



Jennifer Kent, Director
 Department of Health Care Services
 1501 Capitol Ave Suite. 6000
 Sacramento, CA 95814

RE: School-Based Medi-Cal Administrative Activities (SMAA) Program:
 Proposed Changes in Notification

Dear Director Kent,

As members of the California educational community, we would like to request that you meet with our representatives and direct your staff to assist in resolving recent proposed requirements CMS is trying to impose on two school-based Medi-Cal programs - the School-Based Medi-Cal Administrative Activities (SMAA) program and the Local Educational Agency (LEA) Billing Option Program. Both programs have gone through a number of adjustments over the last five years to meet CMS requirements and are drawing millions of dollars in federal funding for local educational agencies.

The SMAA program has undergone a major overhaul resulting from CMS-required restructuring and is finally on a steady course. Over 700 LEA claiming units are participating and use the program element that drives reimbursement - Random Moment Time Study (RMTS).

CMS approved the use of RMTS effective FY 14/15. After almost 3 years of implementation, CMS is attempting to change a procedure that will jeopardize the ability of the State and its participating LEAs to be in federal compliance. The procedure is technical - CMS originally approved the State's request to give participants 5 days advance notification of an upcoming random moment, and then 5 days to respond. After approving this request, CMS is now asking that there be no advance notification and only 2 days to respond. As noted below, this places an enormous hardship on LEAs. Failure to respond in the 2-day period could result in RMTS not meeting statistical validity requirements, which would mean there would be no basis for claiming.

CMS is trying to impose this new requirement as part of the State's plan to use RMTS as the primary tool for determining costs in the State's LEA Billing Option Program, which reimburses LEAs for health-related services provided to students. CMS's new requirement could jeopardize the future of this program as well.

For the reasons stated below, we are very concerned that LEAs will not be able to comply with this requirement, and consequently, will not be able to participate in the program. This is an issue that unites all LEAs participating in either or both programs. Here are some of the barriers to compliance that could occur:

1. There is concern that CMS is not familiar with the unique environment in which school-based providers operate when compared to other Medicaid providers. School-based providers and the environment in which they work must be considered before implementing the proposed program requirements:
 - i. School-based providers are often mobile, moving from campus to campus throughout the course of their work day. They often perform their Medi-Cal related activities or services without regular access to a computer.
 - ii. Some school-based providers work flex hours or are part-time employees that do not work regular hours. In such cases, many of these employees would not be aware that they have been assigned a random moment until after their moment has lapsed.
 - iii. This proposed shortened window for responding to a random moment creates a risk that participants will not be aware that they have a pending moment and may not be able to respond in time, and therefore will impact the LEAs ability to reach compliance.
 - iv. The proposal presupposes that all computer networks are fully functional E-mail, network reliability and message delivery times can be a challenge. This is particularly true in rural districts but in urban districts firewalls, spam filters and the separation of IT departments from the day to day management of the RMTS can also create unexpected delays.
2. We are unaware of CMS's basis for this proposed change. We have not found any published guidance that shows that this is a more reasonable or more efficient approach than the current policy. We have not found any reference in the Code of Federal Regulations or the CMS Claiming Guide that identifies this policy. Additionally, we are unaware of any Notice of Proposed Rule Making, or of any indication, that CMS intends to issue a policy that would be immediately applied to all state plans. California should not change its plan based on a recommendation that is not founded on a definitive and documented change in policy or that has not followed any formal process.
3. There is no known evidence, or federal audits of RMTS methodology, that substantiate a 5-day prior notification would cause bias to a time study or would cause respondents to intentionally manipulate their duties and responses. The purpose of a random sample is to lessen the administrative burden and to mitigate the possibility of manipulation.
4. There are states that have pursued negotiations on this specific issue and have been successful in maintaining their original notification and response timelines or have negotiated notification and response timelines amenable to both parties including an increased oversample.

In an era of potential program cuts, specifically to Medi-Cal and school-based health-related services, we request that DHCS seek an amicable resolution with CMS on this specific issue that is beneficial to LEAs.

We look forward to hearing from you and setting up a meeting at your earliest convenience.

Yours,



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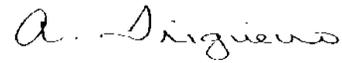
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cc: State Superintendent Tom Torlakson