**Session Agenda**

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**Session Objectives**

1. Provide a broad overview of the primary features of the Medicaid program that is applicable to all states.
2. Describe the primary features of the federal Individuals with Disabilities Education Act (IDEA) law relative to Special Education programs in public schools.
3. Discuss the unique challenges for developing and implementing a compliant Medicaid School-Based Services Program in a local school district.
Part 1: Medicaid
Christie Guinn
New Mexico Human Services Department, Medical Assistance Division

Medicaid Objectives
- History and Structure of Medicaid
- The Governing Tenets of Medicaid
- Section 1905(a) Services
- Reimbursement

History of Medicaid
- As established under Title XIX, Medicaid was intended as a cooperative program funded by both federal and state governments, with the proportion of federal to state funds, known as Federal Financial Participation (FFP), determined by formula, based on changes in State Per Capita Income. (Section 1905(b)).
- Originally meant as an entitlement for the aged, blind, and disabled individuals, and families that qualified for Aid to Families with Dependent Children (AFDC), now known as Temporary Assistance for Needy Families (TANF).
History of Medicaid (cont.)

- The federal government has significantly expanded Medicaid eligible populations by mandating that benefits be provided to additional groups.
- Originally Medicaid was primarily cost-based for institutional providers and fee-for-service (FFS) for individual providers.
- As of July 1, 2016, only 3 states, Alaska, Connecticut and Wyoming, do not utilize a Risk-Based Managed Care (MCO) or Primary Care Case Management (PCCM) payment model.


History of Medicaid (cont.)

- In the 1990s many states started to examine alternative approaches and funding mechanisms to relieve state budget restrictions and to expand scopes of Medicaid coverage.
- The next great expansion of the Medicaid program is as a result of the 2010 enactment of the Patient Protection and Affordable Care Act, known as the ACA or Health Care Reform.
- Implementation of ACA began on January 1, 2014.
  - 32 states, including DC, expanded Medicaid through the ACA
  - Children's Health Insurance Program (CHIP) reauthorization beyond Sept. 2017

Structure of Medicaid

- Medicaid is primarily regulated at the federal level and administered at the state level.
- The framework for Title XIX is established, in general terms, through laws, regulations, policies and guidelines.
- This framework sets parameters for eligibility standards, coverage and scope of benefits, delivery models, etc.
- Within these parameters, each state selects the scope of its own Medicaid program.
Structure of Medicaid (cont.)

- State programs are administered in accordance with an Approved State Plan, a comprehensive written description of the unique state design.
- An approved State Plan serves as a contract between the state and CMS.
- The Centers for Medicare and Medicaid Services (CMS) has been delegated by the Secretary of Department of Health and Human Services (DHHS) to oversee approval and implementation of state plans, as well as any amendments or changes.
- State plans contain detailed descriptions of: the state agency organization structure, service detail, assurances related to compliance with federal rules and regulations, and eligibility groups.

CMS Regions

- Payer of Last Resort: All other legally liable private coverage and government program sources must meet their obligation to pay claims for medical services. Medicaid will generally deny claims determined to be the responsibility of other payers, or do a “pay and chase” with Third Party Liability (TPL) systems.
- Free Care Exclusion: New guidance was issued in the December 15, 2014 State Medicaid Directors Letter.
- Statewide: The benefits of the State Plan must be uniform throughout all geographic areas of the state.
- Comparability: Services must be “equal in amount, scope, and duration” for all beneficiaries, but can be greater for certain groups (e.g., Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) recipients).
Federal Matching Rates

- Administrative expenditures are reimbursed at a 50% Match Rate.
- Direct Services are reimbursed at the Federal Medical Assistance Percentages (FMAP) rate, which is a formula derived from the state’s per capita income relative to all states, and varies between 50% and 75.65%.
- FY 2016 US spending on Medicaid was $553.5 billion.

School Based Services

- To be Medicaid eligible, services must be included among those listed in Section 1905(a) of the Act.
- Services must be included in the regular State Plan, which is available to all Medicaid recipients, or be made available under EPSDT in the State Plan, which makes services available to children under 21.
- Since there is no category of benefits titled “School Health Services,” the SBS services must be described in terms of the specific item in Section 1905(a).

Common Medicaid Services Delivered in School Settings

- Physical therapy
- Occupational Therapy
- Speech, Hearing and Language Services
- Audiology
- Personal Care Services
- Nursing
- Transportation
- Case Management
- Rehabilitative Services
Reimbursement

- Providers of services submit claims to the Medicaid Agency for services rendered on behalf of Medicaid eligible recipients.
- In the School Based Services arena, the Educational Agency is generally the *provider* to Medicaid, and submits a reimbursement claim to Medicaid.
- Claims submitted are usually of the format Units of Service x Rate Per Unit.
  - Some units are time based and some are event based
  - i.e., reimbursed by Medicaid on a Fee basis

Reimbursement (continued)

- How the rate per unit is calculated determines the type of reimbursement system:
  - Medicaid Program Fee for Service (FFS) based on a Fee Schedule
  - Community Rate
  - Cost Based Reimbursement
- There are also two separate components to the Total Costs of School Based Services:
  - Direct Medical Services
  - Administrative Claiming

Cost Based Reimbursement

- Throughout the School Year (State Fiscal Year (SFY)), services are billed to and reimbursed from Medicaid using an Interim Rate applied to the Units of Service delivered.
- At the end of the SFY, costs are determined based on data provided through an annual cost reporting and calculation process. The actual costs are then applied to the total interim payments paid to the school district to determine Total Allowable Annual Costs.
- If Total Annual Costs are greater than interim payments made, then there is a settlement made to the provider. If Total Annual Costs are less than interim payments made, the difference is recaptured by the Medicaid Agency.
Cost Based Reimbursement (cont.)

- The only approved method for allocating costs to allowable health services is a Random Moment Time Study (RMTS).
- Under the governing formulation, there are also threshold response rates required to maintain the “validity” of the sampling method.
- In general, only those individuals who are included in the RMTS may have their cost included in the annual cost report.
- Allowable costs must then be further allocated based on those services recommended in an Individualized Education Program (IEP).

Administrative Claiming

- Medicaid Administrative Claiming (MAC) allows the schools to seek additional reimbursement for expenses related to administrative activities in support of the Medicaid program.
  - Medicaid Outreach
  - Facilitating Medicaid Eligibility Determination
  - Transportation-Related Activities in Support of Medicaid Covered Services
  - Translation Related to Medicaid Services
  - Program Planning, Policy Development & Interagency Coordination Related to Medical Services
  - Medical/Medicaid-Related Training
  - Referral, Coordination & Monitoring of Medicaid Services
- Districts must participate in Direct Services billing in order to participate in MAC.

Administrative Claiming (cont.)

- May 2003 CMS Medicaid School-Based Administrative Claiming Guide.
  - Currently under revision by CMS.
- Costs are also allocated based on the RMTS.
- Typically done through quarterly claims.
- States must have a CMS-approved MAC Implementation Plan that will set the state-specific requirements for the RMTS and claim submission.
Medicaid Resources

- Centers for Medicare & Medicaid Services
  [https://www.medicaid.gov/](https://www.medicaid.gov/)
- Medicaid & School Health: A Technical Assistance Guide
- National Alliance for Medicaid in Education Inc.
  [www.medicaidineducation.org](http://www.medicaidineducation.org)
- Kaiser Family Foundation
- State Medicaid Agency

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Part 2: Special Education

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Special Education Objectives

1. Explain Special Education laws at the federal and state level.
2. Identify components of IDEA as it relates to school-based Medicaid programs.
3. Compare and contrast programs and services provided through Special Education and Medicaid.

Overview of Special Education Federal Programs

Federal Programs

U.S. Department of Education
- Establishes federal policy and administers and coordinates most federal assistance to education

Office of Special Education and Rehabilitative Services
- Improve early childhood, educational and employment outcomes and to raise expectations for all people with disabilities, their families, their communities and the nation.
- 2 Programs: Office of Special Education and the Rehabilitation Services Administration

Office of Special Education Programs
- Improve outcomes for children with disabilities, birth through 21, and their families ensuring access to fair, equitable, and high-quality education and services.
- Administers the Individuals with Disabilities Education Action (IDEA)
Special Education Structure - Federal to Local level

**U.S. Department of Education**
- Establishes federal policy
- Administers and coordinates most federal assistance to education
- Assists the president in executing education policies
- Implements laws enacted by Congress

**Office of Special Education and Rehabilitative Services (OSERS)**
- Comprised of two program offices:
  - Office of Special Education Programs (OSEP)
  - Rehabilitation Service Administration (RSA)
- Mission
  - Support early intervention services for infants and toddlers
  - The education children with disabilities receive through special education and related services
  - Provide vocational rehabilitation to youth and adults with disabilities

*(IDEA Individuals with Disabilities Education Act: [https://sites.ed.gov/idea/](https://sites.ed.gov/idea/)*
Office of Special Education Programs (OSEP)

- Administers the Individuals with Disabilities Education Act (IDEA)
- Improving results for infants, toddlers, children and youth with disabilities ages birth through 21.
- Authorizes formula grants to states under Part B of the IDEA and to lead agencies for the infants and families program under Part C of the IDEA.
- Authorizes discretionary grants under Part D
  - Institutions of higher education
  - Other non-profit organizations to support grants for state personnel development, technical assistance and dissemination, technology and parent training and information centers.

Individuals with Disabilities Act (IDEA)

- Federal law that makes available a free appropriate public education (FAPE) to eligible children with disabilities and ensures special education and related services.
- Governs how states and public agencies provide services.
- Authorizes formula and discretionary grants
- IDEA Part C
  - Infants and toddlers, birth through two with disabilities and their families
- Part B
  - Children and youth ages 3-21

State Performance Plans/Annual Performance Reports (SPP/APR)

- IDEA requires each state to develop a State Performance Plan/Annual Performance Report that evaluates the state’s efforts to implement the requirements and purposes of the IDEA and describes how the state will improve its implementation.
- Part B: 17 indicators
- Part C: 11 indicators
- Each year, states must report the progress or slippage for each of the indicators in an Annual Performance Report (APR).
- Levels of Determination – What’s your State’s determination?
Navigating the Laws at the State and Federal Level

IDEA Statute (Law)

Statute:
- Statute is a law which authorizes formula and discretionary grants.
- IDEA has four parts:
  - Part A: General Provisions
  - Part B: Assistance for All Children with Disabilities
  - Part C: Infants and Toddlers with Disabilities
  - Part D: National Activities to Improve Education of Children with Disabilities

IDEA Regulations

- The U.S. Department of Education issues regulations to implement the requirements of the IDEA
  - IDEA Part B Regulations
  - IDEA Part C Regulations
### IDEA Law Part B

- Part B-
  - Regulation of services for children and youth ages 3 to 21 years
  - State Education Agency is lead agency
  - Parents may not incur costs
  - Interagency collaboration desired
  - Individualized Education Program (IEP)

### Travel Back to School Law Class

#### Case Law and Legislation
- 1974 P.L. 93-380, Education Amendments of 1974 (FAPE, procedural safeguards, least restrictive environment - LRE, federal funds)
- 1975 Enacted P.L. 94-142, the Education for all Handicapped Children Act of 1975. (EAHCA)
- P.L. 94-142, (FAPE, procedural safeguards, Least Restrictive Environment (LRE), non-discriminatory evaluation, Individualized Education Program - IEP)

### Travel Back to School Law Class

#### Case Law and Legislation
- 1986 P.L. 99-457, Education of the Handicapped Amendments of 1986 (federal incentives to adopt infant/toddler programs)
- 1990 P.L. 101-476, Individuals with Disabilities Education Act (revised language and added other disability categories)
- P.L. 101-336, Americans with Disabilities Act
Travel Back to School Law Class

- Case Law and Legislation
  - 1997 P.L. 105-17, IDEA 1997 (restructured law and added some provisions)
  - 2004 Individuals with Disabilities Education Improvement Act of 2004 - IDEIA (added more provisions and requirements to support students with disabilities)
  - IDEA added the consent requirement for Medicaid billing.

- FERPA v. HIPAA
  - 1974 Family Educational Rights and Privacy Act (FERPA) Section 444 of General Education Provision Act, 34 CFR Part 99 (required education records and students’ personally identifiable information to remain confidential and private).
  - 1996 Health Insurance Portability and Accountability Act (HIPAA) (overhaul of third party payer system mostly for healthcare and implementation of insurance policy).

Navigating Special Education Regulations
§300.8 Child with a disability

- Has been evaluated according to §300.304 through 300.311 as having:
  - Mental retardation
  - Hearing impairment (including deafness)
  - Speech or language impairment
  - Visual impairment (including blindness)
  - Serious emotional disturbance
  - Orthopedic impairment
  - Autism
  - Traumatic brain injury
  - Other health impairment
  - Specific learning disability
  - Deaf-blindness
  - Multiple disabilities
  - And, needs special education and related services

§300.9 Consent

- Parents must:
  - Be fully informed of all relevant information, for which consent is sought, in his/her native language, or mode of communication
  - Understand and agree in writing to activity for which consent is sought including list of records that will be released and to whom
  - Understand consent is voluntary and may be revoked at anytime
  - Revocation is not retroactive and does not negate an action that occurred after consent was given and before consent was revoked

§300.15 Evaluation

- Procedures used in accordance with §300.304 through 300.311 to determine if a child has a disability and the nature and extent of the special education and related services the child needs.
§300.17 Free appropriate public education (FAPE)

- Special education and related services that:
  - Are provided at public expense, under public supervision and direction, and without charge
  - Meet the standards of the SEA
  - Include an appropriate preschool, elementary school, or secondary school education in the State involved
  - Are provided in conformity with an individualized education program (IEP) that meets the requirements of §§ 300.320 through 300.324

§300.22 Individualized education program (IEP)

- A written statement for a child with a disability that is developed, reviewed, and revised in accordance with §300.320 through 300.324.

§300.23 Individualized education program team

- A group of individuals described in §300.321 that is responsible for developing, reviewing, or revising an IEP for a child with a disability.
§300.28 Local educational agency (LEA)

- Any state-recognized public board of education or public authority legally constituted for administrative control or direction of, or to perform a service function for public elementary or secondary schools in any political subdivision of a State, or combination of school districts/counties recognized by State as an administrative agency for public elementary or secondary schools.

§300.30 Parent

- Biological or adoptive parent of a child
- Foster parent, unless state law prohibits
- Guardian generally authorized to act as parent or make educational decision for the child (but not the State if child is a ward of the State)
- Individual acting in place of biological or adoptive parent (grandparent, stepparent, other relative) with whom child lives, or who is legally responsible for child’s welfare
- Surrogate parent who has been appointed in accordance with §300.519

§300.34 Related services

- Transportation and such developmental, corrective, and other support services as are required to assist a child with a disability to benefit from special education and includes:
  - Speech-language pathology and audiology services
  - Interpreting services
  - Psychological services
  - Physical and occupational therapy
  - Recreation including therapeutic recreation
  - Early identification and assessment of disabilities in children
§300.34 Related services (Cont.)
- Counseling services including rehabilitation counseling
- Orientation and mobility services
- Medical services for diagnostic or evaluation purposes
- School health services
- School nurse services
- Social work services
- Parent counseling and training

§300.39 Special education
- Specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability, including:
  - Instruction in the classroom, the home, in hospitals and institutions, and other settings
  - Instruction in physical education
  - Specially designed instruction means adapting, as appropriate to the needs of the child, the content, methodology, or delivery of instruction.

§300.41 State educational agency (SEA)
- The State board of education or other agency or officer responsible for the State supervision of public elementary and secondary schools, or an officer or agency designated by the Governor or by State law.
§300.42 Supplementary aids and services

- Aids, services, and other supports provided in regular education classes, other education-related settings, and in extracurricular and nonacademic settings, to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate.

§300.101 FAPE Requirements

- Available to all children ages 3-21
- Each state must ensure FAPE available to any individual child, even though child has not failed, been held back and is advancing from grade to grade.

§300.101 FAPE Requirements

- Child Find
  - All children with disabilities residing in the State including those who are homeless, wards of the State, and those attending private schools, regardless of the severity of their disability, and who are in need of special education and related services are identified, located, and evaluated.
Methods of Ensuring Services
§300.154(d)

- Children with disabilities who are covered by public benefits or insurance
  - Must obtain parental consent consistent with §300.9
  - The regulations have two basic requirements:
    - Notification to parents regarding their rights before benefits are accessed and annually thereafter.
    - One time written consent which specifies the parents’ understanding and agreement of accessing public benefits.

Parental Consent

- IDEA Part B Final Regulations Related to Parental Consent to Access Public Benefits or Insurance (e.g., Medicaid)
- On February 14, 2013, the Department published in the Federal Register IDEA Part B final regulations that changed the requirements in 34 CFR 300.154(d) related to parental consent to access public benefits or insurance (e.g., Medicaid). Previously, public agencies were required to obtain parental consent each time access to public benefits or insurance was sought. The intent of the final regulations, which took effect on March 18, 2013, was to make it easier for school districts to access public benefits while still protecting family rights.

- Parental Consent—
  - Ensures that parents of children with disabilities are informed of all of their legal protections when public agencies seek to access public benefits or insurance to pay for services; and
  - Addresses the concerns expressed by State educational agencies and local educational agencies that require parental consent each time access to public benefits or insurance is sought, in addition to the parental consent required by the Family Educational Rights and Privacy Act and section 617(c) of the IDEA.
Special Education Eligibility

- Child has a disability and IDEA
  - Child's disability adversely affects his/her educational performance
    - Child is not eligible for special education
    - Child may be eligible for adaptations under 504
  - Child receives specialized instruction
    - Child is not eligible for special education
  - Does child need a related service to benefit from specialized instruction?
    - Child may be eligible for adaptations under 504

How are Medicaid and Special Education Different?

**MEDICAID**
- Funding "unlimited"
- Specific covered services
- Can change co-pays and spend-down/ deductible
- Audits result in payback
- State administration very prescriptive
- Come to Medicaid to apply
- Rights and responsibilities
- Birth to death, but low income
- Other insurance must pay first
- Payment for service to provider

**SPECIAL EDUCATION**
- Funding appropriated
- Any services/supports needed
- Must be free
- Focused monitoring results in corrective action
- All about local control
- Must find all, even homeless
- Rights
- 0-2, 3-21
- May not use other insurance if there is cost to parent
- Payment for staff salary, contracts, materials, etc.

How are Medicaid and Special Education Similar?

**MEDICAID**
- Treatment, service, or care plan
- HIPAA
- Case management
- Best and evidenced based practice
- Provider credentials
- Documentation
- Early Periodic Screening, Diagnosis, and Treatment

**SPECIAL EDUCATION**
- Individualized Education Program, Services Plan
- FERPA, HIPAA
- Service coordination
- Best and evidenced based practice
- Highly qualified
- Paper work, SPP, data
- Early intervening, Child Find, Assessment, Special Ed
The Overlap.....

Education Resources

- Building the Legacy: IDEA 2004
- U.S. Department of Education
  [http://www2.ed.gov/index.html](http://www2.ed.gov/index.html)
- National Alliance for Medicaid in Education Inc.
  [www.medicaidineducation.org](http://www.medicaidineducation.org)
- State Education Agency
- Local Special Education Director

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SCHOOL-BASED SERVICES: OVERVIEW

The Medicaid School-Based Services Program is a joint venture between the State and Federal Government.

Participating schools receive partial reimbursement for medically necessary services provided to eligible children.

Participation is voluntary and each state must have their own CMS approved plan.

Know and understand YOUR state's Medicaid Plan. Work closely with your State Medicaid Agency and possibly Department of Education.

SCHOOL-BASED SERVICES: OVERVIEW

On the direct billing side California department of health care services directly contracts with 560 LEAs through the LEA Billion Option Program (BOP).

On the administrative claiming side LEAs are required to contract through their Local Educational Consortia (LEC) or Local Governmental Agency (LGA). California has 11 LEC regions and 6-7 LGAs. LEAs do not have a contract with the State.

Although each state's program is unique, the federal requirements are constant and we can learn a great deal from each other.

My goal is to provide an overview of School-Based Services and share my experience managing a program.
School-Based Medicaid Reimbursement

California LEA Billing Option program (direct services) averages over $150+ Million in reimbursement annually. When the Admin program was “working” the total was close to $200 Million. It’s essential to work with your district administrators to ensure they understand the value of participating in School Based Services!

School-Based Services: $$$ for Schools

Medicaid is the largest single source of ANY kind of federal grant to states.

School-Based Services: PROGRAM

California’s reimbursement program is cost-based and includes both reimbursement for direct medical services in a “Fee for Service” model and Administrative Outreach.*

“Fee for Service” provides federal reimbursement to LEAs for health-related services provided by qualified medical practitioners to students who are on Medi-Cal.

Administrative Outreach provides partial reimbursement to schools for administrative costs incurred while helping families access Medicaid services through the referral, planning and coordination of programs and services.

*Once the new SPA is implemented, the reconciliation for direct services will incorporate results from the RMTS survey, currently used only to measure Outreach.
One of the most important aspects of managing a Medicaid SBS Program is Personnel. Key things include:

- Ensuring providers have the proper license, certification and/or approval in order to participate.
- Reviewing the funding source for participating providers to verify they meet program requirements.
- Providing training for new staff, refresher sessions for returning staff and always communicating new requirements.
- Monitoring provider claims for consistency and compliance.

Medicaid can be confusing and often-times very frustrating for Providers. It is essential for them to understand the requirements and know their roles.

Each state functions differently and may have slightly different procedures. However, the following are requirements for ALL Medicaid School-Based Services Programs:

- Student must have a current IEP that specifically lists a reimbursable service. Or a plan in place for non-IEP services if your SPA allows for that.
- Parents must have signed a Medicaid Consent prior to claims being submitted.
- Prescription(s) (if required) must be on file.
Requirements vary by state – *know them*. It is imperative that your School-Based Services Program is compliant and audit ready.

- Be aware of and communicate program changes to staff. Network with other Medicaid Coordinators and work closely with your State Medicaid Agency and Department of Education.
- Use a Self Audit tool to identify issues and make corrections as needed. This allows for corrections to be made and minimizes the risk of an audit finding.
- In California, Department of Healthcare Services (DHCS) has been conducting LEA BOP site visits and technical help. This is invaluable in identifying issues schools are having so changes can be implemented right away.
- Review financial reports for accuracy and verify districts have not omitted costs or included unallowable costs.

Effectively managing a School Based Services Program is not without challenges!

Two of the most common issues are *Buy-In by Providers and Program Compliance*.

Providers often view Medicaid as a complicated program that requires a lot of documentation...and they are right, but the documentation should be very close to what is already required per IDEA, Ed Code, and/or professional licenses. They are being pushed to do more with less and Medicaid seems to fall low on their growing list of priorities. A couple easy ways to help them is to:

- Provide FAQ Documents and Tip Sheets that are position specific.
- Reduce barriers through better processes or software.
- Send Email updates and newsletters, as needed.

*If Providers can receive helpful information quickly and in a format that is easy to understand, they are more likely to actively participate.*
One of the most common questions I am asked by Providers is how much their district receives from the services they submit.

I receive similar questions from Business Offices who question the value of spending time preparing quarterly and annual financial reports.

How often and what information you share with Providers and other school staff will have a HUGE impact on the success of your SBS Program.

It is essential that ALL staff understand the amount of money schools receive through Medicaid reimbursement.

The School-Based Services Medicaid Program is valuable - especially during the tough financial situation experienced by many public schools!

Understand the requirements for your state, communicate with district staff, monitor for compliance and network with other coordinators!

Contact Information

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ROUND TABLE TOPICS

- Audits
- Consent and Notification
- Documentation Requirements
- Practitioner Requirements
- Responsibility for Program Implementation
- Selection and Use of Vendors
- Support and Resources

NAME ACADEMY 2016

NAME ACADEMY 2017

QUESTIONS?