

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
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Center for Medicaid and State Operations

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Addressees: See Below

We are pleased to share with you a final guide, previously issued in draft, on Medicaid school-based administrative claiming. The guide, entitled: "Medicaid School-Based Administrative Claiming Guide," (referred to hereafter as "the Guide") offers instructions on submitting claims for school-based administrative costs and implementing and managing administrative claiming programs in accordance with statutory and regulatory requirements.

This is one of several publications we are issuing on Medicaid claiming for school-based health programs. In the future, we propose to publish additional guidance on payment for specialized transportation, as well as an addendum to the 1997 guide, "Medicaid and School Health: A Technical Assistance Guide," that will address such issues as IEP services, state plan requirements, documentation for services, and rate setting.

Recognizing the need to clarify and consolidate the existing requirements for administrative claiming, CMS released and solicited public comment on draft guidance on two occasions, in February 2000 and November 2002. CMS received more than 400 public comments on the two official versions of the draft Guide, and we worked extensively with the U.S. Department of Education to review and address these comments in the final Guide. Attachment B to this letter provides a summary of these comments by category and indicates how we address them in the enclosed final Guide.

The Guide contains one school-based administrative claiming policy which represents a change in current policy and which was not contained in the draft February 2000 guidance. This new policy relates to skilled professional medical personnel (SPMP) and was announced in a State Medicaid Director letter dated November 21, 2002. See Attachment A for a more detailed explanation of this policy change. Attachment A also discusses how CMS will implement the Guide, with respect to transitioning existing state programs into compliance with the provisions contained in the Guide, the treatment of programs currently under review, and the treatment of new programs.

Except for the change in policy related to SPMP indicated above, the provisions contained in the Guide represent a compilation of existing policies under the

authority of current law, regulations, and guidance contained in Office of Management and Budget Circulars. As described in Attachment A to this letter, we recognize the need for a transition period to implement the provisions contained in the Guide, and in that regard, all states' school-based administrative claiming programs will need to comply with the provisions contained in the final Guide by October 1, 2003. However, for states that have not been claiming for the costs of school-based administrative activities, such as states with new programs or with programs currently under review, the Guide is applicable upon issuance.

We believe the final Guide clarifies important policy issues and provides flexibility for states and schools in key areas. We are committed to working with states, school districts, and other interested parties to ensure the ongoing success of states' Medicaid school-based administrative claiming programs. Following the issuance of the final Guide, we intend to work with the states, state groups, and the U.S. Department of Education to provide appropriate training and technical assistance.

Because of the widespread interest and intended audience for this Guide, we are disseminating the Guide through a number of channels. We are sending the final Guide to all CMS Regional Offices, the state Medicaid agencies, and the U.S. Department of Education. The U.S. Department of Education will also be sharing it with the education community at the national, state and local levels. The final Guide is also available on the CMS website at www.cms.hhs.gov.

Questions regarding this final Guide should be addressed to your designated CMS Regional Office.

/s/

Dennis G. Smith
Director

Enclosure

Addressees:

Medicaid Community
Education Community (including Federal, State, and Local)
CMS Regional Offices

cc:

CMS Regional Administrators

CMS Associate Regional Administrators
for Medicaid and State Operations

ATTACHMENT A:
Discussion of New Policy and Transition Issues

NEW POLICY

The final Guide contains one change in policy that pertains to skilled professional medical personnel.

Skilled Professional Medical Personnel (SPMP). CMS has determined that, although there are employees in schools who have the qualifications needed to be considered an SPMP, their advanced skills and training are not necessary in order to perform the types of administrative activities that take place in school settings. Therefore, the final Guide indicates that federal financial participation is no longer available at the enhanced rate of 75 percent for the costs of activities performed by school-based SPMPs. The draft Guide recognized the possibility of claiming federal funding at the enhanced FFP rate of 75 percent for administrative activities performed in the school setting by SPMPs. However, as specified in a State Medicaid Director letter dated November 21, 2002, and reiterated in the final Guide, claiming at the enhanced rate for such activities performed on or after January 1, 2003 in the school setting will no longer be permitted.

Note, the Medicaid-related administrative activities performed by SPMPs in the school setting may be claimable at the regular 50 percent federal matching rate for administration under Medicaid. Federal matching for the costs of the activities provided as medical services and performed by such individuals who are qualified Medicaid providers may be claimed as medical assistance expenditures under the Medicaid program (as distinguished from costs claimed as administration), in accordance with the appropriate requirements associated with claiming for medical assistance expenditures.

Claims at the enhanced SPMP rate for the costs of activities performed in the school setting on or after January 1, 2003 are unallowable. However, that does not mean all SPMP claims in the past were necessarily allowable. That is, the allowability of SPMP claims for activities performed during periods prior to January 1, 2003 will be based on the specific aspects of such claims.

IMPLEMENTATION OF THE GUIDE

All states will need to comply with the provisions contained in the final Guide by October 1, 2003. However, for states that have not been claiming to CMS for the costs of school-based administrative activities, such as states with new programs or with programs currently under review, the Guide is applicable upon issuance. Furthermore, except for the new policy related to SPMP indicated above, the provisions contained in the Guide represent a compilation of existing policies under the authority of current law, regulations and guidance contained in Office of Management and Budget Circulars. We recognize that certain state school-based administrative claiming programs may not currently comply with the policies and requirements contained in the final Guide. In order to address state concerns about the need for a transition period to come into compliance with the final Guide, we established the following policies for implementing

the Guide with respect to states' school-based administrative claiming programs based on the indicated categories:

- **CATEGORY 1 – States That Have Claimed School-Based Administration Expenditures to CMS.** This category is comprised of states that have been claiming to CMS for the costs of their Medicaid school-based administrative claiming programs, whether or not such programs have been approved, either formally or informally, by CMS. Category 1 states may continue to operate and claim for school-based administrative costs. However, states must be in compliance with the requirements contained in the final Guide no later than October 1, 2003. CMS has been working with a number of states in this category already, and will continue to do so. As indicated below, with the issuance of the Guide, CMS will work with all states in this category to ensure that their school-based administrative claiming programs come into compliance with the provisions contained in the Guide as soon as possible.

- **CATEGORY 2 – States That Have NOT Reported School-Based Administration Expenditures to CMS.** This category is comprised of states that have not submitted school-based administrative claims to CMS. A number of Category 2 states have submitted new proposals that are currently under review by CMS. Effective with the date of issuance of the final Guide, both existing programs and incoming proposals for which claims have not been submitted will be reviewed and approved based on the provisions contained in the final Guide. CMS will work with Category 2 states to establish an approvable prospective program in accordance with the provisions contained in the final Guide and, as appropriate, resolve claims for prior periods dating to the beginning of the state's program using a backcasting methodology.

Category 1 states may continue to submit claims under their current programs. However, with the issuance of the Guide, CMS will work with all such states to ensure their programs comply with the policies contained in the final Guide as soon as possible, and no later than October 1, 2003. Furthermore, CMS will continue working with all states to ensure their school-based administrative claiming programs are in accordance with existing policies.

CMS Regional Offices will be contacting each state to inform them of the category applicable to their Medicaid school-based administrative claiming program and to initiate the process to work with each state as outlined above.

ATTACHMENT B:
Summary of Comments on the Draft Guide

We received approximately 400 comments on the two official versions of the draft Guide, covering a wide range of issues related to administrative claiming. The comments on the Draft Guide, and how we addressed them in the final Guide, are grouped into categories summarized below.

Tone. A number of commenters indicated that the tone of the draft Guide was negative; that is, they felt the draft Guide focused on what claims are not allowable under Medicaid rather than what claims are allowable. Although it is important for the Guide to clearly indicate what is not allowable under the Medicaid program, we agree that it should be equally clear on what is reimbursable under the program. In that regard, we reviewed the Guide to ensure that it is balanced in its presentation on both what is and isn't allowable. Furthermore, we revised the Guide to make it easier for all interested parties to use and understand, and we added numerous examples throughout the Guide describing the types of administrative activities that may be claimed to Medicaid. We also added language acknowledging the unique and important role of schools in the Medicaid program.

Language Referring to Medicaid vs. Education Program. We received a number of comments asking for greater clarity in the Guide in distinguishing between requirements and activities of the Medicaid program and those of the Education programs. We agree that the Guide should be clear in this regard. In order to address this issue, we amended the Guide to better describe the interaction between the Medicaid and Education programs, to clarify the distinction between the Medicaid and Education requirements, particularly when terminology and requirements are similar, and to distinguish between the distinct roles of Medicaid and Education in the school setting. Toward that end, the final Guide includes a new chapter on federal programs in the school setting, with a section on Medicaid that includes a description of the Early and Periodic Screening Diagnostic and Treatment (EPSDT) program, and a section on the Individuals with Disabilities Education Act (IDEA) that addresses child find and Individualized Education Program (IEP) activities.

Individualized Education Programs (IEPs). There were a number of comments requesting clarification of the allowability of claims for expenditures for the development of activities pursuant to the development of Individualized Education Programs (IEPs) or Individualized Family Service Plans (IFSPs) or for medical services include in an IEP/IFSP. Under 1988 legislation, the Medicaid statute was amended at section 1903(c) of the Act to clarify that the Medicaid program is not precluded from paying for medical services furnished to a child that are included in an IEP or IFSP. Prior to this legislation, longstanding Medicaid program requirements made payment under Medicaid secondary to payment by other programs. Under this policy, medical services pursuant to an IEP were not reimbursed by Medicaid, since they were viewed as being the responsibility of the Education programs. With the amendment of the Act at section 1903(c), Medicaid could pay for medical services included in an IEP/IFSP, since it clarified that Medicaid was primary payor to the Education program. Under section 1903(c) of the Act, in

general, payment for such services under Medicaid is available only with the establishment of the IEP/IFSP, that is, only after the IEP/IFSP has been developed. Furthermore, Medicaid is not responsible for the costs of administrative activities related to the development of the IEP. Although this policy was stated in the draft Guide and has been retained in the final version, because of the continuing confusion on this issue, as evidenced by the comments, we expanded the discussion of the IEP development process in the final Guide.

Activity Code Issues. Several commenters expressed concern that the draft Guide appeared to require schools to use the activity codes included in the Guide; that is, that these were the only acceptable activity codes. In particular, they wondered whether school districts could deviate from these codes. The activity codes included in the Guide are intended as a model representation of acceptable activity categories and were developed in accordance with the principles discussed in the Guide. Such codes may be tailored to reflect the unique circumstances of each school or school district, and other codes or examples could be added, so long as the principles and requirements are met. Although this flexibility in the application of the activity codes was stated in the draft Guide, because of the comments we received, we added statements in the final Guide to clarify that the activity codes and examples in the Guide are not mandatory.

Time Studies. We received comments on various aspects of the time study process. In response, we addressed several issues in the final Guide, such as claiming for summer months and requirements for job descriptions, which were not dealt with in the draft Guide. We also expanded the discussion on the appropriate sample universe to include in time studies; specifically, whether it should encompass a statewide pool or multiple pools, use of random moment sampling or other techniques.

Referral Activities. Some commenters thought the draft Guide lacked clear guidance on the issue of whether or not a school needs to be a Medicaid provider in order to claim for the costs of administrative activities. The final Guide makes clear that school districts can claim administrative costs even if they do not provide Medicaid services. In addition, the draft Guide appeared to hold schools responsible for ensuring that medical services are actually provided to children once a referral has been made. The final Guide will clarify that this is not the case; Medicaid will still reimburse the school district for the referral even if the school does not or cannot verify that the service has been provided. However, as always, states must have a system in place to ensure that children are actually receiving the services to which they are referred.

Provider Participation. Some commenters were concerned about the administrative burden that might be imposed in order to verify whether every referral was to a provider participating in the Medicaid program. We realize it is administratively burdensome for schools to verify participation in the Medicaid program for each service provider that children are referred to, or to verify that ultimately payment has been made to the provider by Medicaid. The final Guide introduces an operational mechanism option to allow states/schools to develop a rate to measure approximate provider participation rather than having to verify it on a case-by-case basis. In order to mitigate the

administrative burden of having to document every case, CMS will permit schools to develop a “proportional provider rate” for the purpose of making administrative claims under Medicaid. This would represent the documented percentage participation of Medicaid providers to whom children are referred by schools. It provides a valid method for confirming the percentage of participating providers serving the schools for claiming purposes, while relieving schools of the administrative burden of verifying provider status.

Child Find. A number of comments were concerned about the distinctions between Education statute requirements (such as child find) and Medicaid program requirements. We recognize that conducting school-based Medicaid outreach is an important strategy for many states in attempting to reach children potentially eligible for the Medicaid program. However, this type of activity must be carefully distinguished from activities that are conducted for the purpose of meeting IDEA requirements, such as child find, which are not reimbursable under Medicaid.

Section 504. Some commenters questioned why Medicaid does not reimburse for the cost of services and related activities provided pursuant to section 504 of the Rehabilitation Act of 1973. In the draft Guide, and in a subsequent letter to CMS Regional Offices dated March 1, 2000, CMS reiterated the existing policy that reimbursement for services provided under section 504 of the Rehabilitation Act of 1973, and the associated administrative activities, is not allowable under the Medicaid program. CMSO policy on coverage of section 504 services has not changed; however, the nature of the comments received indicated the need for clarification of the 1903(c) exception and the statutory basis for the non-inclusion of section 504 services under this exception. Such clarifying language was added to the final Guide.

Free Care. Some commenters expressed the need for more guidance on the issue of free care. Under the Medicaid program’s “free care” principle, Medicaid funds may not be used to pay for services provided without charge to everyone. Free care is defined as a service for which there is no beneficiary liability and for which there is no Medicaid liability. Due to the confusion surrounding this issue, we added a new section on free care to the final Guide that is listed among the principles of administrative claiming.

We understand that the free care rule has limited the ability of schools to bill Medicaid for covered services provided to Medicaid-eligible children because schools that provide needed health services provide them to all students free of charge. While there are exceptions to the free care principle for Title V and Medicaid services provided to children with disabilities under IDEA, many schools provide a range of services that would not fall under these exceptions, including services provided by school nurses and school psychologists.

There are certain methods school districts may employ to ensure that the care they provide to students is not considered free. The services, and related administration, would not be considered free if the school: (1) establishes a fee scale, (2) ascertains

whether every individual served by the school has any third-party benefits, and (3) bills the beneficiary or third parties for services.

Third Party Liability. Some commenters questioned the need for Medicaid third party liability requirements. According to the TPL requirements, Medicaid is the payer of last resort. While Section 1903(c) of the Act, permits Medicaid to pay before Education for the cost of direct medical services included in the IEP of a Medicaid eligible child, Medicaid is still secondary to all other parties responsible for payment. These requirements are necessary in order to maintain the legal liability of third parties to pay for Medicaid-covered services, and thus protect the fiscal integrity of the Medicaid program. This issue has been further elaborated in the final Guide.

Offset of Revenues. Several commenters requested clarification regarding two of the revenue offset categories included in the Guide that must be applied in developing net costs. The first item referred to federal funds, including the maintenance of effort and other state/local matching funds required by the federal grant. With respect to this item the commenters indicated that only the federal funds, not the maintenance of effort and state/local matching funds, should be included as a revenue offset item. We agree with this comment and clarified this offset of revenue item to refer only to federal funds. The second item, referred to state funds which are required to be specifically targeted or earmarked for the delivery of program services. We agree with this comment and removed the item from the list of revenue offset categories.