



Free Care Policy Overview

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On December 15, 2014, Cindy Mann, Director of the Centers for Medicare and Medicaid Services (CMS), issued a [State Medicaid Director letter](#) that removes a key barrier to funding school health services: the free care policy. The clarification of this policy provides an opportunity to leverage the role that schools can play in increasing access to comprehensive and coordinated care for Medicaid-enrollees. Since 1997, the free care policy has stated that Medicaid funds may not be used to pay for services that are available without charge to everyone in the community. This rule has presented a barrier to maximizing the role that schools can play in prevention, population health, care coordination and chronic disease management.

In order to support implementation of this change, it is critical to better understand the opportunities presented by the recent clarification of the free care policy and ensure that health and education stakeholders have the information and resources they need to leverage this opportunity to increase access to comprehensive and coordinated care. This brief provides an overview of the free care policy and recent change.

Overview of the Free Care Policy

While health services included in a Medicaid enrolled child's Individualized Education Plan (IEP) are reimbursable by Medicaid, reimbursement for other services provided by school health providers have historically been subject to the free care policy. The free care policy states that Medicaid funds may not be used to pay for services that are available without charge to everyone in the community. Since school health providers serve the entire school community, many of the services they provide to Medicaid enrolled children were considered not eligible for reimbursement due to the restrictions imposed by the free care policy. The free care policy did not apply to services included in a student's IEP and services provided by the Title V Maternal and Child Health Services Block Grant.

The free care policy has been the subject of dispute for a number of state agencies. In 2004 the U.S. Department of Health and Human Services Departmental Appeals Board ruled that the free care policy, as interpreted by CMS and applied to school districts, has no basis in federal Medicaid law and that the policy, as applied to schools, is unenforceable. More recently, this ruling was affirmed when CMS agreed to reimburse San Francisco Unified School District for health services delivered to the general student population by school health professionals.

As a result, advocates have been working over the past decade to clarify that, in accordance with the 2004 U.S. Department of Health and Human Services decision, the free care policy does not apply to services delivered in schools.

State Medicaid Director's Letter

The recent State Medicaid Director letter clarifies that the free care policy does not apply to school health services. The letter states, “We are issuing this guidance to ensure that Medicaid payment is allowed for any covered services for Medicaid-eligible beneficiaries...The goal of this new guidance is to facilitate and improve access to quality healthcare services and improve the health of communities.” The State Medicaid Director letter removes one of the barriers that has made it challenging for schools to provide access to quality healthcare services for students.

Schools are now be able to seek reimbursement for services such as diabetes management, asthma management, prenatal care for teens and mental health services, though the exact type of school health services and allowable providers will be determined by each state's Medicaid plan.

The letter also clarifies that while schools are not considered to be legally liable third parties, they are required to pursue payment from legally liable third parties, such as private insurance plans. As a result, schools, like other Medicaid providers, must bill a beneficiary's primary health insurer first (if a child has health insurance in addition to Medicaid), before billing Medicaid. It is important to clarify that the requirement to bill third party payers only applies to Medicaid enrolled students who also have a third party insurer. It is also important to note that federal Medicaid law states that the free care policy and third party billing policy cannot, under any circumstance, prevent a school district from billing for Early, Periodic, Screening, Diagnosis and Treatment (EPSDT) services. Approximately 13% of Medicaid recipients have dual coverage at any given time and, as a result, the issue of third party liability does not apply to the majority of children that receive coverage through Medicaid.

The Free Care Policy and Medicaid Managed Care

Given the transformation that is taking place in the nation's health care system, it is important to consider how implementation of the free care policy can align with managed care systems and capitated payments.

School health services can directly support many of the target goals managed care providers need to meet for children and youth and therefore recognizing school health services through the Medicaid managed care system should be a natural fit. A number of states have recognized the important role school health services play in health prevention and promotion and disease management by ensuring that school health services provided to Medicaid enrollees are reimbursable, regardless of the way Medicaid services are delivered (managed care or fee-for-service). For example, a number of states, including New York and Kentucky, have created carve outs for school health services and reimburse school health services under the “traditional” fee-for-service Medicaid program.

In addition, some school-based health providers have developed formal arrangements with managed care plans, including legal contracts and protocols for referral and treatment. For example, Los Angeles Unified School District has become a contracted

provider with California's Child Prevention and Disability Program, which allows them to seek reimbursement from Medicaid for nurse practitioners and physicians forming comprehensive physical exams. The district is also contracted with one public insurance program (LA Care) and one private insurance program (Health Net, Inc.) to provide such physical exams and seek reimbursement.

A number of managed care organizations have also recognized the critical role schools can play in meeting their overall goals for improving the health of the populations they serve and have either hired a school nurse coordinator for school districts or cover a portion of the salary for a school nurse. In Madison, Wisconsin (a district which has had a long term contractual relationship since the late 1990s with two local health maintenance organizations, or HMOs) the HMOs pay part of a school nurse's salary with the specific goal of increasing the number of health screenings for their Medicaid members.

Schools and local health providers stand to benefit significantly from this change in the free care policy and should work together to ensure that schools have the infrastructure necessary to deliver health services to students and meet the health needs of students across the state.

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