

Memorandum

To: HCA SBS Compliance and Expansion Core Team
From: ForHealth Consulting
Date: July 11, 2024
Subject: Preliminary Recommendations for School Based Claiming

In response to The Centers for Medicare and Medicaid Services (CMS) new guidance to states related to claiming federal match (FFP/FMAP) for SBS, The Health Care Authority (HCA) of the state of Washington engaged with ForHealth Consulting to assess their current program and to determine the opportunities and compliance requirements for the state's Medicaid reimbursement mechanisms/programs available to Washington's Local Education Agencies (LEAs) and Educational Service Districts (ESDs). Informed by the results of a comprehensive current program assessment¹, this memo outlines ForHealth Consulting's preliminary recommendations on how Washington could best take advantage of new opportunities to reimburse LEAs and ESDs for more services and identifies compliance requirements the state must meet.

This memo organizes recommendations for next steps and further review into six focus areas: program simplification, expansion of covered services, expansion of qualified providers, expansion of SBHS to CHIP enrollees, training/outreach and LEA support, and the MAC program, including Random Moment Time Study (RMTS).

Focus Area One: Program Simplification

Carve Out SBS from Managed Care

Targeted discussions and LEA survey data overwhelmingly indicate MCOs for school-based services simply do not work. Currently there are only three (3) ESDs and one (1) LEA contracted with and billing any MCOs for school-based services. The barriers to successfully contracting with and billing MCOs are much too high for LEAs.

Create One, Comprehensive SBS Reimbursement Program for LEAs

The state should move towards creating one, comprehensive SBS reimbursement program for LEAs and ESDs that is inclusive of direct health care services provided to IEP students, direct health care services provided to students that are unrelated to an IEP and Medicaid Administrative activities. This recommendation includes evaluating the most common SBS reimbursement model applied

¹ Washington State School Based Services: Assessment of Medicaid Reimbursement Program for LEAs, July 8, 2024, ForHealth Consulting

across other states and encouraged by CMS- Cost Based Reimbursement for both direct and administrative services utilizing a single RMTS and certified public expenditures.

Eliminate TPL Burden for LEAs

CMS has clearly stated that for IEP Services Section 1903(c) of the Act permits an exception to the TPL requirements for Medicaid-covered services included in a Medicaid eligible student's IEP. This means that Medicaid will pay primary, or prior to federal IDEA funds for Medicaid-covered services listed in a student's IEP. And for non-IEP Services, states may exempt certain items or services from third-party liability (TPL) requirements when submission of claims for those items or services would always result in denial because the general insurance industry does not cover them. CMS requires the State to have clear and convincing documentation of non-coverage by insurers (this documentation must be updated at least annually). If a State has documentation, there is no need to further verify by submitting claims because there would be no liable third party and Medicaid TPL rules would not come into play. The controlling regulation is found at 42 CFR 433.139(b)(1), which states, "The establishment of third-party liability takes place when the agency receives confirmation from a provider or a third-party resource indicating the extent of third-party liability."

Therefore, the recommendation is to take the burden of TPL off the LEAs for all services. Instead, HCA should develop and maintain documentation of non-coverage of SBS services by private payers.

Focus Area Two: Expansion of Covered Services

Fully Expand the Services that are Covered when Provided by an LEA

The state should pursue the expansion of covered services provided by an LEA and reimbursed by Medicaid to include all medically necessary covered services, without the limitation that the services be related to a student's IEP. Many survey respondents indicated support for service expansion, "Medicaid program should include recent changes that allow for billing of non-IEP based services." The CMS SBS Guide clearly states that "Medicaid-covered services may be delivered to all Medicaid-enrolled students in school settings, and not just those with an IEP or Section 504 plan." (pg. 18) And CMS has reversed the prior "free care" rule as an obstacle to reimbursement: "Medicaid-covered services provided to children enrolled in Medicaid, regardless of whether the services are provided at no cost to other students." (pg. 19)

Provide Reimbursement for all EPSDT Services, including Prevention Services, Health Screenings and Appropriate Child Find Screenings and Assessments

Schools are routine providers of vision and hearing screenings and other health-related, grade-level screenings that are reimbursable under EPSDT. Child find activities may involve a formal screening process to determine whether the child should be referred for an evaluation to determine whether a child has a disability and the nature and extent of the special education and related services that the child needs. The 2023 Comprehensive Guide to Medicaid Services and Administrative Claiming (p. 15) has language that states that "coverable services also include child find evaluations and reevaluations." Medicaid may cover child find screening, evaluations, and reevaluations.

Provide Reimbursement for Specialized Transportation as a Service

As noted on page 99 of the 2023 Comprehensive Guide to Medicaid Services and Administrative Claiming under section G. Special Considerations for Transportation and Vaccines as SBS:

“School-based specialized transportation is defined as transportation to a medically necessary service (as outlined in the IEP of an enrolled Medicaid beneficiary) provided in a specially adapted vehicle that has been physically adjusted or designed to meet the needs of the individual student under IDEA (e.g., special harnesses, wheelchair lifts, ramps, specialized environmental controls, etc.) to accommodate students with disabilities in the school-based setting.”

Reimbursement through the state’s Medicaid SBS program for qualified specialized transportation provided to and from home and school is allowable for every day that a student receives a Medicaid-qualified service pursuant to their IEP in school (other than transportation). This is a significant opportunity for the state to draw down additional federal funding to support the transportation costs incurred by schools.

Provide Reimbursement for Preventive Dental Services

Schools routinely provide limited preventive dental services, including fluoride/varnish treatment and dental screenings, which are reimbursable EPSDT services that are not duplicative of dental coverage.

Provide Reimbursement for Targeted Case Management

Targeted Case Management (TCM) allows States to target the benefit to a specific population, as described in section 1915(g)(1) of the Act, such as Medicaid-eligible individuals with mental health conditions or SUDs, or to individuals who reside in specified areas of the State (or both).² Case management services could help coordinate services a beneficiary receives across both school and community settings. Because federal reimbursement for TCM as a direct service can be claimed at the beneficiary’s FMAP rate instead of the MAC program’s 50% match rate, and since TCM services can be designed to include a variety of supports provided to students in the target population pursuant to a case management plan, including services that would not separately outside of TCM be considered reimbursable MAC activities, additional analysis around potential target populations for TCM services should be explored.

Provide Reimbursement for School-Based Applied Behavior Analysis and Behavior Interventions

Applied Behavior Analysis (ABA) is a covered benefit for students with an Autism Spectrum Disorder (ASD) in Washington state, but the only access to reimbursement for these services when provided by an LEA or ESD is through the managed care billing option and when a Centers of Excellence (COE) provider has conducted a comprehensive evaluation and writes an order for ABA therapy and the therapy services are provided by a restricted list of Medicaid-enrolled ABA providers, which does not include schools. Therefore, all of the children who are receiving medically necessary ABA

² CMS SBS Comprehensive Guide, pg. 24: <https://www.medicaid.gov/medicaid/financial-management/downloads/sbs-guide-medicaid-services-administrative-claiming.pdf>

therapeutic interventions provided free of charge to the family at the cost of the LEA or ESD are in effect unclaimable today. This is a significant opportunity for the state to access federal funding to offset the high costs of providing these critical services to students.

Focus Area Three: Expansion of Qualified Providers

Expand the types of SBS practitioners to include master’s level providers who are licensed by OSPI ESA certification exclusively for the school setting

CMS guidance has been updated to give States “greater flexibility to cover services provided by school-based health care providers whose provider qualifications under State and local law might vary from the qualifications for non-school-based providers of the same services, or whose scope of practice might be limited under State or local law to the school setting. Under this updated approach, States should not impose provider qualifications that are unique to Medicaid-covered services. For example, if a school-based provider is qualified under State or local law to provide counseling to any child (or any child in the school system), the State cannot impose additional provider qualification requirements under State law as a condition for receiving Medicaid payment for counseling provided to a Medicaid beneficiary.”³ In Washington, there are many trained health professionals working in public schools and providing appropriate and qualified care for the school setting who are master’s level clinicians licensed by OSPI with ESA certification, including school social workers, school counselors, school psychologists, and school speech therapists.

Orientation and Mobility Specialists

“A Certified Orientation & Mobility Specialist (COMS) is a highly trained expert who specializes in working with individuals who are blind, low vision or who have functional visual limitations, and empowers them to achieve their life goals for education, employment, avocation and independence. A COMS may be blind, partially sighted or sighted. COMS are engaged in a comprehensive approach to orientation & mobility addressing nonvisual, visual, physical, cognitive, and psycho-social aspects related to mobility training for individuals of all ages, as well as diverse needs and abilities.”⁴ Many states cover orientation and mobility specialist services in their SBS program, including Illinois ([IL-21-0008.pdf \(medicaid.gov\)](#)), Colorado ([CO-19-0021.pdf \(medicaid.gov\)](#)), and Utah ([UT-21-0019.pdf \(medicaid.gov\)](#)).

Expansion and Clarification of Services that can be Provided by Unlicensed School Staff under the Supervision of a Licensed Provider

The direct service reimbursement portion(s) of the SBS program should evaluate all opportunities to expand the types of services and clarify the claiming requirements for health-related interventions that can be reimbursed to LEAs when provided by unlicensed school staff under the supervision of a licensed provider.

³ CMS SBS TAC FAQ# 166426 6/25/24:

https://www.medicaid.gov/faq/index.html?f%5B0%5D=topic_faq_library_facet%3A8636&search_api_fulltext&field_faq_date%5Bmin%5D=05/22/2012&field_faq_date%5Bmax%5D=06/25/2024&sort_by=field_faq_date&sort_order=D ESC&items_per_page=10#content#content#content#content

⁴ ACVREP website: <https://www.acvrep.org/certifications/coms>

School Nurses (RN & LPN) and Expansion of Qualified Care to Include Skilled Nursing Interventions Unrelated to an IEP, but Within the Scope of School Nursing Practice Standards

School nurses provide a range of services that should be considered for Medicaid reimbursement that are unrelated to a special education student's IEP. School nurses provide important interventions for acute and chronic illness, injuries and emergencies, communicable diseases, and many other health-related services and supports that keep school-aged children healthy and in school. According to the CDC, more than 40% of school-aged children and teens have at least one chronic health condition, like asthma, diabetes, seizure disorders, and others which are addressed by school nurses⁵ and are health conditions that are medically necessary to address and should be reimbursable when provided at the expense of an LEA or ESD.

Focus Area Four: Expansion of SBHS to CHIP Enrollees

SBS Reimbursement Should be Available for CHIP Enrollees.

The current SBHS program should be expanded as soon as possible, even prior to submission of a SPA to make other program changes, to allow claiming for Title XIX-funded Medicaid, Title XXI-funded Medicaid Expansion CHIP, and separate CHIP enrollees. *(Note: HCA has confirmed that CHIP beneficiaries are eligible to be billed through the MCO portion of the program, and HCA is researching whether the CHIP beneficiaries are currently being included in the MAC program MERs, so this recommendation may expand to include MAC as well as SBHS.)* In a recent FAQ posted by the CMS SBS Technical Assistance Center, CMS addresses questions and clarifies that SBS federal match reimbursement is available for CHIP enrollees.⁶

Focus Area Five: Training, Outreach & LEA Support

Increase Active Involvement in LEA Training and Support from OSPI

In many states, the SEA plays an active role in communications, training and support for LEAs as they are uniquely positioned to partner with the SMA to bridge training gaps and facilitate clear dissemination of information.

SBS Program Promotion Strategy

Design an SBS Program "sales/marketing/promotion" strategy to get the word out to LEAs about the program and all it offers, aligned with launch of program changes announcing simplification and other improvements and potential for increased revenue. As discussed in the assessment section of this report, there is substantial need to address overall awareness and knowledge about Medicaid SBS, as well as reaching those who have previously decided that participation or full participation in Medicaid SBS isn't worth the level of effort. This is an area that will be most

⁵ School Nurses Help Keep Students Healthy, CDC Healthy Schools, accessed from https://www.cdc.gov/healthyschools/features/school_nurse.htm

⁶ CMS SBS TAC FAQ ID 166466 (June 25, 2024): https://www.medicaid.gov/faq/index.html?f%5B0%5D=topic_faq_library_facet%3A8461&f%5B1%5D=topic_faq_library_facet%3A8621#content#content

effectively addressed through collaboration between HCA and OSPI as the opportunities to leverage existing resources and structures, such as the Comprehensive Needs Assessment⁷ tools and framework, School Improvement Plan⁸ context and process, and other continuous school improvement resources⁹ that are already familiar to LEAs are likely to yield the most buy-in and best results.

Develop Professional Learning Communities (PLCs)

Consider developing Professional Learning Communities (PLCs) for LEA "Medicaid Coordinators," and clinical leaders and potentially other roles for peer-to-peer learning and support and an avenue for 2-way engagement with state level Medicaid SBS staff at HCA and/or OSPI. There are many options for how to effectively stand up these kinds of PLCs, including leveraging existing organizations and their networks such as OSPI, ESDs, professional practice organizations representing school-based practitioners and others.

Evaluate Options for Statewide SBS Electronic Health Records (EHR)

The LEA Survey and key informant interviews indicate that most LEAs have challenges and barriers related to the lack of comprehensive, school-appropriate electronic health records systems that integrate with SIS and IEP software. Regardless of reimbursement model, school-based services, like all other Medicaid services, must be supported by sufficient documentation that is readily retrievable for program integrity reviews and/or audits. An EHR can support various health recordkeeping and reporting needs for schools, including required health data reporting regarding immunizations, students with chronic health conditions, required state health department and CDC reporting, as well as provide the infrastructure for effective monitoring and management of student health and tools to track health outcomes. An EHR can allow appropriate providers to share pertinent information regarding student care while maintaining compliance with HIPAA and FERPA regulations for data confidentiality. Nationally, some state education agencies and/or health departments have moved to a single statewide EHR for public schools, integrated with or including special education software meeting the state's requirements under IDEA for IEPs. For example, North Carolina recently awarded an RFP for their state's single mandatory SIS that included the requirement that the new software vendor include health records functions for both IEP and non-IEP services and all school-based provider types.¹⁰ Whether or not Washington decides to move forward on the path to developing or procuring a statewide EHR for LEAs, opportunities to take a statewide approach to supporting LEAs in solving for this need is definitely recommended.

⁷ OSPI Comprehensive Needs Assessment Toolkit, Updated March 2023. Retrieved from OSPI website: https://ospi.k12.wa.us/sites/default/files/2023-08/comprehensive_needs_assessment_march_2023.pdf

⁸ OSPI School Improvement Plan 2024-2025. Retrieved from OSPI website: https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fospi.k12.wa.us%2Fsites%2Fdefault%2Ffiles%2F2024-03%2F2024-2025-ossi-school-improvement-plan-template_0.docx&wdOrigin=BROWSELINK

⁹ OSPI Continuous School Improvement Resources available on OSPI website: <https://ospi.k12.wa.us/student-success/support-programs/system-and-school-improvement/continuous-school-improvement-resources>

¹⁰ North Carolina Department of Public Instruction Student Information System Modernization: <https://www.dpi.nc.gov/districts-schools/district-operations/school-business-systems-modernization/student-information-system-modernization>

Evaluate Options for Statewide Medical Billing Solution, Clearinghouse or Alternative Reimbursement Process that eliminates traditional “medical billing” claims

Potentially aligned with an evaluation and recommendations about EHRs is the need to connect health records to a billing system in a streamlined and cost-effective way that is accessible and achievable by all LEAs. Alternatively, the new CMS SBS Guide allows flexibility for states that utilize a Certified Public Expenditure (CPE) program to consider eliminating traditional “medical billing” and utilize alternative methods to gather service data, such as service roster reporting. As evidenced by LEA survey respondents (see Table G, page 41), 20% of the LEAs that responded indicated they do not participate in the SBHS program due to the burden and difficulties of obtaining parental consent for Medicaid billing. As Washington considers expansion of the program to allow reimbursement for services that are not related to a special education student’s IEP, the administrative burden and barrier of the parental consent requirement related to services where there is not a built-in mechanism of an IEP meeting with parents/guardians will become exponentially more significant.

Support, Promote and Align the Multi-Tiered Systems of Supports (MTSS) Model for SBS Services

Key informants consistently identify that there is a perceived significant difference in school-based practice models vs. a "medical model" for service delivery. Finding ways to translate the language and describe a Medicaid reimbursement program in terms of a common framework for service delivery, such as MTSS, will breakdown communication and training barriers and promote clinical practice and services and supports that yield improved health outcomes for kids.

Focus Area Six: MAC Program & Random Moment Time Study (RMTS)

Create One, Comprehensive SBS Reimbursement Program for LEAs

The state should move towards creating one, comprehensive SBS reimbursement program for LEAs that is inclusive of direct medically necessary health care services and Medicaid Administrative activities. While this recommendation also supports program simplification, it may also be a requirement for WA to continue participation in MAC reimbursement. The CMS guidance highlights concerns on operating a standalone MAC program, in particular related to care collaboration activities that occur as an integral component of providing a direct service and ensuring no duplication in MAC claiming. Additionally, the CMS requirement to connect MAC referral activities to a paid claim for the referred direct service may prohibit the option for LEAs to participate in the MAC program without also participating in direct service reimbursement option(s). Finally, the historical reasons and hesitation of LEAs to participate in the MAC program can likely largely be addressed through creation of a single, comprehensive program where there is not any "extra" work involved with claiming the MAC activities along with direct services. As a result, this recommendation could potentially increase LEA participation in MAC and realize its full revenue potential.

Random Moment Time Study (RMTS) Compliance Requirements

Whether in the standalone MAC program or in a redesigned comprehensive cost-based reimbursement program, the continued use of RMTS will require some changes to avoid potential compliance risks and likely increase participation in the MAC program:

- **Update current RMTS response window.** The current MAC program utilizes a 5-day response window; however, the CMS requirement is for a 2-day response window (except in extremely limited circumstances).
- **Annually conduct an RMTS in Q1.** CMS guidance is clear that all days when staff are working must be included in the time study. In the current MAC program, RMTS is not conducted between 7/1-9/30 each year, yet there are days within this quarter when school staff are working.
- **Clarify referral activities requirement with CMS.** Requirement to connect referral activities (code 9b) to a paid Medicaid claim from the referred to provider. This is an untenable requirement from CMS, and ForHealth recommends requesting further clarification from CMS on the expectation here.
- **Ensure only staff performing MAC activities are included as participants.** Elimination of broad inclusion of educators and teachers in the MAC program because it's a compliance risk to allow reimbursement for staff costs that cannot reasonably be expected to perform Medicaid reimbursable work activities. Additionally, the inclusion of participants expected to perform these activities would significantly reduce the administrative burden shared in the LEA survey feedback related to maintaining participant lists, training staff, and following-up with staff about answering moments for staff that have no role in MAC.

Also, as the state evaluates options for reimbursement methodology changes, if RMTS remains a program component (such as with a single comprehensive cost-based reimbursement program based on an RMTS), there will be additional aspects of the RMTS to evaluate for other opportunities for improvement, including:

- evaluation of LEA staff cost pool groupings,
- design of the questions asked, and the pre-defined answer options offered to participants to ensure that the appropriate level of detail is captured and documented to support direct service reimbursable activities as well as the MAC activities,
- evaluation of cost pool sample sizes (number of moments) to ensure compliance with CMS guidelines, ensure the integrity of the results, and keep the administrative burden as minimal as possible.

Selection of Priorities for Implementation

While ForHealth Consulting recommends that Washington evaluates all the identified opportunities, a successful program modification will focus on the areas that have most impact on

FFP, with the least administrative burden for the LEAs. While these recommendations cannot be finalized without further input, ForHealth Consulting's most critical recommendations include:

- Addressing compliance requirements.
- Considering and evaluating the feasibility of creating one, comprehensive SBS reimbursement program for LEAs that is inclusive of direct health care services provided to IEP students, direct health care services provided to students that are unrelated to an IEP and Medicaid Administrative activities. This approach would include a Cost-Based Reimbursement model for both direct and administrative services utilizing a single RMTS and certified public expenditures in a program that is fully carved out from Managed Care.
- Expanding Medicaid covered services provided by an LEA to include all medically necessary covered services, without limitation that the services be related to a student's IEP.

The other recommendations included in this memo should be evaluated and incorporated into an overall plan that creates the comprehensive SBS reimbursement program.