

Congress of the United States
House of Representatives
Washington, D.C. 20515

July 18, 2006

**COSPONSOR THE “PROTECTING CHILDREN’S
HEALTH IN SCHOOLS ACT OF 2006”**

Dear Colleague:

We are writing to invite you to join us in introducing the “Protecting Children’s Health in Schools Act of 2006”, a bill that will ensure that children with disabilities can continue to receive the critical health services that are necessary for them to remain in school and receive an education.

Close to seven million children currently receive education and related services under the Individuals with Disabilities in Education Act. Children with disabilities receive a number of services provided through school districts ranging from assistive technology for students with hearing disabilities to personal aides for students with several developmental and physical disabilities. These services are determined, based on a student’s medical needs, to be necessary for the “appropriate” education of that student. Since 1988, Medicaid has reimbursed school districts for arranging and delivering medical and health related services, the administrative costs associated with identifying Medicaid-eligible students and transportation to and from healthcare providers.

Unfortunately, this Administration has denied reimbursement for services provided in or through school settings and has provided inconsistent direction on appropriate methodologies for billing these services. Moreover, the Administration’s FY2007 budget proposes cutting reimbursement for Medicaid administration and transportation costs related to providing these services. Without the critical support and involvement of schools in the delivery of these health services, many children with disabilities would be unable to obtain the healthcare services they require to actively participate and learn in the classroom.

The Protecting Children’s Health in Schools Act would ensure that children’s access to needed Medicaid services in schools was protected. The bill would:

- Establish guidelines for ensuring school districts and third-party agents are held accountable for accurate Medicaid claims;
- Direct the Secretary of Health and Human Services to establish uniform methodologies for Medicaid claims submitted by schools;
- Provide full Federal matching payments to the school district if it incurred the full expenditure for services;

- Ensure that responsibilities for coverage and payment of school-based services is clearly delineated in Medicaid managed care contracts.

This legislation has the support of the American Association of School Administrators, the American Federation of Teachers, the National Education Association, the National Rural Education Advocacy Coalition, the Council of Great City Schools, and the National Association of State Directors of Special Education, among other organizations.

We invite you to learn more about this important measure and to become an original cosponsor. A summary of the bill is attached for your review. If you have additional questions, please contact Amy Hall with the Committee on Energy and Commerce Democratic staff at ext. 6-3400. If you would like to join us in sponsoring this bill, please contact Carla Hultberg at ext. 5-3641.

Sincerely,



JOHN D. DINGELL



ED WHITFIELD



GEORGE MILLER

Attachment

H.R. _____, “Protecting Children’s Health in Schools Act of 2006”

Summary

Since 1986 Federal Medicaid policy has explicitly recognized the essential nature of the link between Medicaid and health care for low-income children whose special healthcare needs make management of and access to treatment in school settings an imperative. Recent actions, however, by the Centers for Medicare and Medicaid Services (CMS), including audits and proposed regulatory cuts in payments to schools for providing healthcare services in the President’s FY2007 budget, have created an atmosphere of uncertainty about the continued ability of children with serious and chronic conditions to get the health care they need in mainstream, community settings so that they can go to schools. Longstanding efforts by schools to ensure children are mentally and physically able to learn in the most appropriate setting would be jeopardized. In addition, actions by CMS have also called into question the ability of schools to use Medicaid administrative funds to do outreach in order to enroll Medicaid eligible children.

Rather than discouraging health care in schools, CMS should provide extensive technical assistance to States that seek to optimize children's opportunities to receive needed school-based health care so that they may learn in community educational settings instead of being forced to remain at home, all of which is fully permitted under the current law.

The “Protecting Children’s Health in Schools Act of 2006”, to be introduced by Representatives John D. Dingell, Ed Whitfield, and George Miller, would set forward clear guidelines in the statute for providing and receiving reimbursement for this care, rather than put schools, families, and their disabled children, and States in a situation where they are uncertain whether or not these medically-necessary services and related administrative and transportation costs will be covered under Medicaid. A description of the provisions of this important legislation follows:

Ensuring Reasonable Payment Methodology for Medical and Other Services Provided to Children Through Schools or Other Educational Settings

The Protecting Children’s Health in Schools Act of 2006 sets forth requirements for States to receive payment for expenses incurred for medically-necessary items and services, and related administrative expenses, covered under the Medicaid State plan, including reimbursement to the local educational agency in the State or the lead agency in the State with responsibility for administering Part C of IDEA in an educational program or setting on behalf of children enrolled in Medicaid. An “educational program or setting” is defined as any location in which items or services included in an Individualize Education Plan (IEP) or Individual Family Service Plan (IFSP) are delivered, including the home, child care setting, or school of the child, infant, or toddler.

Local education agencies may either bill directly for these legitimate expenses or contract with an outside entity for billing and claims services. For schools that bill directly, the State must follow a methodology approved by the Secretary of Health and Human Services for appropriate expenditures. The legislation outlines basic guidelines for such a methodology:

- For bundled items, services, or administrative expenses, any approved methodology must: ensure expenditures can be tracked, use a sound basis for determining payment rates and methodologies, and match payments with the corresponding expenditures.
- For individual items, services, or administrative expenses any approved methodology must ensure either payment at the prevailing market rate or the State must justify payment not to exceed a higher rate.
- For transportation services, the State must establish a medical need for transportation, and the vehicle must be specially equipped or staffed. Payment may only be made for costs associated with transportation provided to a Medicaid-covered child for receipt of Medicaid-covered services.

Schools that contract for billing and claims services with an outside entity must use a competitive bidding process to select the vendor and pay not more than reasonable rates commensurate with the services performed. Payments for billing and claims services must specify fees as a dollar amount in the contract and may not use contingency fee arrangements.

Ensuring Access to Care in School Settings for Children Enrolled in Medicaid Managed Care Organizations

The Protecting Children's Health in Schools Act of 2006 seeks to clarify which entity is responsible for coverage of and payment for Medicaid services provided to Medicaid-covered children in educational settings when children are enrolled in Medicaid managed care organizations. The bill requires that State contracts with Medicaid managed care organizations specify the coverage and payment responsibilities of Medicaid managed care organizations for items and services covered under the Medicaid State plan and furnished in or through an educational program or setting. Additionally, such contracts must require that Medicaid managed care organization demonstrates that it has established procedures to ensure coordination between the State, a local educational agency and the lead agency in the State with responsibility for administering Part C of IDEA for services required under the IEP, IFSP, or furnished pursuant to section 504 of the Rehabilitation Act of 1973 and to prevent duplication of services and payments furnished in or through an educational program or setting for individuals enrolled under the contract. The definition of "educational program or setting" is expanded in this context to include a location in which early period screening detection and treatment (EPSDT) items or services are delivered in accordance with the requirements of section 1902(a)(43).

When a Medicaid managed care organization is obligated to pay for items or services furnished in or through an educational program, the Medicaid managed care organization must:

- Contract with the qualified provider (physician, therapist, etc.) furnishing the items or services in or through the educational program;

- Promptly pay such providers at rates at least equal to those in a non-educational program or setting; and
- Treat medical necessity determinations by State licensed providers or providers eligible for Medicaid reimbursement under the Medicaid State plan working in an educational program or setting as final and binding.

Medicaid managed care organizations are also obligated to ensure that its contracted providers refer children for additional non-school-based services covered under the Medicaid State plan when medically necessary. In order to prevent duplicative payments under Medicaid, the legislation prohibits additional payments under fee-for-service Medicaid for items, services, and administrative expenses if such items, services, or expenses are included in the capitated amount or other risk-based rate of payment under a Medicaid managed care contract.

Ensuring Compliance with Federal and State Requirements

States must have procedures to ensure that all applicable Federal and State requirements are met by providers of services furnished in or through school programs or settings and the educational entities engaged in the provision of administrative services. The bill also requires that State Medicaid agencies demonstrate that such educational entities recover the reasonable costs related to the furnishing of such services or the undertaking of such activities.

Providing a Uniform Methodology for Educational Program or Setting-Based Claims

Secretaries of HHS and Education, in consultation with State Medicaid directors, State and local educational agencies, and State agencies with responsibility for administering Part C of IDEA, must develop and implement a uniform methodology for claims for Medicaid services provided through a school program or setting within 90 days of enactment.

Such methodology must allow payments for care provided to disabled children so long as the care and activities are provided consistent with the Medicaid rules outlined in the bill. It also must include a uniform system for submitting claims for administrative costs, based on standards related to time studies and population estimates, with a national standard for determining payment.

Assuring Reimbursement for Administrative, Enrollment, and Outreach Activities Conducted by Local Educational Agencies

School settings are a logical and convenient place to identify and enroll children in healthcare coverage under Medicaid or the State Children's Health Insurance Program (SCHIP). Recent actions by the Administration, however, have cast doubts about the ability of States and their educational agencies to continue this practice. This legislation, therefore, ensures this practice can continue without jeopardy and prohibits the Secretary of HHS from denying Federal payments for legitimate Medicaid and SCHIP administrative, enrollment, and outreach activities conducted by local educational agencies.

Ensuring Full Payment for Services Furnished in or Through an Educational Program or Setting

In some instances, where schools have incurred expenses for Medicaid services provided to Medicaid eligible children, States have failed to reimburse these entities the full amount expended, instead keeping a portion of the Federal matching funds for other State uses. This legislation would require States to reimburse the educational program the full amount it put forward on behalf of Medicaid.

Clarifying and Ensuring Coverage of Medically Necessary Care for Disabled Children under Section 504 of the Rehabilitation Act of 1973

Currently, Medicaid may pay for medically-necessary items and services furnished to Medicaid-eligible children with disabilities who have those needs identified through an IEP or IFSP. The legislation clarifies that Medicaid also may pay for medically-necessary services furnished to Medicaid-eligible disabled children who have been identified by and require services under Section 504 of the Rehabilitation Act of 1973, which guarantees children with disabilities equal access to an education. This ensures access to necessary care and payment for that care, for these vulnerable children. The legislation also clarifies that the Secretary may not deny payment for Medicaid covered early periodic screening detection and treatment and 1902(a)(43) services furnished to Medicaid-eligible children in or through educational settings.

In addition, the Protecting Children's Health in Schools Act of 2006 clarifies that the Secretary may not deny payment for Medicaid-covered services and administrative services furnished in or through educational settings solely because the State utilizes:

- An all-inclusive payment arrangement in making payments for healthcare services; and
- A cost allocation system (for properly attributing costs to applicable programs when funding from more than one source is involved) that meets Federal requirements when paying for the cost of services described in 1902(a)(43) (administrative costs related to screening and treatment) or other administrative services directly related to the administration of the State plan.

These provisions are necessary because up until now States and schools have generally been able to receive payments for such medically necessary services and related administrative costs. Recently, however, the Administration has moved to curtail State coverage and provision of these services in schools and other educational settings. In essence, these provisions maintain and protect current law coverage for children with special needs, for without them this care is in jeopardy.