

MEDICAID TO SCHOOLS

Fact Sheet

Background

The State of New Hampshire established New Hampshire's Medicaid to Schools Program to allow public schools to seek federal financial participation for medical services provided to a student enrolled in Medicaid pursuant to that student's Individualized Education Plan. In 2017, the State expanded eligibility for the Medicaid to Schools Program to include all students who are enrolled in Medicaid. This program allows schools to seek federal financial participation – or matching federal dollars – for medical services provided by schools.

July 1, 2019 Guidance

On July 1, 2019, the Centers for Medicare and Medicaid Services (“CMS”) issued guidance in partnership with the Substance Abuse and Mental Health Services Administration. That guidance document is available at <https://www.medicaid.gov/federal-policy-guidance/downloads/cib20190701.pdf>.

While CMS focused on how schools may expand mental health and SUD related treatment services in the publication, it also highlighted Medicaid requirements specific to the unique nature of providing medical services in a school setting.

One of those requirements is that, for services to be reimbursable under a state's Medicaid program, a medical service must be provided through a Medicaid-participating provider that meets federal and/or state provider qualification requirements. Qualifications of providers must “minimally be the same as those providers who furnish services in other settings in the community.” (p.17).

Under state law, there are certain qualified practitioners authorized to provide health related services in the school setting without licensure by a health-related licensing boards. However, given CMS's guidance, it is clear that schools may not claim federal matching dollars through the Medicaid to Schools Program for services performed by these practitioners unless they are also licensed by the appropriate medical board.

In response, and to ensure the integrity and continuation of the State's Medicaid Program, the Department of Health and Human Services filed an emergency rule with JLCAR on August 27, 2019. The rule was designed in part to clarify that only licensed medical providers may bill for services provided in schools under the State's Medicaid plan. Absent immediate action, any school that billed for services provided by a

qualified but unlicensed provider would have put that school and the State at risk for recoupment from the federal government.

The clarification of federal law has presented serious fiscal challenges for districts that have used providers who were credentialed through the Department of Education, but who were not otherwise licensed by a medical licensing board. While schools continue to provide services to its students, the districts are not able to seek matching federal funds if the services are not in compliance with state and federal law. The State has taken several actions to address those challenges.

Stakeholder engagement

The Department of Health and Human Services began reaching out to various stakeholders in August 2019 as it was preparing the emergency rule. The Department has met with New Hampshire School Administrators Association (School Superintendents) both at statewide and regional meetings, the New Hampshire Association of Special Education Administrators (School Special Educators), the New Hampshire Association of School Business Officials, the School District Governance Association. DHHS is also working with the Department of Education in the Healthy Students Promising Futures Collaborative sponsored by the New Hampshire Charitable Foundation.

On October 17, 2019, the Department held its first in an ongoing series of Medicaid to School Stakeholder Engagement meetings. Attendance at these meetings has ranged from 60 to over 100 participants. The purpose of the stakeholder meetings is to facilitate communication between all stakeholders and the Department as it works on multiple actions designed to support access to services under the State's Medicaid program provided in schools for student-aged beneficiaries. The next meeting is scheduled for December 11, 2019. For additional information, please see <https://www.dhhs.nh.gov/ombp/medicaid/mts/index.htm>.

Rulemaking

DHHS began drafting a rule through the regular rulemaking process to replace the emergency rule set to expire on February 24, 2020. DHHS has solicited feedback from stakeholders through the stakeholder engagement process as well as through meetings with the Medical Care Advisory Committee's Subcommittee on Medicaid to Schools and it continues to revise the rule to incorporate that feedback where appropriate and/or allowable under federal law or current state law. At the request of several schools, DHHS is planning site visits to schools to help inform the rulemaking process as well as to inform the Department's development of guidance for rehab assistants and personal

care services billing. The Department is also tracking what proposed program improvements require legislative changes or an amendment to the State's Medicaid Plan.

As part of that process, the Department will host a public hearing in January in advance of the February 21, 2020 JLCAR meeting. The draft rule is available at <https://www.dhhs.nh.gov/ombp/medicaid/mts/index.htm>.

Additional Outreach Efforts

In addition to work with the stakeholder group, DHHS has engaged with the provider community, including the Bi-State Primary Care Association, the New Hampshire Hospital Association, the Community Mental Health Centers, the Medical Society, Dartmouth-Hitchcock's Telemedicine Program and other providers throughout the state. One goal of these outreach efforts is to determine how providers may be able to support or further support schools to close any gaps in the provision of reimbursable services. This has led to additional lines of communication between the provider community and school districts, and has brought light to existing effective arrangements between providers and schools that may be replicated in other districts.

Legislative Efforts

Earlier this year, Senator Kahn and other legislators began investigating how the Legislature might provide solutions to the fiscal challenge schools face in light of the CMS guidance and emergency rule. The Governor's office brought together a group of legislators, representatives from DHHS, OPLC, and the Department of Education, as well as a representative from the New Hampshire Association of Special Education Administrators to work on legislation to strengthen the State's Medicaid to Schools program. Currently the draft legislation:

- Ensures that DHHS has authority to promulgate administrative rules that maximize the availability federal financial participation to schools as a setting under New Hampshire's Medicaid program;
- Provides an efficient pathway to allow qualified professionals certified and credentialed by the department of education who are currently providing medical services in public schools to be licensed by the related medical and health care boards;
- Facilitates the provision of medical services in the school setting to students that are enrolled in participating public schools and Medicaid thereby furthering the education and health of New Hampshire's students.

Guidance and Training

DHHS has issued four substantive guidance documents addressing questions from stakeholders across the state. In addition, DHHS and OPLC are developing guidance to inform schools which medical professionals are able to prescribe or order Medicaid services, as well as which practitioners are able to provide services without an order. As part of this effort, DHHS has met with a number of medical and health related licensing boards to discuss the Medicaid to Schools program.

In addition to written guidance, DHHS is developing several trainings, the first of which is today, December 4 on Provider Enrollment. DHHS is developing a billing manual to assist schools. DHHS will continue to work with stakeholders to identify concerns, gaps in training, and to improve the program so it is one of the strongest in the country.

The Executive Order

Today, the Governor signed Executive Order 2019-07, which will expedite the processing of license and credentialing applications for individuals who are providing services under the Medicaid to Schools Program. The Order is especially important for individuals who are qualified to receive licenses or credentials from health-related boards but who have, up until now, been relying on their credentialing through the Department of Education.

The Order directs all health-related Boards which govern professions involved in the Medicaid to Schools Program to work with OPLC to prioritize applications for individuals providing services under the Medicaid to Schools Program and to expedite the processing of these applications to the fullest extent permitted by law. The Order also directs these boards to prioritize and expedite applications for permanent and temporary reciprocal licenses, where permitted by statute or rule, for individuals providing services under the Medicaid to Schools Program. Finally, the Order directs these boards to work with OPLC to identify and either institute (where immediate action is feasible) or propose any procedural and process reforms which the board deems necessary to maintain and improve the provisions of services under the State's Medicaid to Schools Program.

OPLC will provide regular updates to the Governor and the Legislature on the steps each board takes and each board's progress toward complying with the directives in the Order.