



TOBY DOUGLAS
DIRECTOR

State of California—Health and Human Services Agency
Department of Health Care Services



EDMUND G. BROWN JR.
GOVERNOR

PPL No. 12-012

DATE: June 5, 2012

TO: Local Educational Consortia (LEC), Local Educational Agency (LEA), and
Local Governmental Agency (LGA) Coordinators

SUBJECT: Prohibition on Contingency Fees

The purpose of this Policy and Procedure Letter (PPL) is to reiterate federal and state policy regarding the prohibition on claiming Federal Financial Participation (FFP) for contingency fee contracts. According to the Centers for Medicare and Medicaid Services (CMS) Medicaid School-Based Administrative Claiming Guide, Medicaid claims for the costs of administrative activities and direct medical services may not include fees for consultant services that are contingent upon recovery of costs from the Federal Government.

As per Welfare and Institutions Code Section 14132.47(f)(1)(B), each participating Local Governmental Agency (LGA) or each Local Educational Consortium (LEC) shall certify to the Department of Health Care Services (DHCS) in each fiscal year that its expenditures represent costs that are eligible for FFP for that fiscal year. DHCS shall deny the claim if it determines that the certification is not adequately supported for purposes of FFP.

According to the Code of Federal Regulations (CFR), in order for any governmental agency to claim FFP for services provided, the billing will be based on the actual direct costs incurred (45 CFR 95.507(b)(6)). Except for some very limited situations, such as collecting for Medicaid recoveries (see PPL 11-002), FFP is not available for the costs of Medicaid contingency fee contracts. The Office of Management and Budget (OMB) circular OMB A-87, defines direct costs as those that can be identified specifically with a particular final cost objective. Typical direct costs chargeable to Federal awards include: compensation of employees for the time devoted and identified specifically to the performance of those awards; cost of materials acquired, consumed, or expended specifically for the purpose of those awards; equipment and other approved capital expenditures; and travel expenses incurred specifically to carry out the award.

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If you have any questions regarding this PPL please contact me at (916) 552-9615, or gbaucom@dhcs.ca.gov.

Sincerely,

ORIGINAL SIGNED BY GERI BAUCOM

Geri Baucom, Chief
Administrative Claiming, Local and School Services Branch

cc: Patrick Sutton
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