



ANNUAL REPORT January 2012

2011 Legislative and Regulatory Review

Federal: Legislation and Regulation Affecting School-Based Medicaid Programs in 2011

Policy	Description	Impact on School-Based Medicaid Programs	Status
34 CFR § 300.154, Parental Consent	In September 2011, CMS proposed changes to regulations for parental consent under IDEA, 34 CFR § 300.154(d) (iv) (A). The proposed regulation would replace the current IDEA parental consent requirement, which requires schools to obtain parental consent each time access to public benefits or insurance programs is sought, with a one-time written notification.	<p>Under the new proposal, schools would no longer be required to obtain parental consent to access public benefits or private insurance for each service that is part of a parentally-approved individualized education program (IEP), provided that parental consent requirements imposed under FERPA and § 300.622 are met and the one-time written notification has been provided to parents.</p> <p>Currently, the cost of obtaining duplicate parental approvals for each IEP service can exceed the potential reimbursement. Some school districts have lost more than 20% of the total cost of IEP services that are otherwise eligible for reimbursement to related compliance measures.</p>	<i>Pending:</i> CMS is expected to issue final regulations in 2012. The comment period for the proposed changes closed December 12, 2011.
ARRA (FMAP)	<p>The American Recovery and Reinvestment Act (ARRA), which provided federal stimulus funding from October 2008, ended in 2011.</p> <p>ARRA funds supported schools and other public and private organizations, and were distributed through grants and an increased FMAP, the share of state Medicaid benefit</p>	<p>LEAs that used ARRA funds to supplement health provider and otherwise reimbursable staff salaries saw a decrease in their school-based Medicaid program reimbursements because the federal ARRA funds were ineligible for use as state-match.</p> <p>A survey of LEAs by the Government Accountability Office determined that education spending</p>	<i>Closed:</i> details on ARRA spending are posted at www.recovery.gov .

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	<p>cost that is paid by the federal government.</p> <p>On June 30, 2011, California's FMAP returned to its pre-ARRA matching percentage of 50%. Obligations for all ARRA awards closed September 30, 2011.</p>	<p>nationwide primarily focused on professional development, technology and staff retention.</p> <p>According to the U.S. Government, the state of California received \$33.5 billion from ARRA. Education related expenditures totaled \$9 billion, and \$741 million went to health-related programs.</p>	
<p>CMS 6028-F, Medicaid Provider Screening and Enrollment Requirements</p>	<p>Issued in February 2011, this rule relates to implementation of the Affordable Care Act (ACA), also referred to as health reform. It sets new state guidelines for screening and enrolling Medicaid providers.</p> <p>The implementation deadline for new providers was March 25, 2011. States were given until March 2012 to interpret and implement changes for existing providers, such as LEAs already participating in the LEA Billing program.</p>	<p>Thus far, many LEAs have experienced some minor changes in existing paperwork. For example, reporting for California's LEA Billing program now includes an annual Provider Participation Agreement. This measure may meet CMS' requirement that all states renew enrollment at least every five years.</p> <p>Additional changes for states include assessing provider-type risk levels for false or erroneous claiming, and use of a national provider identification (NPI) system. How organizational providers such as LEAs will be required to use NPIs remains unclear at this point. The National Alliance for Medicaid in Education (NAME) is currently seeking information from states on their implementation of CMS-6028-F.</p>	<p><i>Closed:</i> This rule was made final in February 2011.</p> <p><i>Pending:</i> state-specific changes to provider screening and enrollment processes are ongoing and will be tracked as implemented.</p>
<p>CMS 9989-P, Establishment of Exchanges and Qualified Health Plans</p>	<p>This proposed rule is related to implementation of the Affordable Care Act (ACA). The rule provides guidelines for states to establish health insurance exchanges and navigator programs to help consumers purchase access to qualified health plans.</p>	<p>As expected with forthcoming regulations related to the implementation of the ACA, the impact on school-based Medicaid programs will be indirect but important. LEAs can expect changes in the Medicaid application process and in student's Medicaid eligibility, consistent with an expansion of this program.</p>	<p><i>Pending:</i> CMS is expected to issue final regulations in 2012. The comment period closed October 31, 2011.</p>



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Federal Budget Control Act (BCA) of 2011	This act will result in federal spending cuts under a process called sequestration. This process will occur from 2013-2019 and affect most federal programs except those, such as Medicaid, which are specifically exempt.	No direct impact on school-based Medicaid programs is expected as Medicaid is exempt from cuts as a result of this act; it is important to note that Education spending is not exempt from these cuts.	<i>Closed:</i> the BCA was signed into law August 2, 2011. Legislation or regulation related to the implementation of spending reductions is forthcoming.



California: Legislation and Regulation Affecting School-Based Medicaid Programs in 2011

Policy	Description	Impact on School-Based Medicaid Programs	Status
'5640', Reinvesting Medicaid Payments	In July of 2011, DHCS changed internal rules that had previously disallowed school claiming for Medi-Cal services and administration activities funded with LEA Billing Option direct service reimbursements; this issue is often referred to as '5640' after the Standardized Account Code Structure (SACS) Resource Code used to identify LEA Billing reimbursements.	This policy change, codified in Policy and Procedure Letter 11-013 (PPL 11-013), allows LEAs to reclaim eligible health service expenses incurred using LEA Billing Option program reimbursements, including staff salaries supporting the School-Based Medi-Cal Administrative Activities (MAA) program. Paradigm's Fiscal Division estimated that this policy change has the potential to positively impact school Medicaid reimbursements for LEAs by up to 20%.	<i>Closed:</i> PPL 11-013 was released by DHCS in July 2011. This policy change was backdated to July 1, 2010, impacting MAA invoices starting with Q1 of FY 2010-2011.
AB 3632 Mandate Repeal	Chaptered in 1982, AB 3632 created a mandate on county mental health (CMH) departments to provide special education mental health services; this mandate was eliminated by Governor Jerry Brown as part of California's 2011-12 Budget Bill effective July 1, 2011.	The elimination of AB 3632 does not directly impact or change LEA Billing Option program services or rates, or allowable MAA program activities. LEAs may experience a related increase in outreach or direct services billing depending on how their district handles the increased responsibility for provision: employing staff to provide these services directly on site, contracting with local organizations and agencies to provide services onsite or at other locations, or a combination thereof.	<i>Closed:</i> this mandate was repealed as part of the Budget Bill, signed on June 30, 2011. See AB 114 for follow-up details.
AB 114 , Committee on Budget	This legislation outlines education finance as it relates to the transition of special education mental health services from county mental health departments (CMH) to schools.	AB 114 does not impact or change LEA Billing services or rates, or allowable MAA program activities. It does provide guidance to LEAs in navigating the changes associated with assuming complete responsibility for	<i>Passed.</i> AB 114 was signed into law on June 30, 2011.



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	See 'AB 3632 Mandate Elimination' for more background.	<p>ensuring eligible students receive required services in the wake of the AB 3632 mandate elimination.</p> <p>The California Department of Education continues to post information regarding this transition of responsibility on their website.</p>	
AB 760 , Gordon	Known as the Healthy Start Community Schools Act, this bill would make programmatic changes to the Healthy Start Act of 1991.	<p>Healthy Start grant applications would be amended to include, among other existing requirements, that LEAs or consortia applying for funds submit details on how any MAA reimbursements might be reinvested into the Healthy Start program.</p> <p>This bill does not place any restriction or obligation on the MAA reimbursements; it merely holds the Healthy Start accountable for creating a plan in which any MAA reimbursements allocated by the district would be reinvested.</p>	<i>Held in Committee:</i> state legislature has until November 2012 to consider this bill.
SB 213 , Hancock	An act to amend Section 14115.8 of the Welfare and Institutions Code, this bill would require DHCS to develop, jointly with CDE, a plan for identifying and providing assistance to districts that are underutilizing the School-Based Medi-Cal Administrative Activities (MAA) program.	<p>Currently, there is not enough detail to gauge the type and scope of impact that SB 213 would have on the programmatic operations of the MAA program.</p> <p>Senate and Assembly analysis of the bill, the next step if the bill moves from Committee, will hopefully provide information on its anticipated impact to schools participating in the MAA program.</p>	<i>Held in Committee:</i> state legislature has until November 2012 to consider this bill.
SPA 05-010 , Speech Equivalency	State Plan Amendment (SPA) 05-010 amends California's State Medicaid Plan to remove	The removal of supervision requirements for eligible credentialed SLPs, effective October 2009, represents	<i>Closed:</i> SPA 05-010 was approved by



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	supervision requirements for two of three credentialed speech-language pathologist (SLP) classifications under the LEA Billing program.	<p>an opportunity for increased claiming and reimbursements.</p> <p>DHCS is expected to release guidance including implementation details for retroactive claiming in late January or early February 2012.</p>	<p>CMS on December 16, 2011 with a retro-active effective date of October 1, 2009.</p>

