



STATE OF NEW HAMPSHIRE
OFFICE OF THE GOVERNOR

CHRISTOPHER T. SUNUNU
Governor

December 26, 2019

Dear Superintendents,

This fall, I wrote to you outlining our efforts to assist school districts in dealing with federally required changes to the Medicaid to Schools Program. As I said at the time, I am a strong supporter of this important program, which is why I have taken bipartisan steps in coordination with the New Hampshire Department of Health and Human Services and the legislature to ensure that students remain able to receive the critical services they need.

As you recall, on July 1, 2019, the Centers for Medicare and Medicaid Services ("CMS") issued guidance in partnership with the Substance Abuse and Mental Health Services Administration. That guidance document is attached. While CMS focused on how schools may expand mental health and SUD related treatment services in the publication, it also highlighted Medicaid requirements specific to the unique nature of providing medical services in a school setting.

One of those requirements is that reimbursable services made under a state's Medicaid program must be provided through a Medicaid-participating provider that meets federal and/or state provider qualification requirements. Qualifications of providers must "minimally be the same as those providers who furnish services in other settings in the community."

Under state law, there are certain qualified practitioners authorized to provide health-related services in the school setting without licensure by a health-related licensing board. However, given CMS's guidance, it was clear that schools would not have been able to claim federal matching dollars through the Medicaid to Schools Program for services performed by these practitioners, licensed by the appropriate medical board.

In response, and to ensure the integrity and continuation of the State's Medicaid Program, the Department of Health and Human Services filed an emergency rule with JLCAR on August 27, 2019. The rule was designed purely to comply with the new CMS guidance. Contrary to any claim, the Department in no way tightened eligibility beyond what was required by the federal government. Absent immediate action, any school that billed for services provided by a qualified but unlicensed provider would have put that school and the State at risk for recoupment from the federal government.

We recognize that the clarification of federal law has presented serious fiscal challenges for districts that have used providers who were credentialed through the Department of Education, but who were not otherwise licensed by a medical licensing board. While schools continue to provide services to students, you are not able to seek matching federal funds if the services do not comply with state and federal law.

However, the State has taken several actions over the past few weeks to address those challenges. These steps include:

Outreach to Districts: The Department of Health and Human Services (DHHS) began reaching out to various stakeholders in August 2019 as it prepared the emergency rule. The Department has met with the New Hampshire School Administrators Association (School Superintendents), both at statewide and regional meetings; the New Hampshire Association of Special Education Administrators (School Special Educators); the New Hampshire Association of School Business Officials; and the School District Governance Association. DHHS is also working with the Department of Education in the Healthy Students Promising Futures Collaborative sponsored by the New Hampshire Charitable Foundation.

On October 17, 2019, the Department held the first installment in an ongoing series of Medicaid to School Stakeholder Engagement meetings. Attendance at these meetings has ranged from 60 to over 100 participants. The purpose of the stakeholder meetings is to facilitate communication between all stakeholders and the Department, as it works on multiple actions designed to support access to services under the State's Medicaid program provided in schools for student-aged beneficiaries.

In addition to work with the stakeholder group, DHHS has engaged with the provider community, including the Bi-State Primary Care Association, the New Hampshire Hospital Association, the Community Mental Health Centers, the Medical Society, Dartmouth-Hitchcock's Telemedicine Program and other providers throughout the state. One goal of these outreach efforts is to determine how providers may be able to support, or further support, schools to close any gaps in the provision of reimbursable services. This has led to additional lines of communication between the provider community and school districts, and has brought to light existing, effective arrangements between providers and schools that may be replicated by other districts.

Executive Action: Earlier this month, I signed Executive Order 2019-07, which will expedite the process of licensing and credentialing applications for individuals who are providing services under the Medicaid to Schools Program. The Order is especially important for individuals who are qualified to receive licenses or credentials from health-related boards but who have, up to now, relied on credentialing through the Department of Education.

The Order directs all health-related boards that govern professions involved in the Medicaid to Schools Program to work with the New Hampshire Office of Professional Licensure (OPLC) to prioritize applications for individuals providing services under the Medicaid to Schools Program, and to expedite the processing of these applications to the fullest extent permitted by law.

Finally, the Order directs these boards to work with OPLC to identify and institute, where immediately feasible, or propose any procedural and/or process reforms, deemed necessary by the boards to maintain and improve the provisions of services under the State's Medicaid to Schools Program. OPLC will provide me with regular updates on the steps they have taken and their progress toward complying with the directives in the Order.

Legislative Action: Also this month, I led a bipartisan group, along with representatives from the New Hampshire Association of Special Education Administrators, to work on legislation that strengthens the State's Medicaid to Schools program. Currently the draft legislation:

- Ensures that DHHS has authority to promulgate administrative rules that maximize the availability of federal financial participation to schools as a setting under New Hampshire's Medicaid program;
- Provides an efficient pathway to allow qualified professionals certified and credentialed by the Department of Education who are currently providing medical services in public schools to be licensed by the related medical and health care boards;
- Facilitates the provision of medical services in the school setting to students who are enrolled in participating public schools and Medicaid, thereby furthering the education and health of New Hampshire's students.

As this process moves forward, my office will remain in regular contact with you on your progress. In the meantime, please continue to share with us any additional concerns that arise or if you need any further guidance.

Sincerely,



Christopher T. Sununu
Governor

c/o President Soucy, Speaker Shurtleff, Members of the Joint Legislative Fiscal Committee