



# ISSUE BRIEF

## SCHOOL-BASED MEDICAID REIMBURSEMENT

### BACKGROUND

Under the *Medicare Catastrophic Coverage Act of 1988* (P.L. 100-360) school districts are allowed to receive payment from Medicaid for health services delivered to Medicaid-eligible children with disabilities who may need diagnostic, preventive, and rehabilitative services; speech, physical and occupational therapies; and transportation for such services. In addition, school districts may claim reimbursement for the administrative costs of providing school-based Medicaid services such as outreach for enrollment purposes, and coordination and/or monitoring of medical care.

Nationwide, it is estimated that Medicaid expenditures for school-based services totaled about \$2.9 billion in FY 2005. Roughly \$2.1 billion of these expenditures were for direct services in schools (including transportation) and \$834 million was spent for school-based administrative activities.

### ADMINISTRATION ACTIONS

On August 31, 2007, the Centers for Medicare and Medicaid Services (CMS), which oversees the federal-state entitlement program, initiated a rulemaking process to prohibit federal reimbursement for IDEA-related school-based administration and transportation costs for Medicaid-eligible students. The proposed action is estimated to save the federal government (and therefore, cost school districts) approximately \$635 million in FY 2008 and \$3.65 billion over the next five years.

The rule (CMS-2287), which was finalized on December 28, 2007 eliminates federal reimbursement to schools under the Medicaid program for the costs of administrative activities (such as Medicaid outreach, program planning, referral and monitoring) and certain types of transportation based on a Secretarial finding that these activities are “not necessary for the proper and efficient administration of the State plan.” As a result, schools would no longer be eligible to receive federal Medicaid payments for the administrative activities performed by school employees or contractors as well as for transporting disabled students from home to school and back.

NSBA submitted formal comments to the U.S. Department of Health and Human Services (HHS) opposing the rule. In its statement, NSBA argued that the loss of federal reimbursement for administrative and transportation services would have a devastating impact on schools’ ability to provide needed services to Medicaid-eligible children as well as a significant financial impact on local districts. NSBA opposes the rule on the grounds that it: 1) contradicts current law 2) exceeds Secretarial authority, and 3) discriminates against schools.

## LEGISLATIVE ACTIONS

In anticipation of this administrative action, Senator Kennedy (D-MA) and Representative Dingell (D-MI) introduced legislation (S. 578, H.R. 1017) in February 2007 that would prohibit CMS from limiting school districts' authority to claim reimbursement for administration and transportation expenses and set forward clear guidelines for providing and receiving reimbursement for Medicaid-eligible services.

The *Protecting Children's Health in Schools Act of 2007*, which NSBA helped to draft, would:

- Set forth payment requirements for items, services, and administrative expenses covered under the Medicaid State plan in an educational program or setting,
- Clarify that the Health and Human Services Secretary may not deny federal matching payments for administrative, enrollment, and outreach activities,
- Allow for federal matching payments to include services to disabled children under Section 504 of the Rehabilitation Act of 1973, and
- Require the state to provide the full federal matching payments to the local educational entity if the entity incurred the full expenditure (provides an exception for state school board associations' to retain a portion of the reimbursement for costs that they incurred in connection with the collection and submission of claims on behalf of schools districts).

The legislation has been referred to the House Energy and Commerce Committee and the Senate Finance Committee, but has not seen any action.

In order to obtain temporary relief from CMS-2287, language was included in the Medicare, Medicaid and SCHIP Extension Act of 2007, to delay the U.S. Department of Health and Human Services from implementing cuts to school-based administrative and transportation services for six-months, effectively guaranteeing that the finalized rule would not be implemented until at least the 2008-2009 school year. President Bush signed the measure on December 29, 2007.

In April 2008, the House passed H.R. 5613, the *Protecting Medicaid Safety Net Act*, which would impose a lengthier moratorium (until April 2009) on the rule as well as a number of other Medicaid regulations. In June, the Senate incorporated the bill language into the FY 2009 Appropriations Supplemental, which provided needed funding for other domestic programs and the wars in Iraq and Afghanistan. The House followed suit and the President signed the War Supplemental Appropriations bill into law on June 30.

On February 17, 2009, President Obama signed the *American Recovery and Reinvestment Act* (ARRA) which extended the moratorium until the end of June 2009. The current moratorium enables federal Medicaid reimbursements for transportation and administration services (such as outreach and enrollment, program planning and referrals) to continue until at least June 30, 2009.

## NSBA POSITION

NSBA believes that schools play a key role in identifying children for Medicaid and connecting them to needed services in schools and the community, and supports efforts to block CMS from prohibiting school districts from claiming federal reimbursement for these services.

The loss of administrative and transportation reimbursement would hurt school districts' efforts to provide needed health services, resulting in eligible children not being identified and/or receiving these services in a

timely manner. Additionally, the loss of funding could impact students in regular education programs since Medicaid reimbursement affects school districts' bottom line.

With the current moratorium in place, NSBA will work with the new Administration, the 111<sup>th</sup> Congress and other organizations to rescind the Medicaid rule and to clarify in statute school districts' authority to receive federal reimbursement for the Medicaid services that they provide students.

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