NATIONAL EDUCATION ASSOCIATION

School-Based Mental Health, and other Student Support under the Bipartisan Safer Communities Act

LEARN HOW AFFILIATES CAN WORK WITH STATE DECISION MAKERS TO USE THE BIPARTISAN SAFER COMMUNITIES ACT TO INCREASE MENTAL HEALTH AND OTHER SERVICES FOR STUDENTS AND EDUCATORS, AND REDUCE GUN VIOLENCE IN SCHOOLS AND COMMUNITIES.

MARCH 2023

NATIONAL EDUCATION ASSOCIATION

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KEY TAKEAWAYS

- The BSCA is a law that expands gun safety measures, but also addresses violence more broadly.
- Citing the connection between mental health issues and violence, it expands school-based mental health services, reducing obstacles to schools' billing for services under Medicaid.
- Most states will need to update their payment policies to take full advantage of available funds.

Introduction

The BSCA is a game changer. As the first major federal gun safety legislation in decades, the law expands gun safety measures like increased background checks, and targets interstate gun trafficking. The law also addresses violence more broadly by expanding school-based mental health services, reducing obstacles to schools' billing for services under Medicaid, and creating a technical assistance center to facilitate compliance and operations. Most importantly, it treats schools as a key point for observation and intervention.

Now is the time to take action to ensure that your state maximizes the new federal funding and expands mental health care services.

The first step is to identify your state's key decision makers. These likely include:

- State education agencies (SEAs)
- State health and Medicaid departments
- The Governor's office

Determine who is crucial in your state and check your contacts for a direct line of communication.

As always, affiliates can coordinate with partners to build authority and momentum. For coalition work, affiliates might start with:

- Superintendents and school board associations
- State school nurse associations
- State pediatric academy chapters
- State, provincial, and territorial psychological associations

Not all mental health problems lead to violence, nor is all violence related to mental health problems—nonetheless, the overlap is significant and real. Recognizing this, the BSCA directs historic attention and resources toward mental health services.

Recommended Actions

Update State Plans to Access Services and Funding Made Possible by the Medicaid "Free Care" Policy Reversal

Until recently, barriers existed for states to use Medicaid funds to provide health care services in school-based settings. Due to the "Free Care" rule, states were previously only able to obtain federal reimbursement for services provided to Medicaid-enrolled students who had an Individualized Education Program (IEP) and in other limited situations. The policy change, known as the "Free Care Policy Reversal" and also referred to as the "Medicaid expansion," makes clear that **Medicaid coverage is available for a wide range of services – regardless of whether a child is covered by an IEP under the Individuals with Disabilities Education Act (IDEA).** This program includes services clearly related to mental health, like nurses and guidance counselors, but also a wide array of services ranging from occupational therapy to audiology. The goal of the Policy is simply to facilitate and improve access to quality health care services and improve the health of communities.

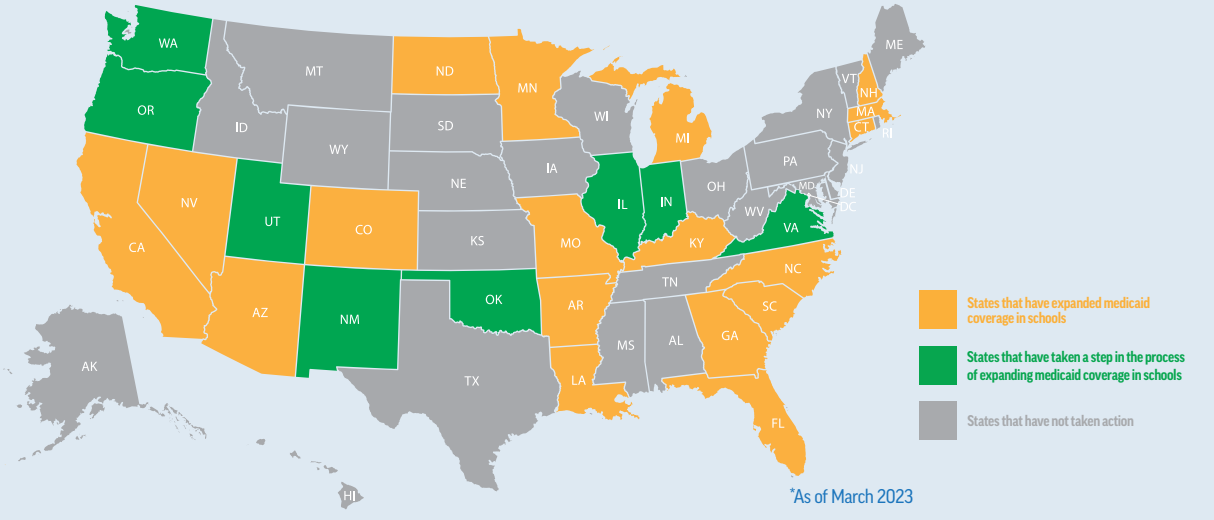
States can extend Medicaid's reach beyond the IEP and tap into Medicaid funding to increase access and resources for comprehensive school-based health services. The youth mental health crisis has created further urgency to accelerate this progress. The method by which states may extend Medicaid's reach beyond the IEP is state specific. While the actions needed may differ state by state, states should pursue any opportunity that is available. Some states may pursue policy changes or legislative efforts. Other states may submit an amended state plan to cover services delivered to all Medicaid-enrolled students, and to cover all medically necessary services that the Medicaid-enrolled student needs. This State Plan Amendment (SPA) is needed because while providers in the community can bill Medicaid directly for these services in accordance with the state plan, providers who are school employees or contractors must rely on the school to submit bills to Medicaid on their behalf. States generally have separate payment protocols for school-based services, and some states have not incorporated these services into their payment methodology.

The below map and chart outlines some of the actions that states have taken to expand coverage for school-based Medicaid services and to implement the free care policy reversal.

IS YOUR STATE EXPANDING MEDICAID COVERAGE IN SCHOOLS OR LEAVING MEDICAID MONEY ON THE TABLE?

Only the yellow states have expanded Medicaid coverage in schools. Has your state taken action?

Healthy Schools Campaign: State Breakdown of Covered Services | Healthy Schools Campaign: Current State Efforts to Expand School Medicaid



DONE	
CMS-approved SPA to expand coverage to all Medicaid-enrolled students	Arizona, California, Colorado, Connecticut, Florida, Georgia, Kentucky, Louisiana, Massachusetts, Michigan, Nevada, North Carolina
Expanded school-based Medicaid to all Medicaid-enrolled students (no SPA needed)	Arkansas, Minnesota, Missouri, New Hampshire, North Dakota, South Carolina

IN PROCESS	
SPA submitted to CMS to expand coverage to all Medicaid-enrolled students and pending approval	Illinois, New Mexico, Oregon, Virginia
Directed by legislature to expand coverage to all Medicaid-enrolled students	Indiana
Passed legislation to expand school Medicaid services	California, Florida, Indiana, New Hampshire, Oregon, Utah, Virginia
Other opportunities for Medicaid reimbursement in school-based settings (e.g., managed contracts, community-based providers)	Oklahoma, Washington

What States Can Do

1. To incorporate school-based services within the state's payment methodology, states must take action. Some states may pursue their own policy changes or legislative efforts. Other states may submit an amended state plan. For states that must amend the state plan, the state should amend to cover services delivered to all Medicaid-enrolled students, and to cover all medically necessary services that the Medicaid-enrolled student needs. At the time of this publication, only 18 states have taken action to expand Medicaid's reach beyond the IEP.[1]

The new federal guidance offers best practices and resources to facilitate the process, including tips for removing barriers and simplifying policies. **But states need to act now, as this process can often take time**, and the federal agencies have made clear that the current guidance needs to be utilized to lay this foundation now while the **forthcoming guidance expected in June 2023 is meant to build upon a foundation that has already been laid.**

What Affiliates Can Do

1. Begin discussions with state decision makers (such as SEAs, state health and Medicaid departments, and the Governor's office) to determine whether the state has submitted the necessary SPA.
2. **If the state has taken action to extend Medicaid's reach beyond the IEP** and has adjusted its payment policy, affiliates should work with partners to ensure that all students with Medicaid have parental consent to allow services to be offered and billed for. In order to do so, affiliates can review the requirements pursuant to the Department of Education Assistance to States for the Education of Children with Disabilities [§ 300.154(d)(2)(iv)] pertaining to parental consent.[2] This regulation clarifies what information or permission a public agency must obtain prior to accessing a child's or parent's public benefits or insurance for the first time. Parental consent must be obtained under the Family Educational Rights and Privacy Act (FERPA) and IDEA before a child's personally identifiable information may be released to a public benefits or insurance program (e.g., Medicaid) for billing purposes. On matters of parental consent, please be mindful of the Health Insurance Portability and Accountability Act (HIPAA) requirements, including the 2019 updated joint guidance provided and, while not yet finalized, the proposed rule by HHS that was released in February 2023.
3. **If the state has NOT taken action to extend Medicaid's reach beyond the IEP**, affiliates should begin conversations with state decision makers voicing their concerns and reminding them that the BSCA is a historic investment in the mental health of students, and that the state needs to act to ensure that the required framework is in place. Consider including all school-based providers to avoid additional amendments to the SPA at a later date.
4. Affiliates should work with state decision makers to determine the best payment methodology for school-based services. In determining options for paying school-based providers, states have considerable flexibility in setting provider payment rates. Options for paying school-based providers include:
   - Using the existing state plan payment rates for the same services provided in settings other than schools
   - Developing unique payment rates for school-based providers that more closely reflect the costs incurred
   - Using cost-based rates that are not reconciled to the actual cost of providing services (e.g., a state that uses prior-year cost reports to establish current or future cost-based rates)
   - Using the actual cost of providing the Medicaid-covered services (this information is usually provided in a uniform cost report from the provider)

The "Free Care Policy Reversal," also known as "Medicaid expansion," makes clear that Medicaid coverage is available for a wide range of services, regardless of whether or not a child is covered by an IEP under IDEA.

Ensure Every Medicaid-Eligible Child is Enrolled and has Access to Services

Millions of children and teens are not insured even though they could qualify for health insurance. One study that compared children who were uninsured with children who were enrolled in Medicaid found that children enrolled in Medicaid were more likely to do better in school, miss fewer school days due to illness or injury, finish high school, graduate from college, and earn more as adults.[3] Another study found that, although access to health coverage for uninsured individuals has increased as a result of the Affordable Care Act, the number of children who are eligible for, but not enrolled in Medicaid remains high. In 2019, 2.3 million children were eligible for, but not enrolled in Medicaid or the Children's Health Insurance Program (CHIP).[4]

2.3 MILLION

children were eligible for, but not enrolled in Medicaid or CHIP in 2019.

What States Can Do

Schools can play a vital role in identifying students who are Medicaid-eligible and help boost attendance and academic performance by
assisting students and their families in obtaining health insurance.

1. State and local education agencies can utilize school registration processes to identify eligible students and assist in enrolling eligible students in Medicaid or CHIP. States can utilize the Connecting Kids to Coverage National Campaign as well. State decision makers can also utilize additional resources such as InsureKidsNow.gov and the Center for Disease Control's Fact Sheet: Health Insurance for Children: How Schools Can Help.

All administrative expenses in support of these school-based services, including outreach, may be claimed as costs of administering the Medicaid state plan. As such, states can receive federal financial participation funds for outreach and enrollment assistance.

Children enrolled in Medicaid were more likely to do better in school, miss fewer school days due to illness or injury, finish high school, graduate from college, and earn more as adults.

Cohodes, S. et al. (2014). The Effect of Child Health Insurance Access on Schooling: Evidence from Public Insurance Expansions. (No. w20178). National Bureau of Economic Research

What Affiliates Can Do

Encourage state decision makers to:

1. Create a standard process for identifying whether a student has health insurance, and updating school enrollment forms accordingly, at the beginning of the school year or upon enrollment.
2. Add questions regarding health insurance to the Federal School Lunch program enrollment form.
3. Take advantage of school events to provide students and their families with health care insurance information and to assist with enrollment.

Evaluate and Develop a Plan to Comply with Provider Certification and Qualifications

Providers of Medicaid services in school settings must satisfy the same qualifications as providers in the community when performing and billing for Medicaid services. Therefore, if the state pays for services, then the Medicaid provider type should meet certification, registration, credentialing, education, training, and other state-specific requirements consistent with the rules of the benefit category. Attention must be paid to align the credentials before services are performed. As such, evaluate and develop a plan to comply with provider certification and qualification requirements.

What States Can Do

1. To bill Medicaid for a service, the state must include the provider and service within its plan and require that the provider possess all required state certifications and be in compliance with all state qualifications. Additionally, the state must require that providers of therapy services (such as physical therapy, occupational therapy, speech therapy, audiology, etc.) meet federal provider requirements defined within 42 CFR §440.110. It may be useful to note that the Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) mandated the adoption of a standard, unique health identifier for each health care provider, now known as the National Provider Identifier Standard (NPI). More information on NPIs and the process for obtaining a NPI can be found in this CMS Educational Resources Booklet. Specific information for occupational, physical, and speech therapy is available in the CMS Outpatient Rehabilitation Therapy Compliance booklet.

What Affiliates Can Do

1. Meet with state decision makers to review provider qualifications for billing Medicaid, and which mental health services are currently covered under the state plan.
2. Enlist specialized instructional support personnel–from school nurses to speech pathologists–to provide perspective on additional supports needed for students. For example, school counselors can meet with decision makers to discuss the need and benefits of modifying the state plan to include school-based mental health services.
3. If additional qualifications are needed, consider working with insurance plans in order to obtain any additional needed trainings. Insurance plans might be able to seek funding for providing such services, allowing these training events to be held free of charge.

Expand Mental Health Telehealth Services

Improvements in technology have made telehealth an effective, convenient way to provide health care, but some states have been slow to expand telehealth services. Wait times for some providers, like child psychiatrists, have also decreased significantly in several states due to telehealth services, and students and parents did not have to miss school and work to travel to such providers. While telehealth has expanded access, it is important to note that telehealth in schools must not be used to undermine needed or existing in-person services or to count against required staff ratios. To the contrary, telehealth in schools must supplement, not supplant, in-person services.

For additional resources on telehealth for school-based services, the Centers for Medicare and Medicaid Services (CMS) has created an informational resource, the "State Medicaid and CHIP Telehealth Toolkit,".[5] In addition, the Department of Health and Human Services (HHS) released a document entitled "Introduction To School-Based Telehealth," a best-practices guide that outlines how to build a school telehealth program, prepare students and guardians for school-based telehealth, bill for telehealth, and more. This and other resources–including information about recent policy changes that extended telehealth flexibilities and explain COVID Public Health Emergency waivers and flexibilities –can be found at telehealth.hhs.gov.

Improvements in technology have made telehealth an effective, convenient way to provide health care... though telehealth must not undermine needed or existing in-person services or count against required staff ratios

Resources for Medicaid Flexibilities and CMS Process for Reviewing Telehealth SPAs and data for Medicaid and CHIP services can be accessed at medicaid.gov.[6] To assist with the HIPAA concerns, HHS Office for Civil Rights released guidance to help health care providers and health plans bound by HIPAA Privacy, Security, and Breach Notification Rules (HIPAA Rules) understand how they can use remote communication technologies for audio-only telehealth post-COVID Public Health Emergency (PHE). More information about the guidance is available on the Legal Considerations page at telehealth.hhs.gov and on the FAQs on Telehealth and HIPAA page.

What Affiliates Can Do

1. To ensure that providers in school settings are allowed to bill Medicaid for telehealth services, state affiliates can meet with state decision makers to review the range of providers authorized under state law to bill Medicaid for telehealth services, and review which services the state allows to be delivered via telehealth services.
2. Work with state decision makers to request that the state expand telehealth services to include school-based mental health services.
3. If a state currently does not include providers in school settings and/or does not provide for a comprehensive range of services that may be billed via telehealth services, state affiliates can meet with state decision makers to request that the state expand providers allowed to bill for telehealth services, as well as the amount of services allowed via telehealth.
4. Raise concerns with state decision makers that telehealth in schools must not be used to undermine needed or existing in-person services or to count against required staff ratios.

Maximize Federal Agency Grants

In order to expand school-based mental health services, the BSCA provides over $1 billion dollars in assistance. While the federal government has longstanding grant opportunities, the BSCA adds new programs and augments existing ones. Ensure that your state is maximizing these federal grant opportunities.

What Affiliates Can Do

1. Evaluate current school-based mental health programs and meet with decision makers to ensure they're aware of additional funds available where they're eligible applicants. Affiliates involved in Community Schools can also consider these opportunities to fund health care and other wrap-around services.
2. Monitor federal agency grants on federal agency websites per the links provided herein and also review NEA's list of school-based mental health services grant opportunities at nea.org.

Develop a Plan to Seek Technical Assistance

Maximizing federal agency grants and expanding services will require strategic planning, staff, and the exploration of best practices. During this process, don't hesitate to seek help. The BSCA provides one avenue of future assistance by requiring the Department of Education (DOE) to work with HHS to establish a technical assistance (TA) center and offer trainings around implementing the BSCA and school-based mental health services.

What Affiliates Can Do

1. Meet with SEAs and LEAs to develop a plan for technical assistance to be provided as needed and available.

The Bipartisan Safer Communities Act

SUMMARY OF THE SCHOOL-BASED MENTAL HEALTH AND MEDICAID PROVISIONS WITHIN THE BIPARTISAN SAFER COMMUNITIES ACT

Mental Health Provisions in the BSCA

Not all mental health problems lead to violence, nor is all violence related to mental health problems—nonetheless, the overlap is significant and real. Recognizing this, the BSCA directs historic attention and resources toward mental health services. Excellent overviews are available elsewhere.[7] Here we focus on schools:

- **School-based mental health services and staff**- Provides $500 million to expand School-Based Mental Health Services Grants. This program provides competitive grants to states to increase the number of, and reduce the turnover of, qualified mental health service providers who provide school-based mental health services to students in school districts with demonstrated need.
- **School-based mental health professionals pipeline**- Provides $500 million to increase the pool of skilled professionals interested in, and trained in, providing mental health services in schools through the School-Based Mental Health Services Professional Demonstration Grant. This program provides competitive grants to support innovative partnerships between institutions of higher education and school districts to prepare school-based mental health service providers for employment in high-need schools.
- **Safe and Healthy Students Program**- Provides $1 billion to increase funding for Safe and Healthy Students Programs under Title IV-A, Sec 4108 of the Elementary and Secondary Education Act (ESEA) to keep students safe and healthy. Services determined at the state and local level include, but are not limited to, mental health resources, drug and violence prevention, mentoring, crisis intervention, and high-quality training for school personnel on suicide prevention and human trafficking.
- **Out-of-school programs**- Provides $50 million in funding to the 21st Century Community Learning Centers program to fund extracurricular, after-school and summer programs, with a focus on reengaging youth. The DOE will support grantees in using funds to build relationships between students and educators (and other adults who serve students) in ways that help students feel less isolated and more connected to their school, improving their overall mental health and well-being. Recipients of these funds help students from lower-income households participate in after-school programming by connecting them to community organizations such as the YMCA and Boys and Girls Clubs.
- **Project AWARE**- Provides $240 million for HHS' Substance Abuse and Mental Health Services Administration's (SAMHSA) Project AWARE, a grant program designed to increase awareness of mental health issues among school-aged youth, provide training for school personnel and other adults who interact with school-aged youth to detect and respond to mental health issues, and connect school-aged youth who may have behavioral health issues and their families to needed services.
- **Suicide prevention (9-8-8)**- Provides $150 million in to support implementation of the 9-8-8 Suicide and Crisis Lifeline, which provides 24/7, free, confidential support to people in suicidal crisis or emotional distress.
- **School-based trauma support**- Provides $28 million to improve treatment and services for children, adolescents, and families who have experienced traumatic events.
- **National Child Traumatic Stress Network**- Provides $40 million over four years to the SAMHSA's National Child Traumatic Stress Network Grant to improve treatment and services for children, adolescents, and families who have experienced traumatic events.

Medicaid Provisions in the BSCA

The BSCA also clarifies and expands how schools can bill Medicaid for school-based support services:

- **Updates to the Medicaid billing guidance**- Outlines strategies/tools that reduce the administrative burdens on, and simplify billing for, local education agencies (in particular, small and rural education agencies); and supports compliance with federal requirements regarding billing, payment, and recordkeeping, including by aligning direct service billing and school-based administrative claiming payments.
- **Medicaid and telehealth**- Requires CMS to provide guidance to states on how they can increase access to health care, including mental health services, via telehealth under Medicaid and CHIP. Such guidance would, in part: outline strategies related to training, and furnishing resources for providers and patients; include best practices for providing mental health and substance use disorder services via telehealth in schools; include recommendations for measuring telehealth care quality; and include best practices for conveying the availability of telehealth to Medicaid and CHIP enrollees.
- **Planning grants**- Provides $50 million in grants to states for implementing, enhancing, or expanding the provision of assistance through school-based entities under Medicaid or CHIP.
- **Technical Assistance Center**- Working with the DOE, HHS will establish a technical assistance center and award grants for implementing, enhancing, or expanding the provision of assistance through schools under CHIP. The center starts with $8 million in funding, and must report to Congress on the areas where the most technical assistance was requested.
- **Best practices**- Requires CMS to issue guidance to state Medicaid programs outlining how states may receive Medicaid funding for health services provided in school settings. Such guidance would address, in part, best practices for enrolling school health care providers in Medicaid, facilitating payment and reimbursement, utilizing telehealth, and forming partnerships with community-based behavioral health providers.
- **Provider selection**- Provides examples of the types of providers that states may choose to enroll, deem, or otherwise treat as participating providers for purposes of school-based programs under Medicaid, and best practices related to helping such providers enroll in Medicaid for purposes of participating in school-based programs under Medicaid. (Please note that this is essential for ensuring critical school personnel, such as school psychologists, would be able to bill Medicaid directly).
- **Certified Community Behavioral Health Clinic (CCBHC)**- Expands the CCBHC Medicaid Demonstration Program, including support for new planning grants to states. CCBHCs provide comprehensive, coordinated, person- and family-centered services and 24/7 crisis intervention services.
- **Early and Periodic Screening, Diagnostic, and Treatment (EPSDT)**- Clarifies that a state should take steps to allow a school district to bill for any EPSDT service it provides.

SUMMARY OF FEDERAL AGENCY GUIDANCE RELATED TO THE SCHOOL-BASED MENTAL HEALTH AND MEDICAID PROVISIONS WITHIN THE BIPARTISAN SAFER COMMUNITIES ACT

The BSCA (sections 11003 and 11004) directs the HHS to undertake many actions to support access of children and youth to Medicaid mental health services.

CMS's Center for Medicaid and CHIP Services (CMCS) has started to release guidance related to school-based mental health services. This federal action is only the beginning of many steps that the CMS intends to take over the coming months, specifically regarding school-based Medicaid services.

Forthcoming Federal Agency Action

DOE Secretary Cardona and HHS Secretary Becerra sent a letter on July 29, 2022, to all state Governors outlining forthcoming collaborations, specifically between the Centers for Disease Control and Prevention (CDC), Administration of Children and Families' Office of Early Childhood Development (ACF-ECD), and SAMHSA.[8] Guidance that has been released is described in subsequent sections of this report.

Here's what to expect from forthcoming federal action:

- The DOE intends to review regulations to determine how it can help schools expand the delivery of mental health and other health care services to students.
- The CDC will issue new training on adverse childhood experiences (ACEs) for staff who work in schools.
- The ACF-ECD and the DOE plan to release a joint letter on their commitment to ensure that all young children and their caregivers have access to high-quality resources that equitably support social-emotional development and mental health.
- SAMHSA will provide funding for a new Center of Excellence on Social Media and Mental Wellness to develop and disseminate information, guidance, and training on the impact of social media use on youth, especially the potential risks social media platforms pose to their mental health.
- The federal agencies have reported that additional school-based guidance is expected in June 2023. CMS is expected to update a school-based services guide that incorporates the existing Medicaid School-Based Administrative Claiming Guide and Medicaid Schools Technical Assistance Guide.

Current Federal Agency Action

Leveraging Medicaid, CHIP, and Other Federal Programs in the Delivery of Behavioral Health Services for Children and Youth

Following the BSCA (sections 11003 and 11004), CMCS released an informational bulletin entitled "Leveraging Medicaid, CHIP, and Other Federal Programs in the Delivery of Behavioral Health Services for Children and Youth," available at medicaid.gov.[9] This bulletin urges states to expand school-based health care for children, including mental health care. CMCS specifically encourages states to include schools when "leveraging a comprehensive array of Medicaid providers."[10] The bulletin also addresses adverse childhood experiences (ACEs) and provides information about Early and Periodic Screening, Diagnostic and Treatment (EPSDT) requirements and other authorities available to states to deliver effective prevention and interventions through the Medicaid and CHIP programs.

Tools provided by the bulletin include, but are not limited to:

Early and Periodic Screening, Diagnostic and Treatment (EPSDT)

The Early and Periodic Screening, Diagnostic and Treatment (EPSDT) benefit enables provision of screening, vision, dental, hearing, and "such other necessary health care, diagnostic services, treatment, and other measures … to correct or ameliorate defects and physical and mental illness and conditions discovered by the screening services, whether or not such services are covered under the state plan."[11]

Highlights from this section include:

- CMS makes clear that states can determine that services are medically necessary without an official diagnosis. Prior to this bulletin, some states believed there had to be a formal diagnosis before the state could provide EPSDT services.
- The EPSDT benefit is available for all states and provides comprehensive and preventive health care services, including mental health services, for most children under age 21 who are enrolled in Medicaid.

- A service does not need to "cure" a condition to be covered under EPSDT. Services that maintain or improve the child's current health condition can also be covered under the "ameliorate" provision in the statute.
- The obligation to provide all medically necessary care under EPSDT extends to prevention, screening, assessment and treatment for mental health and substance use disorders.
- All behavioral health services defined under section 1905(a) of the Social Security Act must be provided pursuant to EPSDT when necessary to treat an identified behavioral health condition. These services include: physical and clinic services, federally qualified health center and rural health clinic services, inpatient and outpatient hospital services, rehabilitative and preventive services, and services of other licensed practitioners.
- While EPSDT is not a required benefit under CHIP, states may elect to provide the EPSDT benefit under a CHIP state plan.
- The state will make the determination of "medical necessity" (or if delegated by the state to the managed care plan).
- While states may set "reasonable" limits on coverage for services such as "medically necessity" or "appropriate utilization control," states cannot implement fixed, or arbitrary limits on coverage for services. For example, CMCS expressly prohibits limits – "based on dollar amounts, standard deviations from the norm, or lists of specific diagnoses."

In addition, in order to bill for Medicaid services, CMCS outlines that Medicaid services must meet two requirements:

1. Be included in a state plan benefit category or Waiver or Demonstration authority; AND
2. Must be provided by a Medicaid-participating provider who meets the provider qualification requirements associated with the particular benefit.

17 MILLION

mental health services visits for children delivered via telehealth since the onset of COVID-19, an increase of more than 7,500 percent.

Telehealth

The bulletin strongly emphasizes and promotes telehealth:

> *This decline in utilization of mental health services would have been much higher if not for the exponential growth in the use of telehealth to continue service provision and minimize gaps in service delivery. There have been more than 17 million mental health services visits for children and youth delivered via telehealth since the onset of the COVID-19 PHE, representing an increase of more than 7,500 percent compared to the pre-PHE period. However, despite this growth in the utilization of telehealth, the gap between the need for and utilization of behavioral health services persists.*[12]

The bulletin urges states to consider options of telehealth in school settings:

> *Consider telehealth options to increase access to care, including in school settings. It is important to note that states retain extensive flexibility in the utilization of telehealth within Medicaid outside of the COVID-19 PHE; states are encouraged to consult with provider and stakeholder communities in making longer-term decisions about the role of telehealth in behavioral health service delivery.*[13]

Credentials

CMCS clarifies longstanding confusion about the credentialing of professionals billing for Medicaid services, stating that states "should establish qualifications for school providers consistent with those of providers in the community."[14] As such, regardless of school criteria, school providers of Medicaid services must meet the same

qualifications as providers in the community when performing and billing for Medicaid services. If the state pays for services, then the Medicaid provider type "should meet certification, registration, credentialing, education, training, and other state-specific requirements consistent with the rules of the benefit category."[15]

Therefore, the service itself must be covered within the state plan, and the provider must meet all state qualifications. In addition to state requirements, providers that provide therapy services such as physical therapy, occupational therapy, speech therapy, audiology, etc. must also meet federal provider requirements defined within 42 CFR §440.110. It may be useful to note that the Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) mandated the adoption of a standard, unique health identifier for each health care provider, now known as the National Provider Identifier Standard (NPI). More information on NPIs and the process for obtaining a NPI can be found in this CMS Educational Resources Booklet. Specific information for occupational, physical, and speech therapy is available in the CMS Outpatient Rehabilitation Therapy Compliance booklet.

For additional assistance in identifying the scope of practice laws for providers of school-based services, the bulletin encourages states to work with State Educational Agencies (SEAs) and Local Educational Agencies (LEAs). In doing so, the bulletin encourages these partnerships to "determine specific federal and state requirements regarding provider qualifications specific to participation in the Medicaid program, procedures for enrollment with the state Medicaid agency, and the scope of practice laws for provider types furnishing school-based services."[16]

The bulletin also includes strategies to improve prevention, early identification, and treatment; expand provider capacity; and increase the integration of behavioral health and primary care. For example, the bulletin urges states to incorporate wellness screenings and treatments through schools.

In doing so, the bulletin spotlights the following states:[17]

- **California**, for avoiding requiring a behavioral health diagnosis for the provisions of EPSDT services. California covers non-specialty mental health services (NSMHS) such as evaluations and individual, group, and family psychotherapy to individuals with potential mental health disorders not yet diagnosed;
- **Arizona and Michigan**, for increasing the number of students who have received behavioral health services;
- **Georgia**, for increasing access to behavioral health screenings by promoting collaboration between community mental health providers and schools;
- **Colorado**, for increasing access to behavioral health screenings through identifying and addressing early childhood mental health needs through its family-focused preventive primary care model;
- **Massachusetts**, through the state's Children's Behavioral Health Initiative, for providing a comprehensive continuum of home- and community-based behavioral health services to children and youth with behavioral, emotional, and mental health needs and their families;
- **Oklahoma**, through its Youth Crisis Mobile Response Initiative, for providing rapid, community-based mobile crisis intervention services for children, youth, and young adults up to the age of 25 who are experiencing behavioral health or psychiatric crisis;
- **New Jersey**, through its behavioral health home (BHH), for providing fully integrated, enhanced care coordination and wraparound care planning for children and adults with serious emotional disturbance (SED);
- **Nebraska**, for increasing reimbursement rates for behavioral health services by 15 percent on top of the already scheduled 2 percent increase, for total year over year increase of 17 percent for SFY22 and SFY23; and
- **Alabama, Michigan, Rhode Island, and Washington,** for including investments to support and expand mental health services for children and youth within the states' spending plan pursuant to the American Rescue Plan Act of 2021.

THESE STATES ARE LEADING THE WAY

CMCS's "Leveraging Medicaid, CHIP, and Other Federal Programs in the Delivery of Behavioral Health Services for Children and Youth" urges states to expand school-based health care for children, highlighting these states' efforts.

Alabama	Includes investments to support and expand mental health services for children and youth within the states' spending plan pursuant to the American Rescue Plan Act of 2021
Arizona	Increased the number of students who have received behavioral health services
California	Avoided requiring a behavioral health diagnosis for the provisions of EPSDT services. California covers non-specialty mental health services (NSMHS) such as evaluations and individual, group, and family psychotherapy to individuals with potential mental health disorders not yet diagnosed
Colorado	Increased access to behavioral health screenings through identifying and addressing early childhood mental health needs through its family-focused preventive primary care model
Georgia	Increased access to behavioral health screenings by promoting collaboration between community mental health providers and schools
Massachusetts	The state's Children's Behavioral Health Initiative provides a comprehensive continuum of home- and community-based behavioral health services to children and youth with behavioral, emotional, and mental health needs, and their families
Michigan	Increased the number of students who have received behavioral health services Included investments to support and expand mental health services for children and youth within the states' spending plan pursuant to the American Rescue Plan Act of 2021.
Nebraska	Increased reimbursement rates for behavioral health services by 15 percent on top of the already scheduled 2 percent increase, for total year over year increase of 17 percent for SFY22 and SFY23
New Jersey	The state's behavioral health home (BHH) provides fully integrated, enhanced care coordination and wraparound care planning for children and adults with serious emotional disturbance (SED)
Oklahoma	The state's Youth Crisis Mobile Response Initiative provides rapid, community-based mobile crisis intervention services for children, youth, and young adults up to the age of 25 who are experiencing behavioral health or psychiatric crisis
Rhode Island	Includes investments to support and expand mental health services for children and youth within the states' spending plan pursuant to the American Rescue Plan Act of 2021
Washington	Includes investments to support and expand mental health services for children and youth within the states' spending plan pursuant to the American Rescue Plan Act of 2021

Information on School-Based Services in Medicaid: Funding, Documentation and Expanding Services

The Centers for Medicare and Medicaid Services (CMCS) issued a second informational bulletin, "Information on School-Based Services in Medicaid: Funding, Documentation and Expanding Services," available at medicaid.gov.[18] This bulletin reminds states of their mandate to cover behavioral health services for children in Medicaid, and urges states to leverage every resource to strengthen mental health care.

The bulletin is especially supportive of school-based health programs and encourages states, where possible, to "ease administrative burden placed on school-based health providers to promote their participation in the Medicaid program and thereby increase access to Medicaid-covered services for Medicaid-enrolled students, while also maintaining fiscal and programmatic integrity of the Medicaid program."[19] CMCS states:

> *Although schools are primarily providers of education, the school setting provides a unique opportunity to enroll eligible children and adolescents in Medicaid and the Children's Health Insurance Program (CHIP), furnish Medicaid-covered services, including behavioral health services (mental*

health and substance use disorder (SUD) services) to eligible children, and help children who are enrolled in Medicaid access the services they need. Schools are uniquely positioned to increase health equity and to help ensure that all children have access to necessary health care services. This includes services provided through a formal Individualized Education Program (IEP) and Individualized Family Service Plan (IFSP) under the Individuals with Disabilities Education Act (IDEA), or other plan and services provided outside of those plans where the services are made available without charge to the beneficiary, including when the services are available without charge to other students not enrolled in Medicaid.[20]

CMCS is prompting states to work with schools to deliver on-site health care services to children enrolled in the Medicaid program and covers nine essential policy areas in the bulletin related to benefits and payment. Providing essential health care services—including mental health services—in school settings better positions providers to reach children and youth where they are, to provide the care they need.

The nine essential policy areas addressed in the bulletin include the following and likely will take many months to address in further guidance and training:

Medicaid "Free Care" Policy

In the State Medicaid Director Letter (SMDL) #14-006 (available at medicaid.gov), on Dec. 15, 2014, CMS announced a policy regarding the availability of Medicaid payment for services covered under a state's Medicaid plan to an eligible Medicaid beneficiary when the services are made available without charge to the beneficiary (including when the services are available without charge to members of the community at large). Such services sometimes are referred to as "Free Care."[21]

Before 2014, Medicaid payment generally was not allowable for services that were available without charge to the beneficiary, with limited exceptions. However, SMDL #14-006 withdrew the previous "Free Care" policy and announced that Medicaid payment would be available for Medicaid-covered services furnished to Medicaid beneficiaries, regardless of whether there is any charge for the service to the beneficiary (or to a member of the community at large).

SMDL #14-006 further noted that this policy would not be limited to services identified in an IEP. However, generally applicable Medicaid coverage and payment requirements must be met, including that services must be furnished by a qualified, Medicaid participating provider.

As such, the Medicaid "Free Care" policy reversal, often referred to as "Medicaid expansion," makes clear that Medicaid coverage is available for a wide range of services, regardless of whether a child is covered with an IEP under IDEA. The goal is simply to facilitate and improve access to quality health care services and improve the health of communities.

The bulletin details examples such as the following:

- [A] qualified and Medicaid-enrolled audiologist that comes into the school and provides hearing assessments for the entire student body can now bill Medicaid for those services whether or not other third-party payers are also billed for the hearing assessment.[22]
- In addition, "[if] a school nurse administers fluoride treatment to the entire student body, so long as that nurse or the school is enrolled as a Medicaid provider, the fluoride treatment could be eligible for Medicaid payment."[23]

Covered services may include, but are not limited to:

- EPSDT services, like screenings, vaccinations, and check-ups.
- Services not in a child's IEP, including behavioral health services and nursing services such as nutrition services, medication monitoring, and counseling.[24]

States must act in order to maximize this opportunity. Providers in the community can bill Medicaid directly for these services in accordance with the state plan—but if the provider is an employee or contractor of the school, then the school must submit the bill to Medicaid. States generally have separate payment methodologies specific to the school setting, and some states have not taken the opportunity to incorporate these activities within their payment methodology specific to school-based services in their Medicaid program.

To incorporate these activities within the state's payment methodology specific to school-based services in their Medicaid program, states must take action. While the actions needed may differ state by state, states should pursue any opportunity that is available. Some states may pursue policy changes or legislative efforts. Other states may submit an amended state plan. For states that submit an amended state plan, the state would need to submit a plan amendment to include the non-IEP/IFSP services in the payment methodology. At the time of publication, only 18 states have submitted and received approval of such SPAs to allow Medicaid payment for covered services furnished in a school setting by a Medicaid participating provider.[25] Thus, many states may need to take action to include the non-IEP/IFSP services in the payment methodology.

Ensuring Every Medicaid-Eligible Child is Enrolled and Has Access to Services

Many eligible children are not enrolled in Medicaid. Thus, CMCS encourages all states to ensure that every eligible child is enrolled in Medicaid coverage and able to receive school-based services. The bulletin details methods that the states can undertake to ensure all children eligible for Medicaid services are enrolled in such services. These methods include: LEAs utilizing school registration processes to identify eligible students and assist in enrolling eligible students into Medicaid or CHIP; and states utilizing the Connecting Kids to Coverage National Campaign.

The bulletin also makes clear that all administrative expenses in support of these school-based services, including outreach, may be claimed as costs of administering the Medicaid state plan. As such, "states can receive federal financial participation (FFP) at the applicable administrative match rate for outreach and enrollment activities."[26]

Providing EPSDT Services

As mentioned above, in the bulletin entitled, "Leveraging Medicaid, CHIP, and Other Federal Programs in the Delivery of Behavioral Health Services for Children and Youth," CMCS reiterates that the Medicaid program provides most beneficiaries under the age of 21 with the EPSDT benefit. CMCS also restates the EPSDT qualifications, directs that EPSDT is a required benefit, and focuses on the whole care of the child. The bulletin also encourages these services in the school setting.

Medicaid School-Based Services through Managed Care

A large portion of Medicaid beneficiaries are enrolled in managed care (the bulletin approximates that it's about 76 percent, or over 61.7 million people).[27] Furthermore, states are allowed to deliver some services through the managed care plans while also retaining some services under fee-for-service delivery. However, regarding EPSDT services, if the EPSDT service is not covered under the managed care plan, then the state Medicaid agency must ensure that all eligible individuals under age 21 receive the EPSDT benefit. The bulletin encourages "states that use managed care delivery systems for Medicaid-covered services to work with managed care plans including managed care organizations (MCOs), prepaid inpatient health plans (PIHPs) and prepaid ambulatory health plans (PAHPs) as well as schools to aid in the provision of and payment of school-based services."[28]

Specific to school-based services, the bulletin offers many recommendations on how states may elect to deliver services in a school-based setting, including:

- **Including schools in planning phase-** If a state is designing and implementing a managed care delivery system, states should include schools as partners from the initial planning steps. If a state has already established a managed care delivery system, states should include schools during the managed care plan re-procurement and contracting processes.

- **Including schools in formal process**-
  - In a formal process within the managed care contracts and/or through managed care performance standards, states should require managed care plans to establish relationships, strengthen partnerships, and coordinate care with school-based providers.
  - In additional formal processes, states should develop formal arrangements, such as including school-based clinics in managed care plans' provider network requirements; establishing referral and treatment protocols between schools and the managed care plans' other contracted providers; promoting school participation in managed care plan quality assurance and utilization review programs; and facilitating the development of coordination of care programs between schools and managed care plans.
- **Back-to-school programs**- States should facilitate coordination between managed care plans and schools for health care enrollment events, health fairs, and vaccination efforts.

Providing Medicaid Services in Schools via Telehealth Delivery Systems

CMCS strongly encourages states to utilize telehealth services as a delivery mechanism to increase access to mental health services in school-based settings. CMS generally allows states flexibility in designing and establishing parameters for telehealth services.

To ensure that providers in school settings are allowed to bill Medicaid for telehealth services, a review should be conducted of the range of providers under state law authorized to bill Medicaid for telehealth services, and which services the state allows to be delivered via telehealth services. If a state currently does not include providers in school settings and/or does not provide for a comprehensive range of services that may be billed via telehealth services, the state may expand providers allowed to bill for telehealth services as well as the services allowed via telehealth.

Technical assistance to support these efforts will be available for SEAs and LEAs and that telehealth services are to be culturally-sound, address ADA-compliance and have interpreter services available.

For additional resources, the CMS has created an informational toolkit, "State Medicaid & CHIP Telehealth Toolkit," available at medicaid.gov.[29] In addition, HHS has released a best-practices guide for school-based telehealth[30] at telehealth.hss.gov that outlines how to build a school telehealth program, prepare students and guardians for school-based telehealth, bill for telehealth, and more. In addition, the CMS released data pertaining to trends in the use of telehealth services between Jan. 1, 2020, and March 31, 2022. The data allows for analysis of telehealth utilization by quarter, state, and various demographic characteristics. The data for Medicaid and CHIP services as well as resources for Medicaid Flexibilities and CMS Process for Reviewing Telehealth SPAs can be accessed at medicaid.gov.[31] Additional resources—including information about recent policy changes that extended telehealth flexibilities and explaining COVID Public Health Emergency waivers and flexibilities—can be found at telehealth.hhs.gov.

To assist with the HIPAA concerns, HHS Office for Civil Rights released guidance to help health care providers and health plans bound by HIPAA Privacy, Security, and Breach Notification Rules (HIPAA Rules) understand how they can use remote communication technologies for audio-only telehealth post-COVID PHE. Find it at hhs.gov. More information about the guidance is available on the Legal Considerations page at telehealth.hhs.gov and the FAQs on Telehealth and HIPAA page at hss.gov.

Clear and Consistent Documentation Guidance to LEAs through Outreach and Education

While federal regulations require that providers maintain documentation that covered Medicaid services have been provided to beneficiaries, schools are not traditional health care providers with billing departments set up to bill for Medicaid services. As such, the HHS Services Office of Inspector General has noted documentation requirements for school-based services. In order to address, CMCS instructs states to undertake action in providing best practices to schools by:

- Reviewing and updating provider billing manuals;
- Conducting training for school-based providers on Medicaid documentation standards and audit processes;
- Ensuring LEAs have adequate funding;
- Increasing Medicaid payment rates for school-based settings;
- Tracking services in school-based settings with MMIS systems; and
- Working with the CMS and the DOE to align state and federal documentation requirements.

Evaluate Random Moment in Time Study (RMTS) Methodologies

Regulations in 45 CFR 75.430 require that charges to federal awards must be based on records that reflect actual work performed. Ways to document work hours performed include random moment sampling, worker day logs, case counts, and other quantifiable measures.

Work with LEAs to Determine Payment Methodology Options that Work Best to Promote School-Based Services

Medicaid is a partnership between the federal and state governments. It is jointly funded, with most Medicaid service expenditures matched at the state-specific, statutorily-defined federal medical assistance percentage. Options to financing the non-federal share of Medicaid payments include state legislative appropriations, intergovernmental transfers (IGTs), and certified public expenditures (CPEs).

In determining options for paying school-based providers, states have considerable flexibility in setting provider payment rates. Options to pay school-based providers include:

- States may use the existing state plan payment rates for the same services provided in settings other than schools.
- State Medicaid agencies may elect to develop unique payment rates for school-based providers that more closely reflect the costs incurred.
- States may use cost-based rates that are not reconciled to the actual cost of providing services (e.g., a state that uses prior year cost reports from LEAs to establish current or future cost-based rates).
- States may use the actual cost of providing the Medicaid-covered services (this information is usually provided by a uniform cost report from the provider).

Third-Party Liability for Medicaid School-Based Services

For services that are part of a child's IEP/IFSP, the IDEA provides an exception to the third-party liability (TPL) requirements, and Medicaid serves as the primary for IDEA-related services. For services that are not part of the child's IEP/IFSP, the IDEA exemption does not provide any exemption from pursuing other liable third-party payers, such as private insurance, before billing Medicaid. Under these circumstances, Medicaid is the payer of last resort, which means state Medicaid agencies are required to take reasonable measures to identify and recover payments from third parties that are liable to pay for services.

Core Set Reporting

CMS issued a proposed rule on a Core Set of Children's Health Care Quality Measures for Medicaid and CHIP. The proposed rule, viewable at federalregister.gov, would mandate—for the first time—that states report on measures of the quality of health care provided to Medicaid and CHIP beneficiaries. In doing so, the proposed rule details proposed mandatory reporting requirements that would standardize quality measures across Medicaid and CHIP for children nationally.

This proposed rule would implement mandatory annual reporting of the Child Core Set and the behavioral health measures on the Adult Core Set using a standardized format.

The Child and Adult Core Sets include a range of measures key to determining how well Medicaid and CHIP meet their mission of providing affordable, high-quality, person-centered health care coverage to low-income people. The proposed rule mandates reporting of the Child Core Set, and behavioral health quality measures for adults. In doing so, the Core Set would allow CMS and stakeholders to evaluate Medicaid and CHIP across the 54 programs run by states and territories. Specifically, the mandatory Core Sets would evaluate how Medicaid and CHIP coverage is meeting the needs of individuals and communities, including identifying where health disparities persist, and how the quality of care can be improved.

Federal Agency Grant Opportunities

The BSCA authorizes over $1 billion in funding for school-based mental health services. These grants will be introduced by federal agencies on a rolling basis. Since these grants will be ongoing, with specific deadlines, a full summary of grants available is not included within this NEA resource document. However, in order to assist affiliates in locating such grant opportunities, links to federal agency grant tracking are included below.

Many agencies offer grant tracking. For example,

- The best overall grant resource is grants.gov, which allows search by agency or issue area. Unfortunately, some agencies and individual grant programs are not included, so additional manual searching is needed.
- The Department of Labor allows searches of grant opportunities by specific area to determine what is available currently and what the Department of Labor intends to release in the future. Visit dol.gov/grants.
- The Department of Education Stronger Connections Grant Program (ed.gov). The BSCA allocated $1 billion to the Department of Education Stronger Connections Grant Program through Title IV, Part A of the ESEA for SEAs to competitively award subgrants to high-need LEAs to establish safer and healthier learning environments, and to prevent and respond to acts of bullying, violence, and hate that impact school communities at individual and systemic levels. To assist in the implementation of the Stronger Connections Grant Program, the DOE released a resource document entitled, "Bipartisan Safer Communities Act Stronger Connections Grant Program Frequently Asked Questions," viewable at oese.ed.gov.
- HHS does not have an overall grant resource page, though some component HHS agencies do, including:
  - HHS Administration for Children and Families (ACF) at acf.hhs.gov/grants
  - HHS Head Start (actually part of ACF), at acf.hhs.gov/ohs/funding
  - HHS Administration for Community Living, at acl.gov/grants/open-opportunities
  - HHS SAMHSA, at https://www.samhsa.gov/grants
  - HHS/CMS does not have a web resource on grants. It simply links to grants.gov.

Also, take a look at NEA's list of school-based mental health services grant opportunities at nea.org

Conclusion

The BSCA is far more than a gun law. It broadens the scope of anti-violence work to include mental health and other preventive measures, and it recognizes the important role schools play in the lives of youth and families. The BSCA facilitates Medicaid billing for school-provided support services ranging from audiology to guidance counseling and offers new federal assistance for everything from telehealth services to grant applications. Resources and assistance sought for years are newly available for states that seize the opportunity and plan next steps to help students, educators and the community.

Endnotes

1 Healthy Students Promising Futures, *Map: School Medicaid Programs*, https://healthystudentspromisingfutures.org/map-school-medicaid-programs/

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7 Summary by Senator Chris Murphy, *Bipartisan Safer Communities Act*, https://www.murphy.senate.gov/imo/media/doc/bipartisan_safer_communities_act_one_pager.pdf; summary by National Governor's Association, https://www.nga.org/wp-content/uploads/2022/06/Memo-Bipartisan-Safer-Communities-Act-6.27.22.pdf

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10 Ibid, CMCS Leveraging Medicaid and CHIP, p. 3

11 Social Security Act section 1905a, https://www.ssa.gov/OP_Home/ssact/title19/1905.htm.

12 Ibid, CMCS Leveraging Medicaid and CHIP, p. 2

13 Ibid, CMCS Leveraging Medicaid and CHIP, p. 8

14 Ibid, CMCS Leveraging Medicaid and CHIP, p. 4

15 Ibid, CMCS Leveraging Medicaid and CHIP, p. 4

16 Ibid, CMCS Leveraging Medicaid and CHIP, p. 4

17 Ibid, CMCS Leveraging Medicaid and CHIP, p. 6-10

18 CMCS Informational Bulletin, Information on School-Based Services in Medicaid: Funding, Documentation and Expanding Services, August 18, 2022, https://www.medicaid.gov/federal-policy-guidance/downloads/sbscib081820222.pdf

19 Ibid, CMCS School-Based Services in Medicaid, p. 2

20 Ibid, CMCS School-Based Services in Medicaid, p. 1-2

21 State Medicaid Director Letter #14-006, https://www.medicaid.gov/federal-policy-guidance/downloads/smd-medicaid-payment-for-services-provided-without-charge-free-care.pdf

22 Ibid, CMCS School-Based Services in Medicaid, p. 4

23 Ibid, CMCS School-Based Services in Medicaid, p. 4

24 Ibid, CMCS School-Based Services in Medicaid, p. 5

25 Healthy Students Promising Futures, Map: School Medicaid Programs, https://healthystudentspromisingfutures.org/map-school-medicaid-programs/

26 Ibid, CMCS School-Based Services in Medicaid, p. 6

27 Ibid, CMCS School-Based Services in Medicaid, p. 8

28 Ibid, CMCS School-Based Services in Medicaid, p. 8

29 State Medicaid & CHIP Telehealth Toolkit Policy Considerations for States Expanding Use of Telehealth COVID-19, https://www.medicaid.gov/medicaid/benefits/downloads/medicaid-chip-telehealth-toolkit.pdf

30 Best Practice Guide Telehealth for School-Based Services, https://telehealth.hhs.gov/providers/school-based-telehealth/

31 Medicaid Telehealth Trends, https://www.medicaid.gov/resources-for-states/coronavirus-disease-2019-covid-19/medicaid-and-chip-resources/data-releases/index.html

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