

November 16, 2010

Mr. Don Berwick
 Administrator
 Centers for Medicare and Medicaid Services
 U.S. Department of Health and Human Services
 7500 Security Boulevard
 Baltimore, Maryland 21244

**Re: Docket ID: CMS-2010-0239
 Medicare, Medicaid, and Children's Health Insurance Programs;
 Additional Screening Requirements, Application Fees, Temporary
 Enrollment Moratoria, Payment Suspensions and Compliance
 Plans for Providers and Suppliers (CMS-6028-P)**

Dear Mr. Berwick:

The National School Boards Association (NSBA), representing over 95,000 local school board members across the nation through our state associations is pleased to submit our formal comments on the proposed rules implementing certain provisions of the 2010 Affordable Care Act, specifically CMS-6028-P.

While NSBA supports efforts by the Centers for Medicare and Medicaid Services to eliminate fraud, waste and abuse, our concern rests with the proposed regulation requiring, ordering or referring physicians to become registered as designated Medicaid Providers. This policy change could deter local school districts from billing to Medicaid and therefore from receiving critical and justified reimbursements during what has become a severe, prolonged economic downturn. Realistically, it is our concern that local school districts currently are very tightly regulated by both the state and federal governments. This added regulatory burden would only serve to detract from local districts' ability to provide federally-mandated medical services for their qualified, Medicaid-eligible students.

The proposed CMS-6028-P regulation would mandate that the State Medicaid agency to require all ordering or referring physicians and "other professionals" providing Medicaid services to be enrolled as a Medicaid provider. It appears that in an attempt to draft a regulation that encompasses Medicare, Medicaid, and CHIP providers, the drafters have overreached and included local school districts in the rulemaking. The current School-Based Services Medicaid billing rules already require local school districts to secure prescriptions or orders for physical and occupational therapy, nursing, and other services depending on the State's program. Quite often such prescriptions and referrals are provided by a physician who is not an enrolled Medicaid provider. Speech therapy and audiology services serve as two examples of the most prevalent services that are Medicaid reimbursable. If the proposed rule were applied, in the event these specialists are not enrolled Medicaid providers, the local school district would not be able to receive Medicaid reimbursement. This would result in a significant negative budgetary impact on it.



*Working with and
 Through our State
 Associations, NSBA
 Advocates for Equity
 and Excellence in
 Public Education
 through School
 Board Leadership*

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NSBA's suggestion would be to exempt local school districts from CMS-6028-P because they are not "Medicaid providers" in the context of this proposed regulation. Our goal is to encourage our professionals to continue to be willing participants in our school programs, and not burden them with unnecessary restrictions.

It should be noted that all public school districts in the U.S. are government agencies, and as such are required to abide by federal, state, and local laws. In fact, in recent years most states have enacted school safety laws with many requirements to assure the protection of children and quality of services delivered, including but not limited to, the requirement that all school employees are fingerprinted, have extensive criminal history background checks, and verification of licensure/certification and/or registration done prior to being hired by any state education agency (SEA), local school district or education service agency. Further, the federal Individuals with Disabilities Education Act (IDEA) requires SEAs to oversee and verify qualifications of all staff delivering health and related services for children and students who are eligible for special education and receiving health care services during the school day. In this context, the opportunity for Medicaid fraud being perpetrated is miniscule. NSBA respectfully requests that local school districts be exempted from CMS-6028-P, and not be designated "Medicaid providers" in the application of this regulation.

Our state association members also have brought to our attention to § 455.104. The proposed rule states that the Social Security numbers (SSNs) of "...any managing employees including directors and officers of corporations and non-profit organizations and charities" must be disclosed. We understand that at least one state department of human services has interpreted this requirement to apply to public school districts. NSBA requests that CMS clarify that school districts are not included in this requirement as school districts are neither non-profit organizations nor charities.

NSBA sincerely appreciates the opportunity to comment. Questions concerning our comments should be directed to Ms. Roberta E. Stanley, director of federal affairs, at 703-535-1624, or by email, rstanley@nsba.org.

Sincerely,



Michael A. Resnick
Associate Executive Director

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