinations, under the proposed rule (CMS-2287-P), federal Medicaid payments will no longer be available for administrative activities performed by school employees or contractors, or anyone under the control of a public or private educational institution. This again will mean less funding available to purchase

Centers for Medicare and Medicaid Services
September 25, 2007
Page Two

supplies, equipment, etc. for students with special needs. Lastly, we utilize a portion of these monies for administrative clerical support necessary to meet ACCESS billing requirements.

In summation, as a result of the loss of this funding, the cost of providing special education services and other necessities to students with disabilities will increase thereby causing a financial burden on consortium districts and the intermediate units. The proposed rule will make it difficult for all schools and intermediate units to provide needed services to students with disabilities at a time when the federal government is already seriously behind in their commitment to fund special education. Intermediate units will be forced to increase the cost of services provided to districts. Districts will be forced to cut educational services, go to referendum, or replace lost Medicaid dollars with additional state and local taxpayer dollars. Historically, blended funding has been utilized to holistically meet the needs of children and families and is the continual right direction to best meet the complex needs of this very vulnerable population.

Respectfully,



Dr. Charlene Brennan

Executive Director, CIU 20

CB:nls

POLK COUNTY SCHOOLS

35



October 19, 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 Polk County, these changes would represent a yearly loss of approximately \$10,000 for our special needs students. To date Polk County Schools has received over \$140,000 in MAC Funds. If these dollars are lost, it will only exacerbate the existing deficit in state supported funding for Polk County's special needs children.

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

Sincerely,


Geoffrey M. Tennant, Chairman
The Polk County Board of Education

GMT/kc

ADMINISTRATION

William J. Miller
Superintendent

Dr. Mary Margaret Ingle
Associate Superintendent

BOARD OF EDUCATION

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**STEARNS
EDUCATION CENTER**

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828.894.3051
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Educational Services & Products, LLC

36

19 Dove Street · Suite #104 · Albany, NY 12210-1346 · (518) 445-3840 · FAX (518) 445-3841 · www.espllc.com

October 19, 2007

Kerry Weems
Acting Administrator
Centers for Medicare and Medicaid Services
U.S. Department of Health and Human Services
Attention: CMS-2287-P
P.O. Box 8017
Baltimore, MD 21244-8017

RE: Comments Concerning CMS-2287-P

Dear Acting Administrator Weems:

I am writing on behalf of the +/- 1,200 School Districts for which Educational Service & Products, LLC (ESP) provides Medicaid billing services – and on behalf of the +/- 3,000,000 Medicaid-eligible Special Education students in the United States – to request that the Centers for Medicare and Medicaid Services (CMS) rescind its proposed rule concerning Medicaid Rehabilitative Services (i.e., CMS 2287-P), which was published in the *Federal Register* on September 7, 2007. In this regard, I am making this request for the following reasons:

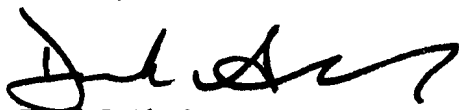
- Per the *Individuals with Disabilities in Education Act (IDEA)*, School Districts are mandated to provide a variety of health services – and related services – to all of their Special Education students;
- Although the Federal government originally promised to pay for forty percent (40%) of the total costs of *IDEA*-mandated services, it has never provided that level of funding to States/School Districts (Note: At the present time, the Federal government pays for approximately 18% of the total costs that States and School Districts incur in conjunction with *IDEA* mandates);
- Since 1988, School Districts have been allowed to seek Medicaid reimbursement with respect to the claimable health services and related services that they provide to Medicaid-eligible Special Education students – and their Medicaid outreach related costs; and
- The proposed rule would make it impossible for School Districts to claim Medicaid reimbursement for any of the Transportation Services that they are required to provide to Special Education students – and/or for any of their Medicaid outreach-related costs.

Given the fact that the Federal government has never lived up to its stated intent to pay for 40% of the costs that States and School Districts incur with respect to *IDEA*-related services – and given the fact that Congress explicitly authorized States and School Districts to seek Medicaid reimbursement with respect to the claimable health-related services that they provide to Medicaid-eligible Special Education students – it is simply inconceivable that CMS would

attempt to increase the financial burden of States and School Districts by implementing the proposed rule. In this regard, the proposed rule is neither “compassionate” nor “conservative” – and its enactment would only increase the financial burden of all States and School Districts.

Please feel free to contact me if you have any questions and/or if I can provide you with any further information concerning this matter.

Sincerely,



Derek J. Abraham
Managing Partner



DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 431, 433, and 440

CMS-2287-P

RIN 0938-AP13

Medicaid Program; Elimination of Reimbursement Under Medicaid for School Administration Expenditures and Costs Related to Transportation of School-Age Children Between Home and School

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Proposed rule.

SUMMARY: Under the Medicaid program, Federal payment is available for the costs of administrative activities "as found necessary by the Secretary for the proper and efficient administration of the State plan." The proposed rule would eliminate reimbursement under the Medicaid program for the costs of certain activities based on a Secretarial finding that these 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. Based on these determinations, under the proposed rule, Federal Medicaid payments would no longer be available for administrative activities performed by school employees or contractors, or anyone under the control of a public or private educational institution, and transportation from home to school and back for school-aged children with an Individualized Education Program (IEP) or an Individualized Family Services Plan (IFSP) established pursuant to the Individuals with Disabilities Education Act (IDEA).

DATES: To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on November 6, 2007.

ADDRESSES: In commenting, please refer to file code CMS-2287-P. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of four ways (no duplicates, please):

1. *Electronically.* You may submit electronic comments on specific issues in this regulation to <http://www.cms.hhs.gov/eRulemaking>. Click on the link "Submit electronic comments on CMS regulations with an open comment period." (Attachments should be in Microsoft Word,

WordPerfect, or Excel; however, we prefer Microsoft Word.)

2. *By regular mail.* You may mail written comments (one original and two copies) to the following address ONLY: 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.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments (one original and two copies) to the following address ONLY: 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.

4. *By hand or courier.* If you prefer, you may deliver (by hand or courier) your written comments (one original and two copies) before the close of the comment period to one of the following addresses. If you intend to deliver your comments to the Baltimore address, please call telephone number (410) 786-3256 or (410) 786-9215 in advance to schedule your arrival with one of our staff members. Room 445-G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201; or 7500 Security Boulevard, Baltimore, MD 21244-1850.

(Because access to the interior of the HHH Building is not readily available to persons without Federal Government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

Comments mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and received after the comment period.

FOR FURTHER INFORMATION CONTACT: Sharon J. Brown, (410) 786-0673, Judi Wallace, (410) 786-3197.

Submitting Comments: We welcome comments from the public on all issues set forth in this proposed rule to assist us in fully considering issues and developing policies. You can assist us by referencing the file code CMS-2287-P the specific "issue identifier" that precedes the section on which you choose to comment.

Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including any

personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following Web site as soon as possible after they have been received: <http://www.cms.hhs.gov/eRulemaking>. Click on the link "Electronic Comments on CMS Regulations" on that Web site to view public comments.

Comments received timely will also be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. E.S.T. To schedule an appointment to view public comments, phone 1-800-743-3951.

SUPPLEMENTARY INFORMATION:

I. Background

A. Medicaid Program

Title XIX of the Social Security Act (the Act) authorizes Federal grants to States for Medicaid programs, operated by the State under an approved State plan, that provide medical assistance to needy individuals including low-income families, the elderly, and persons with disabilities. Federal payment is available to States for a proportion of expenditures for medical assistance under the approved State plan, and qualified expenditures for administration of the State plan. This joint Federal-state financing of expenditures is described in section 1903(a) of the Act, which sets forth the rates of Federal financing for different types of expenditures.

Under section 1903(a)(7), of the Act, Federal payment is currently available at a rate of 50 percent of amounts expended by a State "as found necessary by the Secretary for the proper and efficient administration of the State plan." In addition, OMB Circular A-87, which contains the cost principles for State, local and Indian tribal governments for the administration of Federal awards, states that, "Governmental units are responsible for the efficient and effective administration of Federal awards." Under these provisions, administrative expenditures must be reasonable and necessary for the operation of the governmental unit or the performance of the Federal award.

Transportation to and from providers is not expressly mentioned in the Medicaid statute. Since the inception of the program, however, the Federal

this guidance, CMS indicated that the same interpretation was applicable to transportation claimed as a covered medical service.

However, as discussed further below, the proposed rule would supersede the prior guidance and would represent the Secretary's determination that transportation from home to school and back does not meet the definition of an optional medical transportation service nor is it necessary for the proper and efficient administration of the State plan.

C. Medicaid Reimbursement

In general, States submit claims for Federal funds with respect to expenditures under their Medicaid programs either as "medical assistance" or as "State/local administration."

i. Medical Assistance

FFP for allowable medical assistance expenditures under the Medicaid program is determined by the applicable Federal medical assistance percentage (FMAP) rate for a given State. The FMAP rate is determined annually for each State by a formula based on the relationship of the State's average per capita income level with the national per capita income level.

The State Medicaid Agency (SMA) reimburses participating Medicaid providers, including school providers, for allowable direct medical service expenditures. These reimbursement rates are set by the SMA and, therefore, any discussions regarding the appropriateness of such rates on the part of providers must be conducted at the State level. The reimbursement methodology is contained in the CMS approved Medicaid State Plan.

The proposed rule would not affect Federal reimbursement for the costs of allowable direct medical service expenditures.

ii. Administration

According to the Medicaid statute at section 1903(a)(7) of the Act and implementing regulations at 42 CFR 430.1 and 42 CFR 431.15, for the costs of any administrative activities to be allowable and reimbursable under Medicaid, the activities must be "found necessary by the Secretary for the proper and efficient administration of the plan" (referring to the Medicaid State plan).

In addition, OMB Circular A-87, which contains the cost principles for State, local and Indian tribal governments for the administration of Federal awards, states that, "Governmental units are responsible for the efficient and effective

administration of Federal awards." Under these provisions, administrative expenditures must be reasonable and necessary for the operation of the governmental unit or the performance of the Federal award.

FFP for allowable administrative expenditures in schools is available at a matching rate of 50 percent. The proposed rule would eliminate reimbursement for administrative expenditures conducted by school employees or contractors, or anyone under the control of a public or private educational agency, and certain transportation costs, as specified below. However, under the proposed rule, Federal funding would continue to be available for administrative overhead costs which are integral to, or an extension of, a specified direct medical service to the extent those costs are factored into the rate paid for such services and reimbursed at the applicable FMAP rate. These overhead costs include patient follow-up, assessment, counseling, education, parent consultations, and billing activities. Furthermore, school-based administrative activities, such as Medicaid outreach and eligibility intake, that are conducted by employees of the State or local Medicaid agency, will remain eligible for FFP.

D. Improper Billing

CMS has had long-standing concerns about improper billing by school districts for administrative costs and transportation services. The U.S. Department of Health and Human Services' Office of the Inspector General and the Government Accountability Office have identified these categories of expenses as susceptible to widespread fraud and abuse. In addition, costs related to education mandates have been improperly allocated to Medicaid. Congress has also expressed concern about the dramatic increase in Medicaid claims for school-based costs, which were the subject of two U.S. Senate Finance Committee hearings, held in June 1999 and April 2000. In fact, examining State-reported expenditure data related to schools reveals that, in certain years, a number of States' reported school-based administrative expenditures approached or even exceeded their reported school-based direct medical service expenditures, which is clearly evidence of improper claiming in this area. There may be certain States that do not submit claims for the costs of direct services provided in schools, thereby accounting for instances in which a State's school-based administrative expenditures exceed their direct service expenditures,

but such instances are an exception to overall school-based expenditure reporting trends.

II. Provisions of the Proposed Regulations

The proposed rule would establish a Secretarial finding that school-based administrative activities are not necessary for the proper and efficient administration of the State plan. Moreover, this proposed rule would establish a finding that transportation from home to school and back for school-age children is neither necessary for the proper and efficient administration of the State plan, nor within the scope of the optional medical transportation benefit. Based on these findings, the proposed rule would specify 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.

Under the proposed rule, the following changes would apply for the costs of the following activities or services:

- FFP would no longer be available for the costs of school-based administrative activities under Medicaid. As discussed below, by administrative activities we refer to activities that are not properly included in the scope of a covered service. School-based administrative expenditures are expenditures under the administrative control of a public or private educational institution and that are conducted by school employees or contractors, or anyone under the control of a public or private educational agency.
- FFP would no longer be available for the costs of transportation from home to school and back for school-age children with an IEP or IFSP established pursuant to the IDEA.

The rule would supersede all previous guidance, including guidance on school-based administrative claiming and school-based transportation.

Under the proposed rule, CMS would continue to reimburse States for school-based direct Medicaid services in their approved State plans. That is, the proposed rule would not affect the treatment of expenditures for direct medical services that are included in the approved State Medicaid plan and provided in schools, nor would it affect transportation of school-aged children from school or home to a non-school-based direct medical service provider that bills under the Medicaid program, or from the non-school-based provider to school or home.

Order 13422) directs agencies to assess all costs and benefits of all available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects (\$100 million or more in any 1 year). The proposed rule's savings would exceed this economic threshold and it is therefore considered a major rule. The proposed rule is estimated to reduce Federal Medicaid outlays by \$635 million in FY 2009 and by \$3.6 billion over the first five years (FY 2009–2013). The RFA requires agencies to analyze options for regulatory relief of small entities if proposed rules have a "significant economic impact on a substantial number of small entities." For purposes of the RFA, small entities include small businesses, nonprofit organizations, and small governmental jurisdictions, including school districts. "Small" governmental jurisdictions are defined as having a population of less than fifty thousand. Individuals and States are not included in the definition of a small entity. Although some school districts have populations below this threshold and are therefore considered small entities for purposes of the RFA, CMS has determined the impact on local school districts as a result of the proposed rule would not exceed the threshold of "significant" economic impact under the RFA, as discussed below. However, we are specifically soliciting comments from the public regarding the potential impact on local schools.

States have the option under the proposed rule to continue funding school-based administrative activities using State-only funds; this rule simply eliminates the availability of Federal Medicaid matching funds for these expenditures when they are performed by employees of the school or contractors, or anyone under the control of a public or private educational institution, rather than employees of the Medicaid agency. However, with respect to transportation specifically, States and/or schools will be required under the proposed rule to continue funding transportation of school-age children from home to school and back to the extent it is required by education statute(s). That is because schools provide transportation to and from school for all students, not just (or even primarily) special education or Medicaid eligible students.

The Individuals with Disabilities Education Act (IDEA) requires public schools to provide a free appropriate public education to children with disabilities. The IDEA authorizes funding through the U.S. Department of Education (not Medicaid) for special education and related services for children with disabilities. While section 1903(c) of the Social Security Act authorized Medicaid funding for covered services included in an individualized education plan under the IDEA, section 1903(c) does not expressly authorize Medicaid funding for administrative activities that schools conduct in implementing their IDEA responsibilities.

Medicaid matching funds provided as reimbursement for administrative activities are supplemental to the State and local funding localities already received. Furthermore, the estimated annual Federal savings under this proposed rule is only about one eighth of one percent of total annual spending on elementary and secondary schools (in 2004 total elementary and secondary spending was \$453 billion according to the Statistical Abstract of the United States, Table 245, at <http://www.census.gov/compendia/statab/education>). According to the "Guidance on Proper Consideration of Small Entities in Rulemakings of the U.S. Department of Health and Human Services (May 2003)," if the average annual impact on small entities is 3 to 5 percent or more, it is to be considered significant. Because we use a threshold of 3 to 5 percent of annual revenues or costs in determining whether a proposed or final rule has a "significant" economic impact on small entities, we have determined that this proposed rule will not have a significant economic impact on a substantial number of small entities. However, we welcome comments on both the stated threshold for determining what is or is not a significant economic impact and the conclusion we reached as a result of the chosen threshold. We are additionally requesting comments specific to the potential impact of the proposed rule on other programs, both Federal and State programs.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 100 beds. We are not

preparing an analysis for section 1102(b) of the Act because we have determined, and the Secretary certifies, that this rule would not have a direct impact on the operations of a substantial number of small rural hospitals. Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of \$100 million in 1995 dollars, updated annually for inflation. That threshold level is currently approximately \$130 million. This rule contains no mandates. The proposed rule anticipates Federal savings of approximately \$635 million in the first year following implementation, but does not require States to replace that Federal funding with State funding or take any other particular steps. Any mandates regarding school transportation spending arise under State constitutions, or other Federal or State laws. School-based Medicaid administrative activities and transportation from home to school and back are not required activities under the Medicaid statute.

Executive Order 13132 on Federalism establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirements on State and local governments, preempts State law, or otherwise has Federalism implications. EO 13132 focuses on the roles and responsibilities of different levels of government, and requires Federal deference to State policy making discretion when States make decisions about the uses of their own funds or otherwise make State-level decisions. We find that this rule would not have a substantial effect on State or local government policy discretion. While the proposed rule would eliminate the ability of States to claim Federal Medicaid funding for school-based administrative and certain transportation costs, notably routine home-to-school and back bus transportation, it would not impose any requirement as to how States or localities administer or pay for such activities, or interfere in any way with the ability of States to determine school transportation policy. The rule would simply recognize that routine school transportation from home to school and back and related administrative activities are not authorized under the Medicaid statute as necessary for the proper and efficient administration of the State plan, nor do they meet the

List of Subjects**42 CFR Part 431**

Grant programs—health, Health facilities, Medicaid, Privacy, Reporting and recordkeeping requirements.

42 CFR Part 433

Administrative practice and procedure, Child support, Claims, Grant programs—health, Medicaid, Reporting and recordkeeping requirements.

42 CFR Part 440

Grant programs—health, Medicaid. For the reasons set forth in the preamble, the Centers for Medicare & Medicaid Services would amend 42 CFR chapter IV as set forth below:

PART 431—STATE ORGANIZATION AND GENERAL ADMINISTRATION

1. The authority citation for part 431 continues to read as follows:

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

2. Section 431.53 is revised to read as follows:

§ 431.53 Assurance of Transportation.

(a) A State plan must—
(1) Specify that the Medicaid agency will ensure necessary transportation for recipients to and from providers; and

(2) Describe the methods that the agency will use to meet this requirement.

(b) For purposes of this assurance, necessary transportation does not include transportation of school-age children between home and school.

PART 433—STATE FISCAL ADMINISTRATION

3. The authority citation for part 433 continues to read as follows:

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

4. Part 433 is amended by adding new section 433.20 as follows:

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

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

PART 440—SERVICES: GENERAL PROVISIONS

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

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

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

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

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

(Authority: Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)

Dated: July 20, 2007.

Leslie V. Norwalk,

Acting Administrator, Centers for Medicare & Medicaid Services.

Approved: August 10, 2007.

Michael O. Leavitt,

Secretary.

[FR Doc. 07-4356 Filed 8-31-07; 3:00 pm]

BILLING CODE 4120-01-P

OCT 17 2007

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To Whom It May Concern:

We urge you to consider the choice that is being placed in your hands, and to think about the impact that your decision will make. There are many factors that depend of the outcome of your decision and we urge you to keep in mind, the individuals that are dependent on these services. Please consider the struggle for these individuals before making any decision that might affect their lives.

As part of an institution dedicated to education and the intellectual growth of members of our society, we hereby would like to recognize our personnel for their efforts in disseminating important information to students and their family—including minor children—on accessing Medi-Cal health and psychological programs. Without these programs, if chronic illnesses ever befell on the students or families, they would have been impaired from pursuing their educational aspirations to become contributing members of our society.

Do not eliminate a valuable program because of the few who have chosen to abuse it. Unlike for those who used the MAA reimbursement dollars for less than stellar purposes, the MAA dollars are an essential source for decreasing the deficit and supporting ongoing departmental necessities such as:

- Medi-Cal outreach and prevention education programs
- Staff who are hired to do outreach and enroll students for health care services
- Provision of health care services by nurse practitioners to those uninsured students who are not qualified for Medi-Cal
- Medications and medical supplies for low income, uninsured students
- Vaccinations for students

Other reasons not to eliminate the program in educational institutions:

- A decentralized outreach system in schools is essential for students and parents, who can be reached easily, and is an efficient method of disseminating information.
- When the source of information comes directly from a counselor or teacher, the students are reached in a more relevant manner.
- We in higher education have become more passionate about reaching out to students and informing them on access to health care for themselves and their minor children.

Why punish those who follow the rules due to few of those who did not?

Without access to vital medical services such as hospital and emergency room care, doctor's visit, vision care, prescription drugs, mental health and other services that have become possible through Medi-Cal, and without the committed work that our school employees have done to assist, educate, and link students with resources and information on the application and qualifications about Medi-Cal, our students cannot be fully intellectually proficient, especially when they are physically or psychologically unwell. Wellness, we believe, is a prerequisite to all else.

Sincerely,
Christopher Brodie.

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Young, Sheila L. (CMS/OSORA)

From: Nixon, Karen E. (CMS/OSORA)
Sent: Friday, October 19, 2007 10:51 AM
To: Young, Sheila L. (CMS/OSORA)
Cc: Bailey, Glenda G. (CMS/OSORA)
Subject: FW: MAA program

Cm90
632973
19 OCT 2007
1:31 pm

Please control. Thanks

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

>From: White, Jacquelyn Y. (CMS/OSORA)
>Sent: Friday, October 19, 2007 10:48 AM
>To: Bailey, Glenda G. (CMS/OSORA); Nixon, Karen E. (CMS/OSORA)
>Subject: FW: MAA program

>
>Please control

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

>>From: Paula Cahill [mailto:pcahill@ccsf.edu]
>>Sent: Thursday, October 18, 2007 8:10 PM
>>To: White, Jacquelyn Y. (CMS/OSORA)
>>Subject: MAA program

>>
>>October 18, 2007

>>
>>Dear Ms. White:

>>
>>Please do not eliminate the Medi-Cal Administrative Activities (MAA)
>>program. As a Family Nurse Practitioner working in a school based
>>health care setting that provides health care to primarily uninsured
>>and underinsured college students, I feel this program must be maintained.
>>The income generated from the MAA program allows our clinic to
>>continue to do Medi-Cal outreach and health promotion to the diverse student body
>>we serve. MAA dollars received are in turn often used to provide
>>additional health care services, needed vaccines, medications, and
>>health education programs to many of our uninsured students who do not
>>qualify for Medi-Cal and can not afford other health insurance.
>>Please help us maintain this important source of funding to help keep
>>our students healthy.

>>Sincerely,

>>
>>
>>Paula Cahill, RN, MSN, FNP-C
>>Nurse Practitioner
>>Student Health Services
>>

39

Young, Sheila L. (CMS/OSORA)

From: Nixon, Karen E. (CMS/OSORA)
Sent: Friday, October 19, 2007 10:52 AM
To: Young, Sheila L. (CMS/OSORA)
Cc: Bailey, Glenda G. (CMS/OSORA)
Subject: FW: Please Save MAA - CMS-2287-P

CMSO

632970

19 OCT 2007

1:08 pm

Please control. Thanks-----

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

>From: White, Jacquelyn Y. (CMS/OSORA)
>Sent: Friday, October 19, 2007 10:49 AM
>To: Nixon, Karen E. (CMS/OSORA); Bailey, Glenda G. (CMS/OSORA)
>Subject: FW: Please Save MAA - CMS-2287-P

>
>Please control

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

>>From: Weems, Kerry (CMS/OA)
>>Sent: Thursday, October 18, 2007 6:04 PM
>>To: White, Jacquelyn Y. (CMS/OSORA)
>>Subject: FW: Please Save MAA - CMS-2287-P

>>
>>
>>

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

>>>From: Margaret Mendiola [mailto:mmendiola@ccsf.edu]
>>>Sent: Thursday, October 18, 2007 5:31 PM
>>>To: Frizzera, Charlene (CMS/OA); Kuhn, Herb B. (CMS/OA); Weems, Kerry
>>>(CMS/OA)
>>>Subject: Please Save MAA - CMS-2287-P

>>>
>>>Dear Honorable Leader,
>>>

>>>As an employee of an educational institution, City College of San
>>>Francisco, I would like to inform you of the very valuable outreach
>>>services that I provide through MAA to the many uninsured students
>>>who drop by requesting any resources (brochures, applications, etc.)
>>>that may help guide them to find the specific Medi-Cal health and
>>>psychological services for themselves or a family member during,
>>>before or after their medical concern has occurred. Offering
>>>possible Medi-Cal links is a way of ensuring that the students can
>>>reach their educational goals as a healthy well-adjusted person.

>>>Please do not eliminate the MAA program. It is a valuable source of
>>>dollars to provide Medi-Cal outreach and preventative educational
>>>programs to low income and uninsured students so that they may
>>>continue their pursuit of a higher education for a brighter future
>>>and to be a more productive citizen.

>>>
>>>Margaret Mendiola
>>>CCSF SHS
>>>

October 10, 2007

Jacquelyn White
Director, Office of Strategic Operations and Regulatory Affairs
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Mail Stop S3-14-22,
7500 Security Boulevard
Baltimore, MD 21244.

RE: Docket No. CMS-2007-0169; Elimination of Reimbursement Under Medicaid for School Administration Expenditures

Dear Ms. White:

I write to comment on the proposed elimination of federal matching funds for school-based administrative activities that support outreach and enrollment for eligible low-income children in Medicaid (file code CMS-2287-P). While the evidence given to justify the rule change seems weak, the change would undermine initiatives, previously encouraged by CMS, which ensure the health of our nations' most vulnerable children by successfully connecting them to the program.

In justifying the proposed rule change, CMS cites concern by Congress and the agency that schools have incorrectly documented administrative activities, leading to abusive claims of federal matching funds for activities related more to the educational mission of schools than the implementation of Medicaid. While it is important to ensure the effective use of taxpayer dollars, the evidence given of widespread fraud is not strong in the document. First, the Congressional hearings cited as evidence of serious concern about the problem occurred in 1999 and 2000, long before CMS issued the *Medicaid School-Based Administrative Claiming Guide* in 2003 to define acceptable activities and guide schools in how to report them correctly. The proposed rule argues that this guide has failed to adequately regulate activities, but the text does not provide evidence of this failure in the form of an estimated dollar amount of fraudulent claims that have continued to occur after 2003. These estimated costs of abuse are implied in the projected savings due to a rule change, however, these savings could be primarily related to the second issue addressed by the rule - transportation for school-aged children. Perhaps most of the costs accrue from transportation activities, and the two parts of the rule should be considered separately.

While the justification for the rule change is a bit murky, evidence that school-based administration activities increase the effectiveness of the Medicaid program is clear. A guide issued in 2000 by the DHHS, USDA and DOE *encouraged* Medicaid programs to partner with schools because they provide the best link for identifying and enrolling eligible children in health care coverage. Subsequent outreach projects in school districts nationwide have proven this theory. Interviews conducted with school administrators by the Center on Budget and Policy Priorities give examples from the Chicago Public Schools and the Granite School District (which includes Salt Lake City), where recent annual approval rates for applicants were 90 percent and 77 percent respectively. The Granite School District rate is far higher than the 43 percent statewide approval rate.

Administrators attribute the increased number of submitted applications and successes in enrolling low-income children to translation services, and help in gathering needed documentation by school employees. Without matching funds, many states will not be able to continue these outreach programs that prove so effective. It is doubtful that with their already large workload, state Medicaid employees would continue consistent outreach in schools. If they did, their work may be less effective because they lack the relationships of trust that parents develop with school employees they see on a consistent basis.

Finally, I note that pursuant to the Regulatory Flexibility Act, the impact of the rule on small school districts was evaluated and deemed to “not exceed the threshold of ‘significant’ economic impact.” I am pleased to read that despite these evaluations you seek public comment on this issue. However, I am disappointed to find no estimate of the number of children who would not be identified and enrolled in much-needed medical services if states can not maintain school-based outreach programs without federal support. I urge you to consider the impact on these young lives when creating the final rule.

Sincerely,

Natalie Valpiani

41

*** RECEIVED ***
Sep 27, 2007 11:43:07 WS# 20
OSNUM: 092720071015
OFFICE OF THE SECRETARY
CORRESPONDENCE
CONTROL CENTER

RECEIVED

2007 SEP 27 A 8:58

OFFICE OF THE SECRETARY



Seminole County
Public Schools

BILL VOGEL, Ed.D.
Superintendent

September 26, 2007

The Honorable Michael Leavitt
Secretary, Health and Human Services
Washington, DC

Dear Senator Leavitt:

Seminole County Public School system has received reports that the Center for Medicare and Medicaid Services (CMS), a division of the Department of Health and Health Services, plans to take action in the near future to prohibit federal reimbursement for transportation costs associated with special education services for Medicaid eligible children. For our school district, this would mean the loss of funding which would help disabled children meet their health and learning needs.

Regardless of the source of funding, the Seminole County Public School system has a moral commitment to serve these children, as well as a federal statutory mandate. The loss of Medicaid funds would lead to the reduction of services to other district programs, including those serving regular students. This potential funding cut will have significant impact in light of the upcoming special session of the Florida legislature during which funding for public schools will be reduced by a minimum of four percent (\$9.2 million for Seminole County Public Schools).

On behalf of Seminole County Public Schools and other affected districts nationwide, we request your assistance. In the interest of our most vulnerable children we ask you to suspend implementation of CMS 2287. This will allow school districts to continue providing disabled children the support they desperately need.

Thank you in advance for your consideration and support. Please feel free to contact us at 407-320-0000 for additional information.

Sincerely,

Bill Vogel
Bill Vogel, Ed.D.
Superintendent

Britt Smith
Britt Smith
Executive Director
Exceptional Student Support Services

cc: School Board Members
Central Florida Public School Boards Coalition Superintendents

Educational Support Center
400 E. Lake Mary Boulevard
Sanford, Florida 32773-7127
Phone: (407) 320-0000
Fax: (407) 320-0281
Suncom: 351-0000

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Visit Our Web Site
www.seps.k12.fl.us

Sep 26 07 01:42p

Shea Ship & Post

6029714972

42
** RECEIVED **

P-1

Sep 27 2007 11:43:07 WSP 20
OSNUM: 092720071015
OFFICE OF THE SECRETARY
CORRESPONDENCE
CONTROL CENTER

John W. Zemblidge
Member, Society of St. Vincent de Paul
St. Joseph Conference
2722 East Purdue Avenue
Phoenix, AZ 85028-4720

September 25, 2007

The Honorable Michael Leavitt
Secretary, Health and Human Services
200 Independence Avenue, SW
Washington, D.C. 20201
FAX: (202) 690-7203

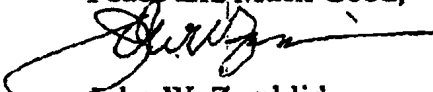
Dear Secretary Leavitt:

Summer is officially over here in Phoenix. Temperatures are no longer soaring above 110 degrees. But the electric bills from August are just beginning to arrive in our mailboxes from Arizona Public Service Company and Salt River Project. These bills are staggering and the heat is now on the poor who can not pay them.

In the twelve square mile area of north Phoenix within the boundaries of St. Joseph Catholic Parish, Phoenicians call on our St. Vincent de Paul Conference to assist at times with rent, utilities and other financial emergencies. On September 6, our conference ran out of money from our generous benefactors and was forced to say "no" to needy families who are now facing disconnection of their electric service.

I understand there are \$131 million in LIHEAP contingency funds available for distribution. Please send several million to help suffering Arizona families.

Peace and Much Good,


John W. Zemblidge
Vincentian

632849
OCT 18 2007

4

Cook, Cynthia E. (CMS/OSORA)

From: Nixon, Karen E. (CMS/OSORA)
Sent: Thursday, October 18, 2007 9:56 AM
To: Cook, Cynthia E. (CMS/OSORA)
Subject: FW: Please save MAA in schools

Please control. Thanks

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

>From: White, Jacquelyn Y. (CMS/OSORA)
>Sent: Thursday, October 18, 2007 8:44 AM
>To: Bailey, Glenda G. (CMS/OSORA); Nixon, Karen E. (CMS/OSORA)
>Subject: FW: Please save MAA in schools

>

>For correspondence control. Thanks.

>

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

>>From: Kerry Weems (OA)
>>Sent: Wednesday, October 17, 2007 6:19 PM
>>To: White, Jacquelyn Y. (CMS/OSORA)
>>Subject: FW: Please save MAA in schools

>>

>>

>>

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

>>>From: Sunny Clark [mailto:sclark@ccsf.edu]
>>>Sent: Wednesday, October 17, 2007 6:16 PM
>>>To: Weems, Kerry (CMS/OA)
>>>Subject: Please save MAA in schools

>>>

>>>Dear Kerry Weems,

>>>

>>>As part of an institution dedicated to education and the intellectual

>>>growth of members of our society, we hereby would like to recognize

>>>our personnel for their efforts in disseminating important

>>>information to students and their family*including minor children*on

>>>accessing Medi-Cal health and psychological programs. Without these

>>>programs, if chronic illnesses ever befell on the students or

>>>families, they would have been impaired from pursuing their

>>>educational aspirations to become

>>>contributing

>>>members of our society.

>>>
>>>Do not eliminate a valuable program because of the few who
have
>>>chosen to abuse it. Unlike for those who used the MAA
reimbursement
>>>dollars for
>less
>>>than stellar purposes, the MAA dollars are an essential
source for
>>>decreasing the deficit and supporting ongoing departmental
>>>necessities
>>such
>>>as:
>>>
>>>*Medi-Cal outreach and prevention education programs
>>>*Staff who are hired to do outreach and enroll students for
health
>>>care services
>>>*Provision of health care services by nurse practitioners to
those
>>>uninsured students who are not qualified for Medi-Cal
>>>*Medications and medical supplies for low income, uninsured
students
>>>*Vaccinations for students
>>>
>>>Other reasons not to eliminate the program in educational
institutions:
>>>
>>>*A decentralized outreach system in schools is essential for
students
>>>and parents, who can be reached easily, and is an efficient
method of
>>>disseminating information.
>>>*When the source of information comes directly from a
counselor or
>>>teacher, the students are reached in a more relevant manner.
>>>*We in higher education have become more passionate about
reaching out
>>>to students and informing them on access to health care for
>>>themselves
>and
>>>their minor children.
>>>
>>>Why punish those who follow the rules due to few of those who
did not?
>>>
>>>Without access to vital medical services such as hospital and

>>>emergency room care, doctor's visit, vision care,
>>>prescription drugs,
>>>mental health and other services that have become possible
>>>through
>>>Medi-Cal, and
>>>without
>>>the committed work that our school employees have done to
>>>assist,
>>>educate,
>>>and link students with resources and information on the
>>>application
>>>and qualifications about Medi-Cal, our students cannot be
>>>fully
>>>intellectually
>>>proficient, especially when they are physically or
>>>psychologically
>>>unwell.
>>>Wellness, we believe, is a prerequisite to all else.
>>>
>>>thank you,
>>>
>>>
>>>Sunny Clark
>>>Associate Dean & Clinic Director
>>>City College of San Francisco
>>>Student Health Services
>>>50 Phelan Ave. (HC100)
>>>San Francisco
>>>CA 94112
>>>Phone: (415) 452-5384
>>>Fax: (415) 239-3193
>>>

44

Colusa County Office of Education

Kay C. Spurgeon
COUNTY SUPERINTENDENT OF SCHOOLS

October 12, 2007

Dear Members of the California Congressional Delegation:

As you know, schools play a key role in identifying children for Medicaid and connecting them to needed services in schools and the community. On September 7, 2007, the U.S. Department of Health and Human Services published a proposed rule that would prohibit school districts from receiving federal reimbursement for an estimated \$3.6 billion over five years in Medicaid services provided to children with disabilities.

I write now to urge you to contact U.S. Department of Health and Human Services Secretary Mike Leavitt and the Bush Administration to voice your opposition to the publication of this proposed rule. Such action is necessary in order to protect schools' ability to provide children with the health services that they deserve. I also ask that you support various efforts to reach a legislative solution, including language in the House's version of the State Children's Health Insurance Program expansion which would place a moratorium on proposed regulatory changes to the Medicaid programs.

Colusa County educators and parents are very concerned that the proposed rule would reduce the availability of and access to needed health and developmental services for students with individualized education programs (IEPs) and other low-income children with special needs, for whom school is their primary site for healthcare delivery.

California, along with 38 other states, has established Medicaid School-Based Services for Medicaid eligible students. There are two programs school districts participate in to receive reimbursement: (1) the Local Educational Agency (LEA) Medi-Cal Billing Option Program; and (2) the Medi-Cal Administrative Activities (MAA) Program. Colusa County schools rely on these reimbursements for a variety of purposes such as outfitting vans with specialized equipment, transporting children, identifying students who need screenings and evaluations, and connecting children and their families with other needed services in their community. Colusa County received over \$28,300 for the LEA Medi-Cal Billing Option Program and over \$29,400 for the MAA Program for fiscal year 2004-05.

EOCC

Members of the California Congressional Delegation

Page 2

October 12, 2007

The loss of these resources could mean that schools will have to reduce nurse services, curtail referral services, and/or scale back enhancements for Special Education vans. Since many of these services are mandated under the Individuals with Disabilities Education Act (IDEA), this action would substantially increase the burden on already financially-strapped local school districts. As a result, this proposed rule would likely impact students in regular education programs, through cuts to electives, after school activities, arts and music programs, and/or reductions in teachers and support staff positions.

Thank you for your commitment to improving public education and the lives of California's school children. If you have any questions regarding the services provided under Medicaid, please do not hesitate to contact me at (530) 458-0350, ext. 10365 or by e-mail at kspurgeon@ccoe.net.

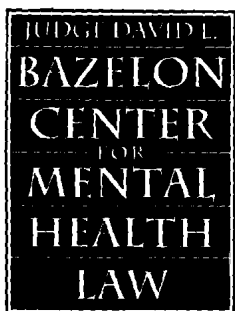
Sincerely,



Kay C. Spurgeon

Colusa County Superintendent of Schools

KS/tsm



Civil Rights and Human Dignity

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Affiliations listed for information only

October 16, 2007

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

FILE CODE: CMS-2287-P

Dear Sir or Madam:

The following comments are submitted by the Bazelon Center for Mental Health Law, a legal advocacy organization dedicated to upholding the rights of persons with mental illness, concerning the proposed rule, published on September 7, 2007, regarding reimbursement under Medicaid for school administration expenditures and costs related to transportation of school-age children between home and school.

This proposed rule (amending CFR §433.20) would deny reimbursement to school officials for the administrative tasks conducted by school employees or contractors with respect to outreach and enrollment activities and for informing children's families about the availability of screening and other services under the Early and Periodic, Screening, Diagnosis and Treatment mandate of Medicaid.

In justification for this action, CMS cites certain circumstances where certain schools or school districts have engage in what seems clearly to be fraud. The regulation, however, is a shocking over-reaction that punishes children all across the country for the failure of a few school administrators to follow Medicaid rules.

One of the most certain ways to reach the children who are eligible, but not enrolled in Medicaid and to ensure that they have access to EPSDT screening is to reach them through the school. Virtually every child is in school, and families are generally open to receiving information from school officials. Increasing the enrollment of eligible children into the Medicaid program is of

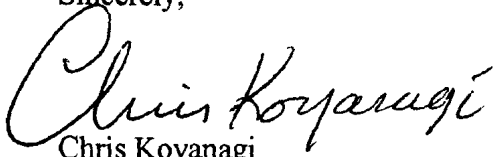
45

the greatest importance. Low income children have significant health problems for which they need treatment, and the preventive services of Medicaid can also save much anguish as well as resources in the future.

It is highly unlikely that Medicaid agencies will be able to replace this resource with either their own staff or through employees of other agencies or a private entity. The net result of this rule is going to be fewer children on the program, and worsening health conditions for those children.

We strongly oppose this proposed rule change and urge that schools continue to be allowed to use Medicaid administrative funds for these activities. CMS has already issued federal guidance on claiming for these costs (in 2003) and, if necessary, CMS could issue reminders to schools on these rules. But punishing thousands of children for the failure of a few schools to adhere to this guidance is not sound national policy.

Sincerely,

A handwritten signature in cursive script that reads "Chris Koyanagi". The signature is written in black ink and is positioned to the left of the typed name.

Chris Koyanagi
Policy Director



BOYERTOWN AREA SCHOOL DISTRICT

2/10

"to enable all students to succeed in a changing world"

October 9, 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 Sir or Madam:

Our District is writing to express its opposition to the passage of the Department of Health and Human Services, Centers for Medicare and Medicaid Services, 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.

Our District has aggressively pursued medical assistance billing through the School Based ACCESS Program (SBAP) to partially offset the rising cost of providing services to our special education students. Our District received over \$600,000 in funding from the SBAP and Administrative Time Study Program during the 2006-2007 School Year. If this funding is eliminated or cut, districts may have to look at increased local revenue, as the federal government has failed to provide the promised amount of funding for the past 30 years. While basic federal and state funding partially support special education, local sources are used heavily to provide the necessary funding to offer services to students as mandated by federal and state regulations.

Thank you for your consideration of this important issue.

Very truly yours,

A handwritten signature in black ink, appearing to read "R. Scoboria".

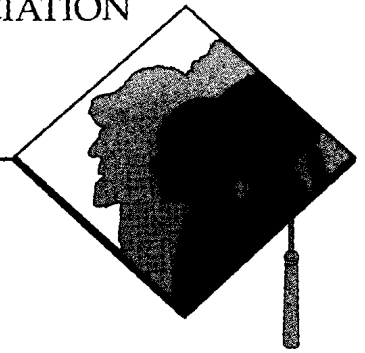
Robert L. Scoboria
Assistant Superintendent for Student and Administrative Services
Boyertown Area School District

RLS/lcd

47

NEW HAMPSHIRE SCHOOL ADMINISTRATORS ASSOCIATION

CHAMPIONS FOR CHILDREN



September 28, 2007

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

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

To Whom It May Concern:

Please accept these comments to the proposed regulations at 72 Federal Register 51397 *et seq.*, published on September 7, 2007. We limit our comments to the proposed elimination of Medicaid reimbursement for specialized transportation as our state plan has never provided for reimbursement for administrative claiming in the school setting.

CMS uses an overly simplistic approach to justify of the elimination of reimbursement for specialized transportation costs of children with disabilities from home to school and from school to home.¹ CMS reasons that “[s]tudents receive transportation from home to school and back regardless of whether or not they are determined eligible for special education services. Transportation from home to school and back is an essential school function and is furnished by the school regardless of whether medical services are received at the school. School-age children, including children with an Individualized Education Program or Individual Family Services Plan, are transported from home to school primarily to receive an education, not to receive direct medical services. Because transportation coincides with the school schedule and is not directly related to a visit to a medical provider, characterization of the transportation as medically necessary to gain access to providers is inaccurate.”²

What the CMS argument fails to address is that in many cases, the costs incurred with providing specialized transportation to students from home to school and from school to home far exceed the normal costs of providing transportation services to students. These additional costs, for specially adapted vehicles and the creation of bus routes, would not otherwise exist but for the children’s disabilities, which stem from an underlying medical condition. CMS fails to even attempt to address these additional medically based transportation costs in this proposed rule, but would combine those costs in the category of the costs that schools have to bear as a component of their educational function. Further, in NH, school districts are not required to provide general education transportation to high school students, so all costs of specialized transportation provided to high school students with disabilities are necessitated by the child’s disability.

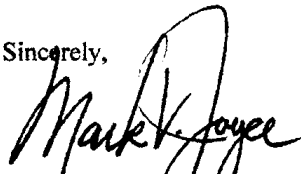
¹ 72 F.R. 51399

² 72 F.R. 51400

This proposal, which seeks to re-define the definition of a covered service, is in direct violation of Congressional intent as indicated at 42 U.S.C. § 1396b(c), which states: "**Treatment of educationally-related services** -Nothing in this subchapter shall be construed as prohibiting or restricting, or authorizing the Secretary to prohibit or restrict, payment under subsection (a) of this section for medical assistance for covered services furnished to a child with a disability because such services are included in the child's individualized education program established pursuant to part B of the Individuals with Disabilities Education Act [20 U.S.C. 1411 et seq.] or furnished to an infant or toddler with a disability because such services are included in the child's individualized family service plan adopted pursuant to part H of such Act." In these proposed regulations, CMS is attempting to circumvent this congressional mandate by simply labeling specialized transportation as a non-covered service in these proposed regulations in an effort to severely restrict the flow of Medicaid reimbursement dollars to schools. We oppose this attempt by CMS to circumvent Congressional intent through the promulgation of these proposed regulations and accompanying interpretation as found in the commentary.

Thank you very much for your consideration.

Sincerely,



Dr. Mark Joyce, Executive Director
NH Association of School Administrators
Mark@nhsaa.org



Dr. P. Alan Pardy, Executive Director
NH Association of Special
Education Administrators
alan@nhasea.org



Dr. Theodore E. Comstock
Executive Director and General Counsel
New Hampshire School Boards Association
sklesq@aol.com



Debbie Gay, President
NH Association of School Business Officials
dgay@shaker.k12.nh.us

Cc: Lyonel B. Tracy, Commissioner, Department of Education
Nicholas Toumpas, Acting Commissioner, NH Department of Health and Human Services
Representative Carol Shea-Porter
Representative Paul Hodes
Senator John E. Sununu
Senator Judd Gregg
National Educational Agencies



Winston-Salem/Forsyth County Schools
P.O. Box 2513
Winston-Salem, NC 27102-2513
(336) 727-2816 Fax(336) 727-2008
website: wsfcs.k12.nc.us

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October 23, 2007

Secretary Michael O. Leavitt
Department of Health and Human Services

RE: CMS 2287-P

Dear Secretary Leavitt:

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 Forsyth County, these changes would represent a loss of 1.0 million annually and \$ 5 million over a five-year period for the more than 7,200 special needs students we currently serve. If these dollars are lost, it will only exacerbate the existing deficit in state supported funding for Forsyth County's special needs children.

The Winston-Salem/Forsyth County Board of Education respectfully requests that you withdraw CMS 2287-P.

Sincerely,

Donny C. Lambeth

Jane D. Goins
Vice Chair

Geneva B. Brown Chair

Board of Education

Donny C. Lambeth, Chair
Geneva B. Brown
A.L. (Buddy) Collins
Jane D. Goins
Victor Johnson, Jr.
Jeannie A. Metcalf
Elisabeth Motsinger
Marilyn A. Parker
Jill A. Tackabery

A. L. Collins

Vic Johnson

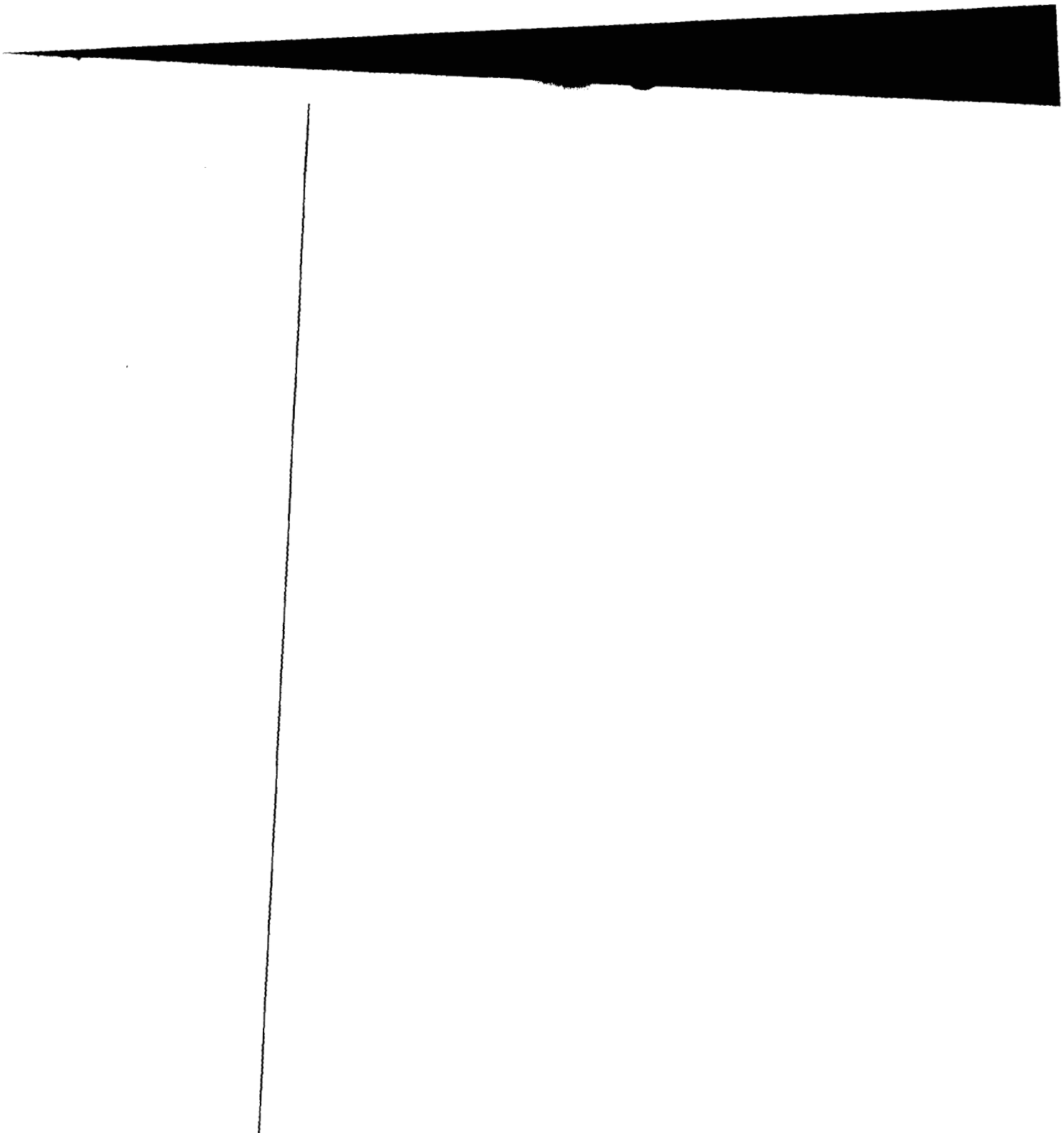
Jeannie Metcalf

Elisabeth Motsinger

Marilyn A. Parker

Jill A. Tackabery

Donald L. Martin, Jr.
Superintendent



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