

Report to the Office of Legislative Fiscal Analyst

Medicaid Funding for School Nurses

Prepared by the Division of Medicaid and Health Financing

August 31, 2017



EXECUTIVE SUMMARY

This report is submitted in response to the following intent language passed in SB 7 by the 2017 Legislature:

“The Legislature intends that the Department of Health work with the Utah State Office of Education to explore using Medicaid funding for school nurses and report to the Office of the Legislative Fiscal Analyst by August 31, 2017. The report should answer at least the following questions: (1) Can Medicaid dollars be used to fund school nurses?, (2) In what circumstances can Medicaid dollars be used to fund school nurses?, and (3) How much Medicaid funding could be used for school nurses? The same language is being proposed to the Public Education Appropriations Subcommittee.”

1. Can Medicaid dollars be used to fund school nurses?

Medicaid funds can be used to fund school nurses.

In SFY 2017, Utah Medicaid provided \$38,800,000 to local school districts and two charter schools through the School Based Skills Development program. Pursuant to the Utah Medicaid State Plan, “Skills development services are medically necessary diagnostic and treatment services provided to children between the ages of 2 and 22 to improve and enhance their health and functional abilities and prevent further deterioration.” Services include:

1. Individual or group therapeutic interventions to ameliorate motor impairment, sensory loss, communication deficits, or psycho social impairments; and
2. Information and skills training to the family to enable them to enhance the health and development of the child.

Services may be provided at the early intervention site, day care site, in the child’s home, at the child’s school as needed in accordance with the Individualized Family Service Plan (IFSP) or the Individualized Educational Plan (IEP). Children between the ages of 2 and 4 will be served in the setting that best meets their needs in accordance with the IFSP or IEP. All services are prescribed in accordance with state law.

Skills development services are provided by or under the supervision of:

- a. A licensed physician, registered nurse, dietician, clinical social worker, psychologist, audiologist, speech and language pathologist, occupational therapist, physical therapist, practicing within the scope of their license in

accordance with Title 58, Occupational and Professional Licensing (Utah Code Annotated, as amended 1953); or

- b. An early childhood special educator certified under Section 53A-1-402 of the Utah Code Annotated, as amended in 1953); or
- c. Qualified mental retardation professional (QMRP) as defined in 42 CFR 483.430 which includes nurses.

School districts provide the required state matching funds through an Intergovernmental Transfer (IGT) to draw down federal Medicaid funds.

Medicaid funding is also potentially available for school nurses that provide services to other Medicaid eligible children who are not already covered under the Medicaid School Based Skills Development program.

Billing Direct Services through Claims Submission

The Utah State Board of Education (USBE) or individual School districts could directly bill the Division of Medicaid and Health Financing for Medicaid covered services. This requires all billing and servicing providers (e.g., school nurses) to be enrolled as Utah Medicaid providers. Medicaid will not reimburse for unlicensed lay staff to perform Medicaid covered services that require licensure. In addition, USBE or school districts would need to implement processes and/or systems to submit HIPAA compliant claims to Medicaid for payment. As an alternative, USBE or school districts could contract for this service.

In addition, in order for Medicaid payments to be made available for either Section 504 services or **general health care services**, the school providers must do the following:

- 1) Establish a fee for each service that is available;
- 2) Collect third party insurance information from all those served (Medicaid and non-Medicaid); and
- 3) Bill other responsible third party insurers

Administrative Claiming

USBE or School Districts also have an option to seek reimbursement from Medicaid for performing administrative activities that directly support the Medicaid program. To do

so, an appropriate claiming mechanism must be used. The time study is the primary mechanism for identifying and categorizing Medicaid administrative activities performed by school or school district employees.

To the extent that school employees perform administrative activities that are in support of the state Medicaid plan, federal reimbursement may be available. However, Medicaid third party liability rules limit the ability of schools to bill Medicaid for some of these health services and associated administrative costs.

Third party liability requirements preclude Medicaid from paying for Medicaid coverable services provided to Medicaid beneficiaries if another third party (e.g., other third party health insurer or other federal or state program) is legally liable and responsible for providing and paying for the services.

Enhanced Match for Skilled Professionals Is Not Available

CMS does not allow enhanced federal match for administrative activities performed by Skilled Medical Professionals (SPMP) in the school setting. Therefore Medicaid match for services is available at 50 percent.

2. In what circumstances can Medicaid dollars be used to fund school nurses

In accordance with a State Medicaid Director (SMD) letter issued by CMS on December 15, 2014, Medicaid reimbursement is available for covered services under the approved state plan that are provided to Medicaid beneficiaries, regardless of whether there is any charge for the service to the beneficiary or the community at large. As a result, Federal Financial Participation (FFP) is available for Medicaid payments for care provided through providers that do not charge individuals for the service, as long as all other Medicaid requirements are met.

As is the case more generally, FFP for Medicaid payments is available only when all of the following elements are satisfied:

- The individual is a Medicaid beneficiary.
- The service is a covered Medicaid service, provided in accordance with the approved state plan methodologies, including coverage under the Early and

Periodic Screening Diagnostic and Treatment (EPSDT) benefit provided to children.

- The provider is a Medicaid-participating provider and meets all federal and/or state provider qualification requirements.
- The state plan contains a payment methodology for determining rates that are consistent with efficiency, economy and quality of care.
- Third party liability (TPL) requirements are met.
- Medicaid payment does not duplicate other specific payments for the same service.
- The state and provider maintain auditable documentation to support claims for FFP.
- The state conducts appropriate financial oversight of provider billing practices.
- All other program requirements (statutory, regulatory, policy) for the service, payment, and associated claiming are met.

The USBE and School Districts should reference the Medicaid School Based Claiming Guide at <https://www.medicaid.gov/medicaid/financing-and-reimbursement/downloads/2003-sbs-admin-claiming-guide.pdf>.

Compliance with HB 194

In addition, pursuant to HB 194, Federal Grants Management Amendments, passed during the 2017 Legislative Session, Section 26-18-21 (3) states, “***The department [DOH] shall not create a new intergovernmental transfer program after July 1, 2017, unless the department reports to the Executive Appropriations Committee, in accordance with Section 63J-5-206, before submitting the new intergovernmental transfer program for federal approval. The report shall include information required by Subsection 63J-5-102(1)(d) and the analysis required in Subsections (2)(a) and (b).***”

Providing Medicaid funding for school nurses will require an amendment to the Utah Medicaid State Plan and the establishment of a new IGT program which must be approved by the Governor’s Office, the Executive Appropriations Committee, and the Centers for Medicare and Medicaid Services (CMS) prior to implementation.

3. How much Medicaid funding could be used for school nurses?

As of October 2016 there were **572,982** children enrolled in school districts and **71,494** children in Utah enrolled in charter schools for a total of **644,476** children in grades K-12. Of the children enrolled, **13,964** were in self-contained class rooms which is a condition of receiving Medicaid funding through the School Based Skills Development program. Of the **13,964** children in self-contained classrooms, **5,206** were Medicaid eligible.

Of the remaining **630,512** enrolled children, an estimated **172,606** (27.4 percent) are Medicaid eligible. Utah schools employee or contract for **150 nurses** statewide at an estimated annual cost of **\$10 million** per year. An estimated \$2.7 million in costs for school nurses could potentially be paid for with Medicaid funds. However, USBE/School Districts would have to come up with approximately \$0.8 million in local funds to obtain these payments. In addition, UDOH and USBE/School Districts would incur administrative costs in seeking to claim these funds. An estimate of the administrative costs for DOH and USBE/School Districts has not been determined.

Recommendation

USBE should work with DOH to determine the administrative cost that would be incurred for the purpose of accessing federal Medicaid funds to pay for nursing services that are not currently being paid for by Medicaid. The two entities should estimate the cost/benefit of using Medicaid funds to defray the cost of school nurses. In addition, if a decision is made to pursue the use of Medicaid funds for this purpose, USBE should consider managing this effort at the state rather than the district level to help reduce cost and increase the overall benefit to the state.