

## Proposed Rule on Medicaid School-Based Administrative Claiming

September 2007

### ■ Background

In 1997, the Centers for Medicare and Medicaid Services (CMS) issued guidance materials to local education agencies (LEA's) to provide technical assistance in implementing school health services and seeking Medicaid reimbursement for covered services. The Technical Assistance Guide outlined the services for which schools could bill Medicaid. These services included direct medical care as well as administrative services such as the following:

- Medicaid eligibility determinations;
- Medicaid outreach;
- Activities to inform or persuade beneficiaries to enter into care through the Medicaid system;
- Activities to inform or persuade potential beneficiaries to apply for Medicaid;
- EPSDT administrative activities/case management activities, such as informing eligible families about the EPSDT benefit;
- Providing or arranging for the provision of EPSDT screening services;
- Arranging for (directly or through referral to appropriate agencies, organizations, or individuals) corrective treatment;
- Assisting families in identifying and choosing Medicaid providers;
- Conducting follow-up to ensure children receive needed diagnosis and treatment; and
- Activities related to obtaining third party liability information.

Schools document and submit claims for their cost of providing these eligible administrative services. Medicaid reimburses administrative services at a fifty percent match rate; therefore, school districts receive federal funds for half of these costs, with the remaining fifty percent comprised of the schools' in-kind contribution.

The Medicaid School-Based Administrative Claiming Program has experienced a number of changes over the years. The Centers for Medicare and Medicaid Services (CMS) has revised guidance documents and issued clarifying administrative policy letters on several occasions. The materials reflect a growing concern by the federal government about inconsistent application of Medicaid requirements by schools and the rising cost of the program.

In 2003, CMS issued a revised *Medicaid School-Based Administrative Claiming Guide* that attempted to reduce the growth of administrative costs claimed by states by more precisely defining administrative tasks eligible for claiming and eliminating claiming for activities covered by other programs. The revised guidance increased oversight by state Medicaid agencies and restricted reimbursement for consultant fees.

## ■ Proposed Rule

The Centers for Medicare & Medicaid Services (CMS) has proposed a rule that would essentially eliminate reimbursement under the Medicaid program for the costs of school-based administrative and transportation services. Only administrative services performed specifically by Medicaid employees would be eligible for reimbursement. Reimbursement for transportation to and from a Medicaid provider would remain, but CMS would remove reimbursement for transportation between home and school. CMS cites several reasons for the rule change: long-standing concerns about improper billing by school districts, costs related to education mandates being improperly allocated to Medicaid, and the dramatic increase in Medicaid claims for school-based costs. The agency is accepting comments on the Proposed Rule through November 6, 2007.

## ■ Policy Implications

- More than 90 of the 152 local school districts in Mississippi participate in the program.
- Mississippi school districts risk losing a total of \$4 to 5 million per year in Medicaid reimbursement under the proposed CMS rule.
- The Department of Education has established an office to provide school districts with the training and technical support for processing claims. With the administration of the School Based Administrative Claiming Program being housed in the Department of Education, school districts are more likely to participate and have the opportunity to receive funding that will assist with providing services to children that are greatly needed. This oversight also addresses CMS's concern regarding the inconsistent application of Medicaid requirements by school districts.
- The loss of these dollars will not be replaced by other programs, such as the Individuals with Disabilities Education Act (IDEA), which is currently underfunded.
- The Department of Education works to ensure that the funds are put back into health related programs to address the health risks facing our children today. Mississippi school districts have been able to utilize these funds to support important services for low-income students.
- Medicaid is the main source of coverage for health care services for poor children who otherwise might not have insurance.
- One of the most convenient and accessible means of providing outreach for the Medicaid program is through the schools.
- Mississippi has the highest poverty rate for children and the fourth highest percentage of low-income children without health insurance among the states.
- Title XIX Section 1903 (c) of the Social Security Act forbids the Secretary of Health & Human Services to deny reimbursement for claims related to eligible services for children and students with disabilities.
- School-based claiming was legally protected in the 1987 *Bowen* case, when the appellate court ruled that school-based claims were reimbursable, and the Supreme Court elected to let that decision stand.
- The Medicaid school-based administrative claiming program has undergone a number of policy changes since its inception, making it difficult for states to fully participate and comprehend all aspects of the Medicaid program. If the problem is that states are billing improperly, CMS should provide training, monitoring, and auditing to ensure proper billing policies are followed rather than eliminate the program.

## ■ Comment Procedure

Comments must be received at one of the addresses listed below no later than 5 p.m. Eastern Time on November 6, 2007.

In commenting, refer to file code CMS-2287-P.

Comments may be submitted in one of the following ways (no duplicates):

1. Electronically: Electronic comments on specific issues in this regulation may be submitted through <http://www.cms.hhs.gov/eRulemaking>. Click on the link "Submit electronic comments on CMS regulations with an open comment period." Any attachments should be in Microsoft Word, WordPerfect, or Excel; CMS prefers Microsoft Word.
2. By mail: Written comments (one original and two copies) may be mailed to the following address:  
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
3. By hand or courier: Written comments (one original and two copies) may be delivered by hand or courier to one of the following addresses:  
Room 445-G  
Hubert H. Humphrey Building  
200 Independence Avenue, SW.  
Washington, DC 20201  
or  
7500 Security Boulevard  
Baltimore, MD 21244-1850  
For delivery to the Baltimore address, please call telephone number (410) 786-3256 or (410) 786-9215 in advance to schedule your arrival with a CMS staff member. (Because access to the interior of the HHH Building is not readily available to persons without Federal Government identification, commenters should 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 one of 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 at (410) 786-0673 or Judi Wallace at (410) 786-3197.

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## ■ Sources

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Mississippi Department of Education, Office of Healthy Schools. (2007). Unpublished data on school-based administrative claiming revenue.