



49

**TONY BENNETT**

CHAIR

BOARD OF RAMSEY COUNTY COMMISSIONERS  
DISTRICT 1

JOE MURPHY  
ASSISTANT TO COMMISSIONER  
Joe.Murphy@Co.Ramsey.MN.US

220 COURT HOUSE  
SAINT PAUL, MINNESOTA 55101  
TEL (651) 266-8362 FAX (651) 266-8363  
Tony.Bennett@Co.Ramsey.MN.US

August 22, 2007

The Honorable Michael Leavitt  
Secretary, Health and Human Services  
200 Independence Avenue SW  
Washington, DC 20201

Re: Opposition to CMS 2287

Dear Secretary Leavitt,

We strongly urge you not to publish CMS 2287, the regulation that would eliminate Medical Assistance reimbursement for administrative and transportation services.

Ramsey County and the six local school districts that we partner with would lose 65% of the annual Time Study funding we currently earn if this regulation is implemented. That would be over \$1 million annually at a time in which early intervention services have been reduced and child protection caseloads are expanding in our county.

The increased law enforcement and judicial costs that the federal government bears part of the cost for would exceed the \$1 million savings in Ramsey County. This is economically a bad and counter-productive choice.

Sincerely,

Tony Bennett  
Chair  
Ramsey County Board of Commissioners

kmj



# CASA GRANDE UNION HIGH SCHOOL DISTRICT

50

NANCY M. PIFER  
SUPERINTENDENT

EDNA MORRIS  
ASSISTANT SUPERINTENDENT

SHANNON HILYER  
DIRECTOR OF  
SUPPORT SERVICES

LORIE GERKEY  
DIRECTOR OF EXCEPTIONAL  
STUDENT SERVICES

LINDA HUGHES  
DIRECTOR OF CAREER &  
TECHNICAL EDUCATION

8-21-07

The Honorable Michael Leavitt  
Secretary, Health and Human Services

This letter comes to you in ***opposition of CMS 2287***. This Bill will dramatically cut funding for students with disabilities in my District. At this time, ALL funds that are reimbursed from medical services we provide to students, which include transportation for those services and the administration of those services, goes to helping serve students with disabilities in my District.

Since IDEA is not fully funded as promised, this reimbursement program has tremendously assisted our growing district in providing appropriate educational and medical services to our students.

***Please do not move forward with CMS 2287.***

Sincerely,

Lorie Gerkey  
Director of Exceptional Student Services  
Casa Grande Union High School District  
520-876-1161



**Office of the Board of Trustees**  
• 1130 Fifth Avenue • Chula Vista, California 91911-2896  
(619) 585-4405 • FAX (619) 407-4980

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*Jaime Mercado*  
Member, Board of Trustees

August 8, 2007

Mr. Michael Leavitt  
Secretary  
U. S. Department of Health and Human Services  
200 Independence Avenue, S.W.  
Washington, DC 20201

2007 OCT -3 PM 9: 08

Subject: Please stop CMS 22871

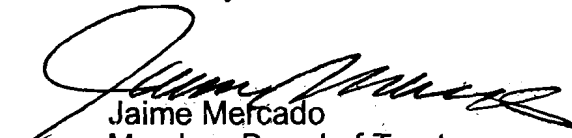
Dear Mr. Leavitt:

As a school board member, I urge you to stop CMS 2287 in order to protect schools' ability to provide administrative and transportation services to Medicaid-eligible children with disabilities.

Schools rely on these reimbursements to outfit buses with specialized equipment, transport children from school to their medical appointments, identify students who need special screenings and evaluations and refer them to needed services in their community. The loss of these resources would substantially increase the burden on already financially-strapped local school districts, like mine, and will likely impact children with disabilities, as well as students in regular education programs.

Thank you for your support on this important matter.

Sincerely,



Jaime Mercado  
Member, Board of Trustees



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# Northern Humboldt Union High School District

2755 McKinleyville Avenue, McKinleyville, CA 95519-3400  
TELEPHONE: (707) 839-6470 • FAX: (707) 839-6477

**KENNY RICHARDS, Ed.D.**  
District Superintendent

**BRIAN STEPHENS, Ed.D.**  
Assistant Superintendent  
for Business

August 14, 2007

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

RE: STOP CMS 2287

As the Assistant Superintendent for the Northern Humboldt Union High School District, I urge you to stop CMS 2287 in order to protect schools' ability to provide administrative and transportation services to Medicaid-eligible children with disabilities.

Schools rely on these reimbursements to outfit buses with specialized equipment, transport children from school to their medical appointments, identify students who need special screenings and evaluations and refer them to needed services in their community.

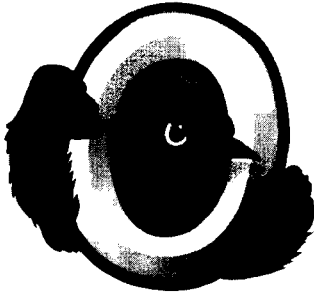
The loss of these resources would substantially increase the burden on already financially-strapped local school districts, which is likely to impact children with disabilities, as well as students in regular education programs.

Thank you for your support on this important matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian Stephens".

**BRIAN STEPHENS, Ed.D.**  
Assistant Superintendent



**LENNOX SCHOOL DISTRICT NO. 41-4**

201 South Elm Street

P.O. Box 38

LENNOX, SOUTH DAKOTA 57039-0038

Telephone (605) 647-2202

Fax (605) 647-2201

*Serving the communities of Chancellor, Lennox, and Worthing, South Dakota*

5

Pat Jones  
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 Angela Arit  
 Business Manager  
 Tim Reabe  
 High School Principal  
 Kristi Wallin  
 Student Services Director  
 Grace Christianson  
 Director of Curriculum/Staff  
 Development and  
 Middle School Principal  
 Kym Johnston  
 Districtwide Elementary  
 Principal  
 Rich Luther  
 Activities Director

SEP 13 PM 9:09

August 24, 2007

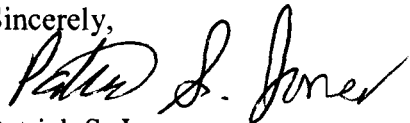
Secretary Michael Leavitt  
 Federal Health and Human Services Department  
 200 Independence Ave. SW  
 Washington DC 20201

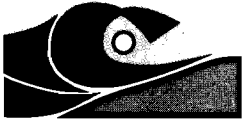
Dear Secretary Leavitt,

I am writing today to encourage you to continue to allow school districts the ability to claim reimbursement for their costs in administrative and transportation services for Medicaid-eligible children. Removing this reimbursement would mean a potential loss of over five million dollars in revenue for South Dakota public schools.

In a time when resources are already tight and school districts are having to opt out to maintain services and opportunities for students, this funding is crucial to our operation. The federal government is already shorting schools in the area of special education funding. Removing our ability to recover these funds would only widen the gap between the obligation to fund public education at a proper level and the actual funds that reach public schools in South Dakota.

Thank you for your consideration of this request. I would welcome the opportunity to speak more on this issue if needed.

Sincerely,  
  
 Patrick S. Jones  
 Superintendent of Schools



# HUNTINGTON BEACH CITY SCHOOL DISTRICT

20451 Cramer Lane, Huntington Beach, California 92646 (714) 964-8888

October 26, 2007

BOARD OF TRUSTEES

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Superintendent

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Assistant Superintendent  
Educational Services

Kathy Kessler  
Assistant Superintendent  
Human Resources

Michael Curran  
Assistant Superintendent  
Administrative Services

Subject: Stop CMS-2287-P

Dear Secretary Leavitt:

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

Huntington Beach city School district earned \$218,914 through California School-Based Medi-Cal Administrative Activities (SMAA) performed during the 2004/2005 fiscal year the most recent year claimed. The revenue has enabled our districts to continue identifying children for Medi-Cal and connecting them to appropriate health services in school and in our community.

Loss of the SMAA revenue would substantially eliminate our ability to fund health care professionals based at each of our school sites. These staff members not only care for the daily needs of our students and families, but also assist them in referrals to appropriate agencies throughout Orange County and Huntington Beach. The loss of this funding would affect the 6500 student's lives and their safety on a daily basis.

Sincerely,

Roberta DeLuca, Ed.D.  
Superintendent



DEPARTMENT OF EDUCATION

THE TOWNSEND BUILDING
401 Federal Street Suite 2
DOVER, DELAWARE 19901
DOE WEBSITE: http://www.doe.state.de.us

Valerie A. Woodruff
Secretary of Education
Voice: (302) 739-460
FAX: (302) 739-465

October 17, 2007

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

RE: Delaware Department of Education Comments on Proposed Rule 2287-P

Dear Sir(s) or Madame(s):

Historically, Congress and the federal government have encouraged Medicaid to share in schools' costs for meeting the medical needs of students with disabilities. As indicated by bills and amendments before the last and current Congress, it is vital that Medicaid also share in schools' costs to assist the growing numbers of uninsured and underserved school-age children whose lack of access to basic health care significantly impedes learning. To accomplish their mission, schools across the country are initiating coordinated school health programs designed to address unmet needs of school children who are under increasing pressure to achieve academically.

CMS Proposed Rule 2287 - state Federal Medicaid payments would no longer be available for: 1) Administrative activities performed by school employees or contractors, or anyone under the control of a public or private educational institution; or 2) 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 Individual with Disabilities Education Act (IDEA). If the Centers for Medicare and Medicaid Services (CMS) were to eliminate funding for every type of service, activity or delivery system where it identifies inappropriate or even abusive claiming practices by some providers, funds would no longer be available for any benefits under the Medicaid program today.

Federal financial participation in the costs of outreach, informing, and care coordination is available to all public entities performing such activities on behalf of the Medicaid program.

1 Protecting Children's Health in Schools Act of 2006 (SB3705, HR5834) and 2007 (SB578, HR 1017).
2 Health Is Academic, A Guide to Coordinated School Health Programs, edited by Marx, Wooley and Northrop, Teachers College Press, 1998

Cutting funding for these activities in the school setting is not sound fiscal or social policy. Fifty-three million students attend more than 116,000 schools every school day,<sup>3</sup> uniquely situating our nation's schools to reach efficiently and assist effectively the majority of disadvantaged youth and their families. As noted in the National School Board Association's July 7, 2006 letter to U.S. Secretary of Health and Human Services Michael Leavitt, if implemented the proposed cuts "would substantially increase the burden on already financially-strapped local school districts to cover these costs, despite the fact that they are entitled to this reimbursement under law."

Furthermore, the Medicare Catastrophic Coverage Act of 1988 expressly allows Medicaid to reimburse school districts for state plan covered services, including transportation that schools provide pursuant to the Individualized Education Programs of Medicaid-eligible children with disabilities.

The National Association of State Medicaid Directors and American Public Human Services Association stated in a joint letter to HHS Secretary Leavitt, asserting, "States also believe that interagency efforts are vital to the goal of coordinating care, particularly in the early identification of child health needs. As a result, state Medicaid directors wish to work with you to ensure that any reform of school-based administration or transportation services does not prohibit appropriate reimbursement to states for health care services provided in the educational setting."

A July 27, 2007 letter from Senator Kennedy and Representatives Miller and Kildee states Congress is "trying to rectify six years of under-funding of our nation's schools," and the proposed cuts would further limit schools' resources to achieve the administration's stated goal of ensuring that all children in the U.S. receive the education they need to succeed in life.

In CMS 2003 Medicaid School-based Administrative Claiming Guide, CMS itself confirmed that "the school setting provides a unique opportunity to enroll... and to assist" Medicaid-eligible children "access the benefits available to them." In the Introduction to the Guide, CMS acknowledges, "Contemporary schools are engaged in a variety of activities" to carry out their mission to "help ensure that students come to school healthy...ready to learn [and ready to] benefit from instructional services."

While opposed to Rule 2287-P's proposed cuts of Medicaid reimbursement for legitimate school-based services, we recognize that CMS must address inappropriate claiming on

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<sup>3</sup> Council of Chief State School Officers, report on Outreach and Enrollment for SCHIP and Medicaid





STATE OF NEW HAMPSHIRE

54

DEPARTMENT OF HEALTH AND HUMAN SERVICES

129 PLEASANT STREET, CONCORD, NH 03301-3857  
603-271-4688 FAX: 603-271-4912 TDD Access: 1-800-735-2964

Nicholas A. Toumpas  
Acting Commissioner  
NH DHHS

and

DEPARTMENT OF EDUCATION

101 PLEASANT STREET, CONCORD, NH 03301-3860  
603-271-3494 FAX: 603-271-1953 TDD RELAY NH; 711

Lyonel B. Tracy  
Commissioner  
NH DOE

October 25, 2007

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

Dear Sir or Madam:

The New Hampshire Department of Health and Human Services and Department of Education are writing to provide their comments in response to the proposed changes to 42 CFR Parts 431, 433, and 440, Medicaid Program; Elimination of Reimbursement under Medicaid for School Administration Expenditures and Costs Related to Transportation of School-Age Children Between Home and School, published in the Federal Register dated September 7, 2007, Volume 72, Number 173, pages 51397 – 51403.

Transportation

Historically, CMS has allowed Medicaid reimbursement for specially modified vehicles used to transport children with disabilities to receive covered services in their Individualized Education Plan (IEP), as described under the Individuals with Disabilities Education Improvement Act (IDEA). The proposed rule would restrict reimbursement to transportation of school age children from school to a non-school based provider that bills under the Medicaid Program. Elimination of reimbursement for vehicles specially modified due to a child's disability as a coverable transportation service would result in a loss to local NH school districts of approximately \$3.5 million annually.

It is our belief that vehicle modifications are, in fact, a coverable service under the Medicaid Program as demonstrated by Vehicle Modifications included under Home and Community Based Care Waivers (HCBC). Although the Medicaid to Schools Program is not a HCBC, it is our position that Early Periodic Screening, Diagnosis, and Treatment Program (EPSDT) would allow coverage of this medically necessary service. In addition, this proposed change would shift the costs of the unfunded mandate under federal IDEA to State and local levels.

Administrative Costs

There are two methods for receiving Federal Financial Participation (FFP) for costs related to administration of the Medicaid to Schools Program. The first method involves administrative claiming as a distinct set of activities reimbursable to entities implementing the Medicaid to Schools Program. The second method is the inclusion of an administrative cost allowed as part of a rate structure. The State of NH's Medicaid to Schools Program utilizes a fee for service model, and when rates were established for

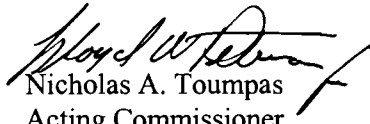
October 25, 2007


covered services in a child's IEP, an administrative percentage was built into the cost formula. Participating NH school districts bill their actual covered costs and are reimbursed fifty percent (50%) of their actual costs or 50% of the rate as established by the state, whichever is less. In calculating their actual billable costs, districts are allowed to include up to ten percent as an administrative cost when appropriately documented in their actual cost calculating methodologies. This is similar to other Medicaid providers who include administrative costs as part of their program expenditures. The proposed rule would eliminate coverage for administrative functions. Given that NH's local school districts receive approximately \$18 million in reimbursement annually, the State would anticipate school districts losing up to \$1.8 million on a yearly basis.

The Medicaid to Schools Program has been successfully implemented in NH since 1990 and currently benefits over 9,000 children with disabilities on an annual basis. As indicated previously, it is our position that the proposed changes would shift the costs of the unfunded federal mandates under IDEA to the state and local levels. Additionally, we believe that the proposed changes are not consistent with the Medicare Catastrophic Coverage Act of 1988 which states that Medicaid covered services cannot be denied reimbursement simply because they are part of an education plan. Vehicle modifications and administrative costs are recognized reimbursable Medicaid services.

We respectfully request that CMS reconsider the proposed revisions to the coverage of Transportation and Administrative costs under the Medicaid to Schools Program.

Sincerely,

  
Nicholas A. Toumpas  
Acting Commissioner  
NH DHHS

  
Lyonel B. Tracy  
Commissioner  
NH DOE

cc: His Excellency, Governor John H. Lynch  
The Honorable US Senator Judd Gregg  
The Honorable US Senator John E. Sununu  
The Honorable US Representative Carol Shea-Porter  
The Honorable US Representative Paul W. Hodes  
The Honorable Sylvia B. Larsen, Senate President  
The Honorable Terie Norelli, Speaker of the House  
The Honorable Lou D'Allesando, Chair, Senate Finance  
The Honorable Marjorie Smith, Chair, House Finance  
The Honorable Emma L. Rous, Chair, House Education Committee  
The Honorable Iris W. Estabrook, Chair, Senate Health and Human Services Committee  
The Honorable Cindy Rosenwald, Chair, House Health, Human Services and Elderly Affairs Committee

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Bradford L. Sneed  
Superintendent

Jeanne D. Huntley  
Assistant Superintendent

Dr. Ralph L. Lewis  
Assistant Superintendent

## Carteret County Board of Education

107 Safrit Drive, Beaufort, NC 28516

252-728-4583 / 252-728-3028 FAX

<http://www.carteretcountyschools.org>

Catherine Neagle  
Chairman

Al Hill  
Vice Chairman

Bill Blair  
David Carr  
Adele Collins  
June Fulcher

Dr. Rick Luettich

October 23, 2007

Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Attention: CMS-2297-P  
Mail Stop S3-14-22, 7500 Security Blvd.  
Baltimore, MD 21244


Dear Secretary Michael O. Leavitt & Administrator Leslie V. Norwalk,

As the Superintendent of the Carteret County Public School System, I am writing to urge your support in defeating any plan to eliminate the Medicaid Administrative Claiming (MAC) Program. This rule would restrict Medicaid reimbursement for school-based services, end our school system's ability to claim administrative dollars and restrict the ability to claim any fees for direct services.

Schools have been able to participate in the MAC Program since 1999, and this has brought in more than \$80 million in reimbursement from the federal government. The MAC program reimburses school systems for work in connecting Medicaid eligible students with the health services necessary for their education, and this is vital to their success.

I urge you to work to defeat any plan to eliminate the Medicaid Administrative Claiming (MAC) Program. If you need additional information from me about this issue, please do not hesitate to contact me directly at 252-728-4583, ext. 114. Your support on this important request is appreciated.

Sincerely,

  
Bradford L. Sneed  
Superintendent

### MISSION

THE MISSION of the Carteret County Schools is to graduate all students prepared to be productive citizens.

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# Alabama Medicaid Agency



BOB RILEY  
Governor

501 Dexter Avenue  
P.O. Box 5624  
Montgomery, Alabama 36103-5624  
www.medicaid.alabama.gov  
e-mail: almedicaid@medicaid.alabama.gov

Telecommunication for the Deaf: 1-800-253-0799  
334-242-5000 1-800-362-1504



CAROL HERRMANN STECKEL, MPH  
Commissioner

October 31, 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

Ref: CMS 2287-P

To Whom It May Concern:

The State Medicaid Agency acknowledges difficult choices must be made with limited federal funding, however we urge you to preserve a viable, worthy program: the Medicaid Administrative Claiming (MAC) program for schools. Proposed rule CMS-2287-P would effectively prohibit reimbursement for Medicaid administrative activities provided in schools. We oppose the proposed rule.

The MAC program has proven to be a successful and effective outreach program. It has been fully implemented and the partnership with schools works well. In 1999, our Agency worked hand-in-hand with the Alabama Association of School Boards and the Alabama Congressional Delegation to enable our state to participate in the program designed to enable children to be identified for Medicaid services in the most practical and effective setting available -- in their local schools. Those outreach services have proven invaluable in outreach efforts to bring needed services to children in schools and in their communities.

Our Agency works hard to deliver services to our constituents. The MAC program is a valuable vehicle that affords us flexibility in our state plan to help identify children in schools for Medicaid services.

Ref: CMS 2287-  
Page 2

We urge CMS not to issue a rule which would remove that flexibility and prohibit the partnership we have fostered to implement our state plan. We additionally support congressional intervention to prohibit the implementation of the rule.

Please withdraw CMS-2287-P.

Sincerely,

A handwritten signature in black ink, appearing to read "Carol H. Steckel", followed by a horizontal line extending to the right.

Carol H Steckel, MPH  
Commissioner

CC: Alabama Congressional Delegation



## Community Human Services Department

160 Kellogg Blvd E  
St. Paul, MN 55101-1494

59  
Financial TDD: 651-266-3750  
Services TDD: 651-266-4002  
General Info: 651-266-4444

October 17, 2007

The U.S. Department of Health and Human Services  
200 Independence Ave S.W.  
Washington, D.C. 20201  
Re: CMS-2287-P

Dear Mr. Leavitt,

We are writing concerning the proposed rule in CMS 2287-P. The proposed rule will have a profound impact on the lives of at-risk children and their families in Ramsey County, who participated in services supported through LCTS funding. In Calendar Year, 2006, our participation rates were over 16,000 children and families. In particular, we are concerned with the provision of the rule that eliminates school based Medicaid services performed by school personnel.

Since 1996, Minnesota has had in place the Local Collaborative Time Study (LCTS) that relies on Medicaid services performed by school personnel. The LCTS has generated prevention and early intervention funding to support families experiencing circumstances and conditions that have placed their children or youth's health, safety and security at risk. The seamless system of services that has been supported through LCTS funding strengthens local community-based collaborative efforts that prevent the need for costly deep-end services.

The families served through these funds are oftentimes economically disadvantaged, uninsured or underinsured and have children and youth who face significant and many times, multiple burdens such as chronic health conditions, developmental delays or disorders, serious mental health issues, chemical use/abuse issues, and adolescent pregnancies to name a few. The services funded by LCTS revenues prevent child maltreatment, out of home placements, homelessness, emergency room visits and/or psychiatric inpatient visits.

We believe this rule would impose a significant financial burden on our cities, counties, states and the federal government in funding expensive deep end services. If the rule is implemented as written, it would cause a significant increase in costly emergency and inpatient medical costs and result in more out-of-home placements. By rejecting the MA proposed rule change, the federal government would continue to enhance the local community based family systems that help mitigate costly deep-end medical and crisis-related services, child protective services, and correctional interventions. It would be short-sighted and costly not to do so.

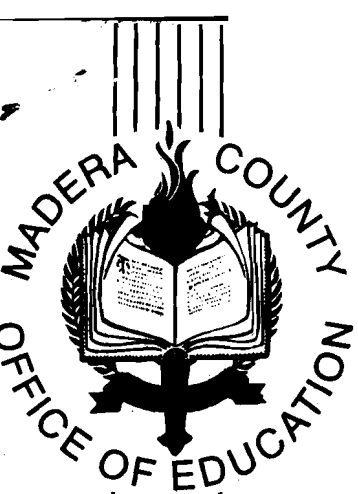
Please do not implement this rule change CMS-2287-P.

Thank you for your consideration,

Mary Sue Hansen, LCTS Partnership Board Chair

And the members of the Local Collaborative Time Study (LCTS) Partnership Board:

- St. Paul Area Public Schools
- Roseville Area Public Schools
- Ramsey County Health and Human Services
- Ramsey County Department of Corrections
- Ramsey County Children's Mental Health Collaborative
- Mounds View Area Public Schools
- North St. Paul, Maplewood, Oakdale Public Schools
- St. Paul Ramsey County Department of Public Health
- St. Paul Children's Collaborative
- Suburban Ramsey Family Collaborative



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**SALLY L. FRAZIER, Ed.D.**  
*Superintendent*

October 29, 2007

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

To Whom It May Concern:

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

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



**Specifically the loss of these funds for our schools would eliminate health aides for medically fragile students in our programs. The health aides provide medical services on a daily basis for students to be able to leave their homes and attend school. Medicaid reimbursements allow us to purchase travel vouchers for pregnant teens to attend a program designed to assist them in completing high school and where they are learning to care and nurture their children. These funds assist with the costs of child care so pregnant and parenting teens can stay in school and graduate.**

**Medicaid reimbursements have funded a program in our county called "Extra Special Parents." Advocates provide parents assistance to connect their school age children to multi agency resources and services for disabled students. Families will be without linked services and students will not be in school if the Medicaid funds for this program are eliminated. The program will cease to exist.**

The main reason cited by CMS for these restrictive regulatory changes is concern to ensure that school-based administrative expenditures are recognized and claimed properly, consistent with Federal law. California was one of the first states to adopt new guidelines issued for this program in the *2003 CMS Medicaid School-Based Administrative Claiming Guide*.

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

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

Sincerely,

A handwritten signature in cursive script that reads "Cecilia Massetti".

**Cecilia Massetti, Ed.D.**  
Associate Superintendent  
Student Programs and Services

# Junction School District

9087 DESCHUTES ROAD  
PALO CEDRO, CALIFORNIA 96073  
(530) 547-3274

FAX # (530) 547-4080

Web Page: [www.junctionesd.net](http://www.junctionesd.net)  
AN EQUAL OPPORTUNITY EMPLOYER

bal

MARY SAKUMA  
SUPERINTENDENT / PRINCIPAL



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: Proposed Rulemaking (CMS-2287-P)

To Whom It May Concern:

On behalf of the Junction Elementary School District, I am writing to express our strong opposition to proposed rule CMS-2287-P relating to federal Medicaid reimbursements to local education agencies.

As you are aware, proposed rulemaking CMS-2287-P would eliminate reimbursement under the Medicaid program for the costs of certain local outreach and transportation services provided through school agencies. The proposal is based on a Secretarial finding that specified outreach activities are not necessary and that special education transportation services do not 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, nor would these federal reimbursements be provided for specified special education transportation services for school-aged children.

These cuts would reduce total Medicaid reimbursements to California schools by over \$100 million. In our district alone, the loss of funding is estimated at \$100,000 annually.

These services provided by schools are essential to ensuring that our most fragile and at-risk students can be educationally successful. As an example, under the proposal one of the items that would be cut completely are reimbursements to schools for outreach efforts that include identifying Medicaid-eligible students and helping them access Medicaid services. School health programs are the initial contact with health services for many children. It is difficult to understand how the federal government can argue against providing coverage of costs for services for our most fragile population.

And federal statutes require schools to provide services to special education students, whether or not sufficient funding is provided. Thus, this contradictory action by the federal government would force us to make cuts in other essential educational programs to ensure that federally required services can continue, despite the lack of funding.

We strongly urge this administration to reject this proposal, recognizing that it is counterproductive to federal IDEA and NCLB goals to serve all students, and will undermine our best efforts to ensure that all students have equal access to services basic to their educational success.

Sincerely,

A handwritten signature in cursive script that reads "Mindy Whitman". The signature is written in black ink and is positioned above the printed name and title.

Mindy Whitman  
Business Manager



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# COMMONWEALTH of VIRGINIA

DEPARTMENT OF EDUCATION

P.O. Box 2120  
Richmond, Virginia 23218-2120

**BILLY K. CANNADAY, JR., Ed.D.**  
Superintendent of Public Instruction

October 30, 2007

Office: (804) 225-2023  
Fax: (804) 371-2099

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

Dear Sir or Madame:

This letter provides the opportunity for the Virginia Department of Education (VDOE) to express concerns about Rule 2287-P. This rule proposes cuts to Medicaid reimbursements for school-based services. The Centers for Medicare and Medicaid Services (CMS) proposes to eliminate reimbursement, under Medicaid, for school administration expenditures and costs related to the transportation of school-age children between home and school. The Virginia Department of Education is adamantly opposed to this proposal.

Elimination of funding for services because of inappropriate, or even abusive, claiming practices by some providers is not the solution. CMS' continued collaboration with the Medicaid agency puts them in a better position to establish regulations to ensure proper claiming and support the key role schools play in identifying Medicaid-eligible children, promoting access to Medicaid services, and arranging or delivering needed care. CMS has provided Virginia with the necessary guidance to ensure appropriate claiming for school-based Medicaid administrative activities.

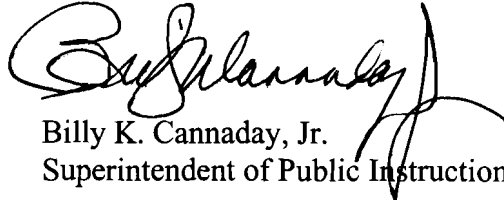
Federal financial participation in the costs of outreach, informing, and care coordination is available to all public entities performing such activities on behalf of the Medicaid program. Cutting funding for these activities in the school setting is not sound fiscal or social policy. Virginia public school divisions have been participating in Administrative Claiming since January 2003. Since that date, school divisions have received \$30,856,543 for administrative activities. At this time, 96 school divisions are participating in the program in Virginia. School divisions would continue to provide these services, but would have to shift funds from other areas in their budgets to cover the costs or raise taxes if this proposal becomes a reality.

Centers for Medicare and Medicaid Services  
October 30, 2007  
Page 2

The Medicare Catastrophic Coverage Act of 1988 expressly allows Medicaid to reimburse school districts for state plan covered services, including transportation that schools provide pursuant to the Individualized Education Programs of Medicaid-eligible children with disabilities. A rule to prohibit schools from claiming administrative and transportation expenses would contradict existing law.

Schools and communities across the United States are highly invested in helping children achieve their fullest potential. We urge the Centers for Medicare and Medicaid Services to continue investing federal matching funds in efficient and effective school-based Medicaid administrative activities and state plan-covered transportation services.

Sincerely,

A handwritten signature in black ink, appearing to read "Billy K. Cannaday, Jr.", written in a cursive style. The signature is positioned above the printed name and title.

Billy K. Cannaday, Jr.  
Superintendent of Public Instruction

BKCJr:ae



# Oregon

Theodore R. Kulongoski, Governor

43  
Department of Human Services

Office of the Director

500 Summer St. NE, E-15

Salem, OR 97301-1097

(503) 947-5110

Fax: (503) 378-2897

TTY: (503) 947-5080

October 31, 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: Medicaid Program; Elimination of Reimbursement under Medicaid for  
School Administration Expenditures and Costs Related to  
Transportation of School-Age Children between Home and School

Dear Secretary Leavitt:

The Oregon Department of Human Services (DHS) respectfully submits this comment letter in response to the above proposed rule changes. The department opposes proposed rule 2287-P that eliminates Medicaid Administrative Claiming (MAC) for school employees and Medicaid claims for transportation to and from school when a child receives Medicaid-eligible services at his or her school.

The department believes that Centers for Medicare and Medicaid Services (CMS) guidance and state controls on Medicaid claiming in these two school-based areas are better alternatives to promulgating this regulation. Through state controls and CMS guidance, the states can provide cost-effective school-based services, enabling children to have access to a free and appropriate public education. If these rules are promulgated, school-based services will be less effective and more costly for CMS, state Medicaid agencies, and local schools.

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An Equal Opportunity Employer

October 31, 2007

Page Two

### **Reimbursement for School-Based Administrative Expenditures**

*Section in proposed rules: 433.20.*

This proposed rule eliminates Medicaid funding for administrative activities conducted by “school employees, school contractors, or anyone under the control of a public or private institution.”

The department recommends that CMS withdraw this proposed rule. The department relies on its partnership with schools to provide effective outreach, information, and service coordination to school-aged children and their families. Specific administrative activities are limited to the community of the school or school district. These activities include:

- Informing and providing outreach to eligible individuals to enter into care through the Medicaid system; and
- Informing and providing outreach to potential beneficiaries to apply for Medicaid.

The rule makes it difficult for the department to fulfill Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) requirements. EPSDT administrative activities include:

- Providing or arranging for the provision of EPSDT screening services;
- Arranging for corrective treatment;
- Assisting families in identifying and choosing Medicaid providers; and
- Conducting follow-up activities to ensure children receive needed diagnosis and treatment.

Under the proposed rule, the state Medicaid agency or its designee would be required to perform these EPSDT administrative functions in school. Schools alone would be designated as ineligible for reimbursement when any other entity can perform these administrative functions as the state Medicaid agency’s designee.

October 31, 2007

Page Three

The department believes that singling out schools, school contractors, and school districts from administrative activities results in less effective, and much less efficient, Medicaid outreach and referral. Schools are the quintessential contact point between the Medicaid program and families with children in Oregon's communities.

In concert with the Oregon Department of Education, the Department of Human Services has created standards by which schools must comply in order to receive federal funds. Oregon's system of reporting requires that schools and school or education districts only claim for actual time attributed to Medicaid-eligible individuals.

As an alternative, we suggest that CMS further develop previous guidance regarding reporting requirements between schools, school districts, and State Medicaid agencies. This guidance has moved Oregon and other states ahead in developing strong school-based services and accountability systems to protect program integrity.

### **Reimbursement for School-Based Transportation**

*Sections in proposed rules: 431.53 and 440.170*

The department recommends that CMS withdraw its proposed rule restricting transportation reimbursement for school-aged children to and from school. This restriction makes it difficult for the department to comply with requirements under the 1988 Medicare Catastrophic Act, which protects Medicaid-eligible children's access to Medicaid services in their Individualized Educational Plan (IEP) or Individualized Family Service Plan (IFSP).



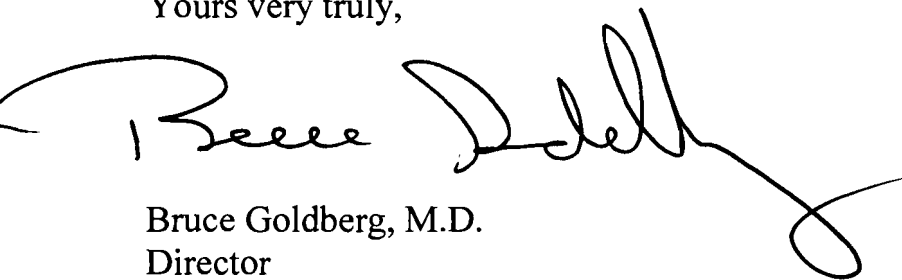
October 31, 2007  
Page Four

In addition to this compliance issue, the restriction may create new, unanticipated transportation costs for CMS and the department. Instead of receiving Medicaid-covered services in the school, more children may need to get services with a community-based provider because many school districts will not be able to absorb the extra transportation costs once matched with Medicaid funds.

A stronger alternative is to preserve Medicaid funding for transportation to and from school for eligible children. The department recommends that CMS issue guidance stating that transportation of school-aged children to and from school is reimbursable only if an eligible child receives a Medicaid-covered service at the school on the day the transportation costs are claimed. Oregon has this policy for claiming school-based transportation costs. We find that such a policy preserves Medicaid program integrity while providing effective, efficient Medicaid services for children so that they have access to a free and appropriate education.

In conclusion, the department believes that CMS should withdraw these proposed rules and issue guidance on school MAC and transportation services. The proposed rules may create more costs and may impede access to services. The alternatives we propose maintain access to services, build on partnerships between Medicaid and the schools, and preserve Medicaid program integrity. Thank you for your consideration of these comments and for your ongoing support and efforts on this issue.

Yours very truly,

A handwritten signature in black ink, appearing to read "Bruce Goldberg", with a long, sweeping flourish extending to the right.

Bruce Goldberg, M.D.  
Director

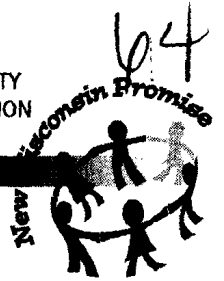
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**Wisconsin Department of Health and Family Services**  
Kevin Hayden, Department Secretary

**Wisconsin Department of Public Instruction**  
Elizabeth Burmaster, State Superintendent

A QUALITY  
EDUCATION  
FOR  
EVERY  
CHILD



November 6, 2007

Kerry Weems  
Acting Administrator  
Centers for Medicare & Medicaid Services  
U.S. Department of Health and Human Services  
Attention: CMS-2287-P  
7500 Security Boulevard, Mail Stop C4-26-05  
Baltimore, Maryland 21244-1850

Re: CMS 2287-P: Comments on Proposed Rule Medicaid Program; School-Based Administrative Costs and Transportation 72 Fed. Reg. 51397; Wisconsin Department of Health and Family Services and Wisconsin Department of Public Instruction

Dear Mr. Weems:

The Wisconsin Department of Health and Family Services (WDHFS) administers the Medicaid program for the State of Wisconsin. The Wisconsin Department of Public Instruction (WDPI) administers the state's K-12 public education program. Representatives of each of these departments have reviewed CMS' proposed rule on school-based administrative costs and transportation services, CMS-2287-P, and the following represents the joint comments of all affected subunits of WDHFS and WDPI.

The proposed rule eliminates all federal funding for administrative costs incurred by schools (except when performed by state or local Medicaid personnel) and for transportation of disabled school-age children between home and school. This proposal conflicts with congressional intent and goes against years of consistent administrative interpretation. Once before the Agency (then HCFA) attempted to refuse reimbursement for Medicaid activities associated with schools and this was overruled by the federal courts and rejected by Congress. The proposed rule relies on the same rejected logic and so should be withdrawn.

With these proposed regulations, CMS is once again trying to base Medicaid reimbursement decisions on how states subdivide their functions. While the Agency recognizes "the legitimacy of the types of Medicaid administrative activities provided in schools," under the proposed rule it will not reimburse administrative services provided by education personnel but will reimburse administrative services provided by state or local Medicaid employees. 72 Fed. Reg. 51398 (Sept. 7, 2007). This regulation would unnecessarily limit Wisconsin's and other states' flexibility in providing critical Medicaid services through local school districts. Federal statutes governing federal reimbursement of Medicaid

populations of Medicaid eligibles, and to increase provider participation and improve provider relations. Since school personnel have direct access to the students receiving the benefits, it is more efficient for them to provide these services as opposed to county personnel. In addition, MAC activities include providing follow-up contact to ensure a student has received the prescribed medical service and to provide feedback on whether further treatment or changes in existing treatments are required. MAC funds are also used for designing and implementing strategies to identify students with special needs who may be at high risk of poor health outcomes because of abuse or neglect and who might need health care services. School personnel are better equipped than county personnel to identify children at risk as they directly work with students on a day-to-day basis.

Given the necessity for routine monitoring, follow-up, and maximization of participation in the SBS program, school personnel are the *most appropriate persons* with the ability to monitor this process as children spend the majority of their time in schools. By delivering these services directly through the schools, Wisconsin is maximizing the value of both federal and state dollars by making efficient use of limited resources. It is an immutable fact that these and other MAC functions performed by school personnel are coterminous in value and importance to that of the Medicaid services state and county employees perform.

**Under CMS-2287-P, Wisconsin and partner school districts will suffer a loss of nearly \$12 million dollars necessary to directly assist the most vulnerable children in our state.**

Wisconsin is being prudent and fiscally responsible in maximizing participation and efficiency in the administration of its SBS program to meet Congressional IDEA mandates requiring schools to deliver a broad-range of educational, social, and medical services to students with disabilities objectives. CMS-2287-P unfairly punishes the state in spite of Wisconsin's model program.

In summary, Wisconsin believes CMS-2287-P represents the wrong approach in maintaining a quality healthcare safety net and to achieving the goal of greater Medicaid efficiency. WDHFS and WDPI are concerned about both the short- and long-term impact this rule will have on the healthcare safety net for some of our most vulnerable children. We urge you to withdraw this rule in its entirety and to continue to work with Wisconsin and other states to support and improve the Medicaid program to better serve its beneficiaries.

Respectfully submitted,



Elizabeth Burmaster  
State Superintendent  
Department of Public Instruction

Kevin Hayden  
Secretary  
Department of Health and Family Services

EB/KH:ph

45



AFL-CIO

# California School Employees Association

Rob Feckner  
*Association President*

Bud Dougherty  
*Executive Director*

Governmental Relations  
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Jai Sookprasert  
*Sr. Governmental Relations Representative*

Dolores Duran-Flores  
*Governmental Relations Representative*

Steve Henderson  
*Governmental Relations Representative*

*Member of the AFL-CIO*

*The nation's largest independent classified employee association*

*Member of the National Association of Classified School Employees (NACSE), representing independent public employees throughout the nation*

(AFL-CIO)

October 26, 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: CMS Rule 2287-P Medicaid Administrative Activities and Transportation

The California School Employees Association (CSEA), AFL-CIO, is writing in response to the proposed regulations to eliminate reimbursement under Medicaid for school administration expenditures and costs related to transportation of students between home and school.

We are opposed to the proposed regulations and in accordance with the Centers for Medicare and Medicaid policy, we have attached comments arguing against CMS Rule 2287-P.

The California School Employees Association urges you to consider the detrimental effect on the thousands of California students and students in other states that these proposed regulations will produce. We respectfully request that the Department of Health and Human Services not proceed with the proposed regulations.

Thank you for your consideration.

Sincerely,

Barbara V.Z. Howard  
Director, Governmental Relations

Enclosure as stated.

BHZH:sh:kg

33598\_FEDERAL\MEDICAID

*Our mission: To improve the lives of our members, students and community.*

**In the Matter of Proposed Center for Medicare and Medicaid Services  
Rule CMS 2287-P  
(Medicaid Administrative Activities and Transportation)**

The California School Employees Association (CSEA), AFL-CIO is writing to comment against proposed rule 2287-P by the U.S. Department of Health and Human Services (HHS), Center for Medicare and Medicaid services (CMS). The proposed rule would prohibit local education agencies from claiming federal reimbursement for school based Medicaid administrative activities and for home-to-school transportation for special education students.

The California School Employees Association represents more than 230,000 classified school employees in California including paraeducators, bus drivers and school administrative employees. Many of these classified employees are involved in providing services to school aged children with an Individualized Education Program (IEP) and/or an Individualized Family Services Plan (IFSP) established pursuant to the Individuals with Disabilities Education Act (IDEA).

The HHS, CMS proposal would have a very negative effect on school budgets and, most importantly, it would severely affect services provided to thousands of Medicaid and IDEA eligible students in need of specialized services in California. Transportation from home-to-school to the needed services is a critical and essential component of these programs. In 2005, California received approximately \$117 million for direct services and \$176 million for administrative activities, which would be in jeopardy under this proposed regulation.

We believe that rule CMS-2287-P should be rescinded and the CMS should continue to support Medicaid administrative and transportation activities.

### **Overview**

Under the Medicaid program, Federal payment is available for the costs of administrative activities "as found necessary by the (HHS) Secretary for the proper and efficient administration of the State plan." Proposed rule 2287-P 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, anyone under the control of a public or private educational institution, or transportation from home-to-school and back for school-aged children with an IEP or an IFSP established pursuant to IDEA.

## **Issues and Rebuttals regarding Proposed Rule 2287-P**

### **Issue**

CMS states that it has determined that Medicaid outreach, transportation and other activities performed by school staff are not longer necessary for the efficient administration of any state's Medicaid program because they support educational programs and do not specifically benefit the Medicaid program.

### **Rebuttal**

We disagree with the CMS determination. School districts have a unique place in the spectrum of Medicaid outreach. They are often the first, and sometimes only, place where students and their families are introduced to the concept of health and health insurance. Schools guide students with social, health, and family needs through the maze of support services. CMS should be aware that it is with children in need that school health and social services staff spends most of their time. State legislatures have recognized this and have emphasized schools as a one-stop shop for education, health, and social services. California, for example, has instituted numerous "Healthy Start" and "Family Resource Centers" in schools so those health and welfare agencies can provide care and services on campus.

### **Issue**

CMS proposes to restrict reimbursement of Medicaid administrative activities in the schools only when performed by employees of the state or local Medicaid agency.

### **Rebuttal**

This issue is based on the assumption that Medicaid agencies could perform efficiently without the assistance of school district staff. In fact, just as children depend on schools for access to Medicaid services, states depend on school employees to provide this access. A school employee who refers students and their families to Medicaid-covered services ushers them into Medicaid. This directly assists the state Medicaid Agency toward its goal of expanding Medicaid coverage to all that are eligible.

Medicaid administrative reimbursement to schools is an investment that pays substantial social and economic dividends. Permitting schools to receive reimbursement allows the schools to be more interactive with community resources. They are better placed to help parents and guardians get proper information related to Medicaid services. The cost benefits of this arrangement are enormous. School-based Medicaid referrals represent less than one-tenth the cost of emergency services that individuals would need if they did not have the regular health visits provided by Medicaid insurance.

CMS 2287-P contradicts itself when it states that there are legitimate Medicaid administrative activities provided in schools, and then declares that such activities are only necessary for the proper and efficient administration of the state plan if conducted by employees of the state Medicaid Agency. This infers that in order for Medicaid administrative claiming to be legal, state Medicaid staff must personally deliver the services. It is unreasonable to expect the presence of a state Medicaid employee at each school district, and it would be economically inefficient when compared to the current school based administrative claiming. At present, state Medicaid agencies only reimburse school staff for a portion of the time that they spend. When compared to the cost of hiring a full-time state Medicaid employee, this represents an inexpensive means of providing students and their family's access to Medicaid. CMS should recognize that schools help fulfill the goals and objectives of the state Medicaid Agency in an economically efficient way.

### **Issue**

CMS argues that school based administrative claiming is "susceptible to claims of fraud, waste and abuse".

### **Rebuttal**

A series of audits by the federal Department of Health and Human Services' Office of the Inspector General identified problems in school-based Medicaid administrative claiming, beginning in the late 1990s.

Many of the problems stemmed from differing interpretations of federal guidelines for claiming administrative costs coming from the central Medicaid office and staff of its ten regional offices and from a lack of detailed guidelines on how to implement the program.

In 2003, CMS issued a Medicaid School-Based Administrative Claiming Guide to establish some uniformity to the program, to standardize claiming procedures across all 50 states, and to assure more consistent monitoring at the State level.

All of the reports alleging fraud, waste, and abuse covered claims that were submitted before any State received federal approval to align its school based claiming programs with the 2003 Federal guide.

California was one of the first states to implement the 2003 Guide, and has done so in a comprehensive and systematic manner. Written State policy requires oversight at multiple levels.

In setting out this new regulation, CMS completely ignores the efforts California and other states have made to comply with the standards set forth in the 2003 Guide.

The most recent OIG report covered school claiming for the 03-04 school year - the first year the Guide came out. Since then, there have been no reports and no published findings.

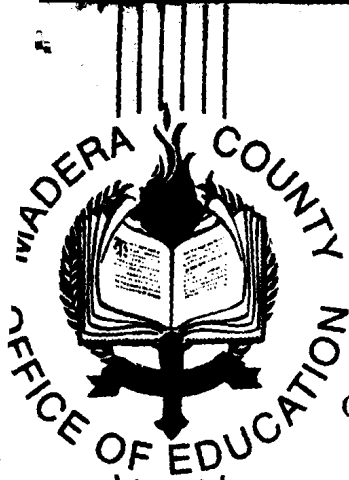
## **Conclusion**

Proposed CMS Rule 2287-P would cut more than \$3.6 billion in total Medicaid funding over 5 years that currently supports essential health related educational services. It would eliminate federal reimbursement for the costs of school staff that performs Medicaid outreach, referral services in the community and monitoring of medical services. CMS Rule 2287 would also prevent schools from claiming legitimate Medicaid transportation expenses. Transportation reimbursement is necessary to accommodate students with special needs by providing for accessible busses as well as aides to transport mentally and physically impaired children.

Because these are federally mandated services, local education agencies are required to provide these services. However, without reimbursement, school districts would need to use other funding to support these services, and consequently, would be forced to cut other educational programs.

The California School Employees Association urges you to consider the detrimental effect on the thousands of California students and students in other states that these proposed regulations will produce. We respectfully request that the U.S. Department of Health Services rescind the proposed Rule 2287-P.





October 24, 2007

SALLY L. FRAZIER, Ed.D.  
Superintendent

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

Dear Ladies and Gentlemen:

This is in response to the proposed rule CMS-2287-P, which would stop public schools from receiving federal reimbursement for a variety of administrative activities. These activities include identifying students who need screenings and evaluations, scheduling physical and mental health services for students and their families, and connecting students and their families with physical and mental health services in their communities. These activities are generally performed for students that are physically and/or mentally disabled or delayed and/or fragile or otherwise determined to be at risk. Many of these services are **mandated** under the Individuals with Disabilities Education Act (IDEA). Therefore this action would substantially increase the financial burden on already impacted school districts and could limit the extent to which these services could be provided.

The Madera County Board of Education has adopted Resolution #7 – 2007/08, opposing the proposed rule. Removal of the ability to claim reimbursement for services provided to our citizens who need assistance the most would be detrimental to our schools, our students and their families, and to our society as a whole. We encourage you **not** to proceed with rule CMS-2287-P.

Sincerely,

Geri Kendall Cox  
Chief Business & Administrative Services Officer

**BEFORE THE MADERA COUNTY BOARD OF EDUCATION  
RESOLUTION NO. 7 – 2007/08  
OPPOSITION TO U.S. DEPT. OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services (CMS) Rule CMS-2287-P**

**WHEREAS**, The U.S. Department of Health and Human Services has published a proposed rule (CMS-2287-P) which would stop school districts from receiving federal reimbursement for an estimated \$3.6 billion over five years in Medicaid services provided to children with disabilities; and

**WHEREAS**, this action would reduce the availability of and access to needed health and developmental services for students with Individual Education Plans (IEPs) and other low-income children with special needs, for whom school is their primary site for healthcare delivery; and

**WHEREAS**, schools rely on these reimbursements for a variety of purposes such as counseling, nurse services, identifying students who need screenings and evaluations, scheduling students for screenings and evaluations, and connecting children and their families with other needed services in their community; and

**WHEREAS**, the loss of these resources could mean that schools have to lay off nurses, health aides, social workers, counselors, and limit or curtail their referral services; and

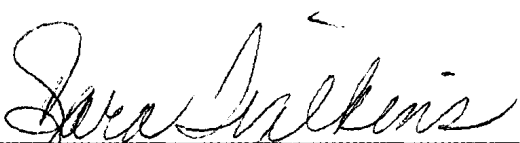
**WHEREAS**, many of these services are **mandated** under the Individuals with Disabilities Education Act (IDEA) law, therefore this action would substantially increase the burden on already financially-strapped local school districts and, as a result, could impact students in regular education programs as well through cuts to electives, after-school activities, arts and music programs, and/or reductions in teachers and support positions;

**NOW, THEREFORE BE IT RESOLVED** by the Madera County Board of Education and the Madera County Superintendent of Schools that they proclaim their opposition to the publication of this rule as such action is necessary in order to protect schools' ability to provide children with the education and health services that they deserve.

The foregoing Resolution was adopted this 9th day of October, 2007, by the following vote:

<b>AYES:</b>	7
<b>NOES:</b>	0
<b>ABSENT:</b>	0
<b>ABSTAIN:</b>	0

**Dated: This 9th day of October, 2007.**

By:   
President, Madera County Board of Education

(67)



**PULASKI COUNTY SPECIAL SCHOOL DISTRICT**

SPECIAL EDUCATION DEPARTMENT  
Fuller Administrative Annex  
708 E. Dixon Road  
Little Rock, AR 72206  
PHONE: (501) 490-5837  
FAX: (501) 490-5846

To: Michael Heavitt  
Fax: (202) 690-7203  
From: Becky Kilburn, PT  
Date: Aug 27, 2007

STOP CMS  
2287 !

Becky  
Kilburn PT

68



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

**Department of Human Services**  
DIVISION OF HEALTH CARE QUALITY,  
FINANCING AND PURCHASING  
600 New London Avenue  
Cranston, R.I. 02920

October 23, 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

Reference: File Code CMS-2287-P

To Whom It May Concern:

The Rhode Island Department of Human Services is pleased to submit these comments on the *Proposed Rule* published in the *Federal Register* on September 7, 2007 that would eliminate reimbursement under Medicaid for school administration expenditures and costs related to transportation of school-age children between home and school.

For the record, the State of Rhode Island recognizes the authority of the Secretary of the U.S. Department of Health and Human Services under Section 1903(a)(7) of the Social Security Act (Act) to determine what is "necessary for the proper and efficient administration of the State Plan." The specific statutory language is as follows:

"(7) subject to section 1919(g)(3)(B), an amount equal to 50 per centum of the remainder of the amounts expended during such quarter as found necessary by the Secretary for the proper and efficient administration of the State plan.

Current Federal regulations at 42 CFR 433.15(b)(7) also provide in this regard:

"(7) All other activities the Secretary finds necessary for proper and efficient administration of the State plan: 50 percent. (Section 1903(a)(7).) (See also §455.300 of this subchapter for FFP at 90 percent for State Medicaid fraud control units under section 1903(a)(6).)"

The *Proposed Rule* proposes to add a § 433.20 to the regulations that would have the effect of totally eliminating Federal financial participation (FFP) for “administrative activities by school employees, school contractors, or anyone under the control of a public or private educational institution.” The sole explanation<sup>1</sup> given is:

“. . . the Secretary has determined that such activities can only be properly conducted, overseen and appropriately allocated to Medicaid when conducted by employees of the State or local Medicaid agency.”

This is complete reversal of ten years of Federal policy, as the following brief chronology shows:

- **August 1997** – Health Care Financing Administration (HCFA) issued *Medicaid and School Health: A Technical Assistance Guide*. The document stated: “Title XIX of the Act provides for the availability of FFP for state’s claims for administrative expenditures that are found to be necessary by the Secretary for the proper and efficient administration of the Medicaid state plan.” The guide delineated “Guiding Principles of Administrative Claiming”.
- **May 21, 1999** – HCFA issued a *State Medicaid Director Letter* (SMDL) addressing three school-based claiming issues: (1) use of a bundled rate to pay for medical services provided to Medicaid-eligible children; (2) State claiming for school health-related transportation services for children with Individualized Education Plans (IEPs); and (3) State claiming for school health-related administrative activities. With respect to the latter, HCFA indicated that a “guide is expected to be published this Summer”.
- **February 2000** – HCFA issued a draft *Medicaid School-Based Administrative Claiming Guide* inviting comments.
- **November 2002** – The Centers for Medicare & Medicaid Services (CMS) issued a revised draft *Medicaid School-Based Administrative Claiming Guide* inviting comments.
- **May 28, 2003** – Cover memorandum from the Centers for Medicare & Medicaid Services sent distributing the *Medicaid School-Based Administrative Claiming Guide*.

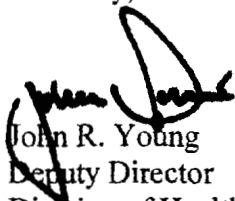
The preamble to the *Proposed Rule* only acknowledges the 1997 Technical Assistance Guide and the 2003 Claiming Guide. The preamble fails to acknowledge the collaboration between what has historically been a Federal-State partnership that led to the final Claiming Guide. The *Proposed Rule* belies that historical partnership and the agreements between the States and Federal Government to claim FFP for school-based administrative costs under Title XIX.

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<sup>1</sup> *Federal Register*, 72(173), September 7, 2007, 51398.

Rule 2287-P seeks to cut more than \$4 billion in funding that currently supports essential health-related services. The proposed cuts will ultimately increase local taxpayer costs for federally mandated services and will result in cuts of local education programs and healthcare services for school children. The proposed cuts will also lead to increased Medicaid expenditures due to increased emergency room use and the late detection of preventable medical conditions. Therefore, The Rhode Island Department of Human Services joins child welfare advocates throughout the country in opposing the changes set out in Rule 2287-P. We respectfully request that CMS withdraw the rule and continue reimbursement at current levels.

Sincerely,



John R. Young  
Deputy Director

Division of Health Care Quality, Financing, and Purchasing  
Rhode Island Department of Human Services

6/9



Smart business. Smart schools.™

October 25, 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: Proposed Rulemaking (CMS-2287-P)**

To Whom It May Concern:

On behalf of the California Association of School Business Officials (CASBO), I am writing to express our strong opposition to proposed rule CMS-2287-P relating to federal Medicaid reimbursements to local education agencies.

As you are aware, proposed rulemaking CMS-2287-P would eliminate reimbursement under the Medicaid program for the costs of certain local outreach and transportation services provided through school agencies. The proposal is based on a Secretarial finding that specified outreach activities are not necessary and that special education transportation services do not 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, nor would these federal reimbursements be provided for specified special education transportation services for school-aged children.

These cuts would reduce total Medicaid reimbursements to California schools by over \$100 million.

These services provided by schools are essential to ensuring that our most fragile and at-risk students can be educationally successful. As an example, under the proposal one of the items that would be cut completely are reimbursements to schools for outreach efforts that include identifying Medicaid-eligible students and helping them access Medicaid services. School health programs are the initial contact with health services for many children. It is difficult to understand how the federal government can argue against providing coverage of costs for services for our most fragile population.

And federal statutes require schools to provide services to special education students, whether or not sufficient funding is provided. Thus, this contradictory action by the federal government would force us to make cuts in other essential educational programs to ensure that federally required services can continue, despite the lack of funding.

We strongly urge this administration to reject this proposal, recognizing that it is counterproductive to federal IDEA and NCLB goals to serve all students, and will undermine our best efforts to ensure that all students have equal access to services basic to their educational success.

Sincerely,

Sandra Silberstein  
Assistant Executive Director, Advocacy & Policy  
California Association of School Business Officials



# BUENA PARK SCHOOL DISTRICT

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Administration:

Mr. Lew Becker, Superintendent  
Mr. Greg Magnuson, Deputy Superintendent  
Dr. Bonnie Bell, Assistant Superintendent, Educational Services

Governing Board:

Barbara Michel, President  
L. Carole Jensen, Clerk/President Pro Tem  
Samuel Van Hamblen, Member  
Elizabeth Swift, Ed.D., Member  
Jerry Kong, Member

October 25, 2007

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

Subject: Stop CMS-2287-P

Dear Secretary Leavitt:

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

Buena Park School District earned \$292,474 through California School-Based Medi-Cal Administrative Activities (SMAA) performed during the 2004/2005 fiscal year, the most recent year claimed. The revenue has enabled our district to continue identifying children for Medi-Cal and connecting them to appropriate health services in school and in our community.

Loss of the SMAA revenue would substantially reduce our ability to provide much needed health care services for students at the school site level.

Respectfully,

Lew Becker  
Superintendent