Medicaid Proposal to Eliminate Reimbursement of School Services

Background

On December 28, 2007 the Centers for Medicare and Medicaid Services (CMS) issued a final rule eliminating Medicaid reimbursement to schools for transportation and administrative claiming associated with Medicaid eligible students with disabilities. Recognizing that an elimination of this reimbursement would shift financial responsibility of medically necessary related services to individual school districts across the nation, Congress has taken the following action:

- Congress passed a six month moratorium due to expire on June 30, 2008
- Congress passed a non-binding amendment stating it is the will of the Congress not to implement these regulations during the debate of the fiscal year 2009 budget resolution in March 2008
- Members of Congress have introduced legislation prevent CMS from taking this action

- Projections indicate that if the elimination of this Medicaid reimbursement were implemented, it could cost school districts over $3 billion over five years.
- School-based Medicaid claiming has a firm legal basis:
  - Title XIX Section 1903 (c) of the Social Security Act clearly forbids the Secretary of Health & Human Services to deny reimbursement for claims related to eligible services for children and students with disabilities.
  - School-based claiming was protected in the courts in the 1987 Bowen case, when the appellate court ruled that school-based claims were reimbursable, and the Supreme Court elected to let that decision stand by denying cert.
- Legislation has been introduced to prevent CMS from taking this action:
  - Protecting Children’s Health in Schools Act of 2007 (H.R. 1017/S. 578) Introduced by Senators Kennedy (MA), Smith (OR) and Representatives Dingell (MI), Whitfield (KY)
  - H.R. 4355 introduced by Rep. Boozman (AR), Ross (AR), Kuhl (NY)
  - Protecting the Medicaid Safety Net Act of 2008 (H.R. 5613) Introduced by Rep. Dingell (MI), Murphy (PA)
- Medicaid reimbursements are the primary source of coverage for health care services for poor children who otherwise have no insurance.
- Medicaid reimbursements improve and expand needed health care related services for children and students with disabilities.
- CMS has developed at least three versions of the Administrative Claiming Guide completely without collaboration with school administrators or other professionals who coordinate school-based claiming. Each version of the guide progressively eliminated administrative and transportation claims.
- CMS has administered the reimbursement of administrative claims in a way that varies from state to state and even within states. Fairness requires a uniform policy.
- The controversy about Medicaid reimbursement has it roots in a long-term policy disagreement between schools and CMS and its predecessor, the Health Care Financing Administration. The disagreement concerns whether schools should be reimbursed for health care services and the administration of those services that they would be required to provide in the absence of Medicaid.

CEC’s Recommended Congressional Action

- Cosponsor Protecting Children’s Health in Schools Act (S. 578/H.R. 1017), introduced by Senators Kennedy and Smith, and Representatives Dingell and Whitfield, which would clarify the right of school districts to claim administrative and transportation costs associated with providing these services to Medicaid eligible students with special needs.
- Cosponsor H.R. 4355 introduced by Representatives Boozman, Ross and Kuhl, which would extend the moratorium preventing action by CMS for one year.
- Cosponsor Protecting the Medicaid Safety Net Act of 2008 (H.R. 5613), introduced by Representatives Dingell and Murphy, which would extend the moratorium preventing action by CMS until April 1, 2009.

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March 2008