



STATE OF NEW HAMPSHIRE
OFFICE OF THE GOVERNOR

CHRISTOPHER T. SUNUNU
Governor

January 23, 2020

Education and Workforce Development Committee
New Hampshire State Senate
Concord, NH 03301

Dear Chairman Kahn and Members of the Senate Education Committee,

I write to you today in support of Senate Bill (SB) 684, an important piece of bipartisan legislation to address issues regarding New Hampshire's Medicaid to Schools program.

As you know, I am a strong supporter of this important program and am encouraged by the bipartisan steps we have taken, in coordination with the New Hampshire Department of Health and Human Services and the Legislature, to ensure that students are able to receive the critical services they need.

It is important to review the history of the situation to understand why we find ourselves in the position that we are in today. As you recall, 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 attached. 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."

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 was clear that schools would not be able to claim federal matching dollars through the Medicaid to Schools Program for services performed by these practitioners, unless the appropriate medical board also licenses them.

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 purely to comply with the new CMS guidance. Contrary to any claim, the Department in no way tightened eligibility beyond what was required by the federal government. 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.

We recognize that 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 students,

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they are unable to seek matching federal funds if the services do not comply with state and federal law. SB 684 is part of our effort to work with districts and successfully navigate around the federal guidance, while ensuring that districts are provided the support that they need.

It is the product of a group of bipartisan legislators, 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.

The draft legislation, as it currently stands:

- Ensures that DHHS has authority to promulgate administrative rules that maximize the availability of 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.

These provisions compliment the executive action that I took last year, which will expedite the process of licensing and credentialing applications for those 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 to now, relied on the Department of Education for credentialing.

The Order directs all health-related boards that govern professions involved in the Medicaid to Schools Program to work with the New Hampshire Office of Professional Licensure (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 immediately 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 me with regular updates on the steps each board takes and each board's progress toward complying with the directives in the Order.

Together, these actions will enable school districts to provide students with the critical services they need to have successful academic careers. I ask that you pass SB684.

Sincerely,



Christopher T. Sununu
Governor