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1. SB 256 (Maddy), Chapter 654, Statutes of 1993
2. CMS, [Medicaid and School Health: A Technical Assistance Guide](#), 1997, p. 42
3. San Francisco Unified School District v. State of California (2009) Superior Court of California Case No. CPF-0905094999. *Verified Petition for Writ of Mandamus and Verified Complaint for Declaratory and Injunctive Relief* p. 6-7
4. *Ibid.* p. 14-18 (Attachments)

California's Free Care Challenge

A Timeline of Events

California's Department of Health Care Services (DHCS) recently negotiated with the federal Centers for Medicare and Medicaid Services (CMS) on behalf of a local school district for reimbursement of non-IEP/non-IFSP and Early Periodic Screening, Diagnosis, and Treatment (EPSDT) services provided to Medi-Cal beneficiaries, without adherence to free care rule requirements. The timeline below outlines the milestones along the road which led to this momentous development.

January 1993	California's state Medicaid plan provides for reimbursement of certain non-IEP/non-IFSP and EPSDT medically necessary health services provided to Medicaid beneficiaries in a school setting. ¹
August 1997	CMS publishes <i>A Technical Assistance Guide</i> which includes a description of the free care rule, a policy that CMS interprets to mean that schools cannot be reimbursed for health services provided to Medicaid beneficiaries if those same services are provided for free to non-Medicaid beneficiaries. ²
1996-2006	San Francisco Unified School District (SFUSD) bills and receives reimbursement for EPSDT services provided to Medicaid beneficiaries.
November 2005	DHCS Audits and Investigations (A&I) begin review of SFUSD paid claims covering the period of January 3, 2005 to June 30, 2005. ³
February 2006	DHCS A&I publishes their initial audit findings for SFUSD, recognizing that so-called free care services have been billed and paid over the past three years in the amount of \$301,537. Despite this finding, DHCS does not issue a monetary recovery or disallowance.
March & August 2006	DHCS submits multiple requests to CMS for a waiver from the free care rule requirements. In these requests, DHCS cites the 2004 Oklahoma Department Appeals Board (DAB) decision which found that there was no legal basis for the policy and the obstacle to compliance with the federal free care requirements posed by an overwhelming number of health insurers refusing to cover school-based services. ⁴

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5. Ibid. p. 6-7
6. Ibid. p. 10-11
7. Ibid. *Eighth Joint Status Report* p. 1
8. Ibid. p. 1-2
9. Ibid. [Stipulation and Order to Lift Stay of Action](#) p. 1
10. Ibid. [Tenth Joint Status Report](#) p.1-2
11. Ibid. [Judgment](#) p.1
12. DHCS, [LEA Medi-Cal Billing Option Program Ad Hoc Workgroup Meeting Minutes, April 2, 2013](#), p. 5
13. DHCS, [LEA Medi-Cal Billing Option Program Ad Hoc Workgroup Meeting Minutes, June 5, 2013](#), p. 5

November 2006	DHCS withholds \$301,537 from SFUSD based on the February 2006 A&I audit finding regarding improper billing of free care services. ⁵
May 2009	SFUSD files suit against DHCS for the recovery of their disallowance and the ability to obtain reimbursement for EPSDT services provided by the District to Medi-Cal beneficiaries. ⁶
October 2009	The San Francisco Superior Court ("Court") finds in favor of SFUSD, stay of action is put in place that allows DHCS option to petition CMS for payment of services or accept financial responsibility for covering claims. ⁷
December 2009	DHCS submits non-IEP/non-IFSP and EPSDT claims on behalf of SFUSD to CMS for reimbursement; the district ensures that Medicaid is the payer of last resort on all claims submitted, but does not adhere to free care rule requirements. ⁸
February 2012	CMS issues federal financial participation (FFP) for non-IEP/non-IFSP and EPSDT claims submitted by DHCS on behalf of SFUSD. ⁹
June 2012	Court issues joint status report acknowledging the CMS grant award, noting that DHCS will be able to obtain FFP for, "LEA claims submitted by the District [SFUSD], otherwise reimbursable under federal law, that do not meet the requirements of the 'Free Care Principle.'" ¹⁰
February 2013	Court issues final judgment favor of SFUSD, ordering DHCS to reimburse SFUSD for "claims submitted by the District after September 10, 2009 for covered 'LEA services' that do not meet the requirements of the 'free care' principle but are otherwise reimbursable in accordance with state and federal law." ¹¹
April 2013	DHCS announces that they are reviewing the Court ruling to determine the implications for California school districts. ¹²
June 2013	DHCS announces that their Legal Office is reviewing the Court ruling in regards to both free care and other health coverage requirements. ¹³