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Policy Considerations for California Following the 2014 Reversal of the Medicaid "Free Care Rule"

Marisol Aviña, Lisa Eisenberg, & Erynne Jones

February 3, 2016

Introductions

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Statewide nonprofit organization aiming to improve the health and academic success of children by advancing health services in schools.

A national health policy consulting firm with expertise in Medicaid and delivery system transformation.

Report funded by **The California Endowment**, a private statewide health foundation that seeks to expand access to quality health care for underserved individuals and communities.

Presentation Overview

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- Setting the Stage: The 2016 Landscape
- History of the Free Care Rule
- California Free Care Rule Implementation
- Recommendations for California Stakeholders and Policymakers
- Questions & Answers

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Setting the Stage: The 2016 Landscape

Setting the Stage: The 2016 Landscape

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- **California Health System Transformation**
  - Health Homes for Patients with Complex Needs
  - Accountable Communities for Health
  - Whole Person Care Pilots
  - Public Hospital Redesign and Incentives in Medi-Cal (PRIME)
  - Let's Get Healthy California Initiative

Visual from https://www.statereforum.org/sites/default/files/bscf_ca_1115_waiver_opportunity_for_whole-person_care_2015_0126_final.pdf

Setting the Stage: The 2016 Landscape

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- **National Institute of Health (Jan 2016)**
  - New funding to explore relationship between education and health outcomes.
  - Goal is to identify specific aspects and qualities of education that are responsible health outcomes.
  - See Program Announcements R01, R03, & R21: http://grants.nih.gov/grants/guide/WeeklyIndex.cfm?WeekEnding=01-15-2016

Setting the Stage: The 2016 Landscape

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- **Healthy Students, Promising Futures (Jan 2016)**
  - Toolkit developed by the U.S. Departments of Health and Human Services (HHS) and Education (ED) to help schools play a greater role in the health care delivery system.

    http://www2.ed.gov/admins/lead/safety/healthy-students/index.html

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History of the Free Care Rule

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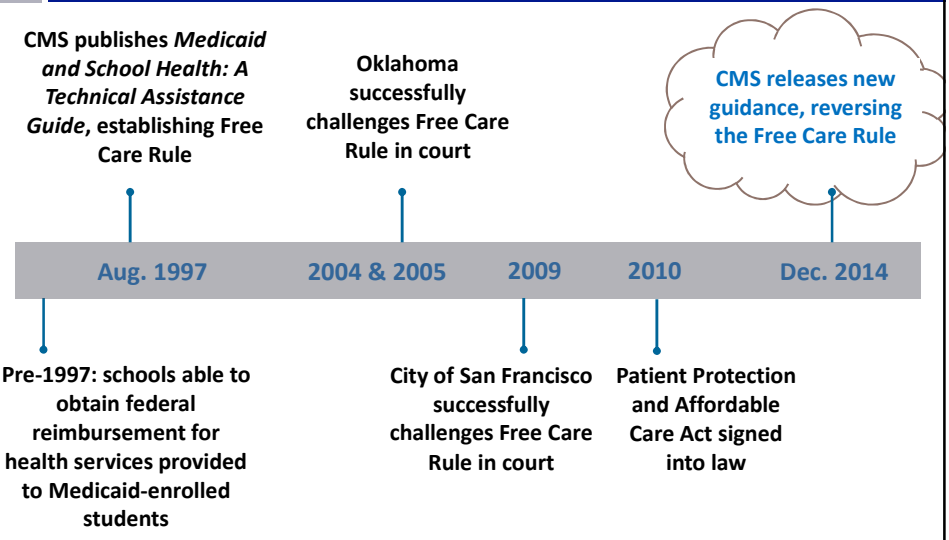

History of the Free Care Rule

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- "Free Care Rule": Centers for Medicare & Medicaid Services (CMS) policy that Medicaid payment was not permitted for services provided at no cost to Medicaid beneficiaries.
  - Limited exceptions:
    - Individualized Education Program (IEP),
    - Individualized Family Service Plan (IFSP), and
    - Maternal Child Health Services Block Grant
- In order to claim reimbursement, states had to meet a complex set of administrative requirements.
  - Virtually no schools billed for services that were subject to the free care rule

New CMS Policy

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States are now permitted to provide payment for "all types of covered services under the Medicaid state plan that are provided to Medicaid beneficiaries, regardless of whether there is any charge for the service to the beneficiary or the community at large."

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-26-12
Baltimore, Maryland 21244-1850

CMS
CENTERS FOR MEDICARE & MEDICAID SERVICES

SMD# 14-006

Re: Medicaid Payment for Services
Provided without Charge (Free Care)

December 15, 2014

Dear State Medicaid Director:

This letter addresses Medicaid payment for services covered under a state's Medicaid plan to an eligible Medicaid beneficiary that are available without charge to the beneficiary (including

Next Steps for States

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- States must review their Medicaid state plans to determine current Medicaid billing rule
- California and other states that incorporated the free care rule into their Medicaid state plan in the past need to submit a State Plan Amendment (SPA) to CMS with the new policy approach
- Some states will not need to take further regulatory action to implement policy change

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California Free Care Rule Implementation

California Free Care Rule Implementation

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California submitted SPA 15-021 in September 2015

- Key components include permitting Medicaid billing for:
  - All Medi-Cal enrolled students;
  - New assessment and treatment services;
  - New practitioners; and
  - Transforms the LEA Medi-Cal Billing Option Program from fee-for-service to Random Moment Time Study methodology

California Free Care Rule Implementation

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CMS Request for Additional Information*

- Main issues:
  - How did DHCS calculate budgetary impact?
  - How will LEAs will coordinate with managed care plans?
  - How does EPSDT intersect with LEA Medi-Cal Billing Option Program?
  - Clarification on provider scope of service and qualifications
- DHCS has 90 days to respond with additional information or an alternative plan

*http://www.dhcs.ca.gov/provgovpart/Documents/ACLSS/LEA/LEA%20FYI/CMS_RAIs_%20SPA_15-021.pdf

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Recommendations for California Stakeholders and Policymakers

Recommendations for California Stakeholders and Policymakers

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Based on interviews with stakeholders from a variety of backgrounds, including:

- Department of Health Care Services
- California Department of Education
- Centers for Medicare & Medicaid Services
- School districts (administrative staff, providers)
- Vendors
- Advocates and trade associations
- Managed care plans

Finding 1: Administrative Hurdles Created by Third Party Liability Requirements

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- Schools are required to confirm that health services provided to Medi-Cal beneficiaries are not covered by another insurance carrier before Medi-Cal will reimburse ("third party liability")
- Schools have struggled to obtain the documentation required to claim reimbursement from Medi-Cal
- Senate Bill 276 (Wolk; 2015): permits schools to bill Medi-Cal if the managed care plan fails to issue a denial letter within 45 days of the claim submission

Recommendation 1: Request a Federal Waiver of Third Party Liability (TPL)

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- CMS affirmed that states may pursue a TPL waiver
- States must demonstrate in writing that the collection of third party liability information is not cost-effective
- States may submit the waiver for some or all school-based services through their CMS Regional Office
- CMS Guidance available at 42 CFR 433.138(l) and 433.139(e), and in the State Medicaid Manual at 3904.2

Finding 2: CDE has Minimal Role in Current Billing Process, but Wealth of Knowledge

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- The California Department of Education (CDE) currently plays a small role in the school Medi-Cal billing process:
  - Works with DHCS and stakeholders on program communications
  - Provides expertise and support on school policy
  - Certifies providers
- CDE staff are familiar with school regulatory policies, responsibilities outside of health services, and school staff roles

Recommendation 2: Strengthen the Role of CDE in the Medi-Cal Billing Option Program

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- CDE could play a more comprehensive role in helping school districts implement the policy change and design models to enhance the delivery of health services that are compatible with school health policy and resources
- This would require a discussion of roles and responsibilities, as well as an integrated staffing model between CDE and DHCS

Finding 3: Vendors Play a Role in Most California School Billing Programs

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- Many schools work with vendors to submit claims for health services to DHCS (e.g. Xerox)
- Ultimately, LEAs are on the hook for any problems that occur during the claims process
- DHCS stresses the importance of relying on DHCS guidance (rather than vendor guidance) relating to the LEA Medi-Cal Billing Option Program

Recommendation 3: Improve Communication with Vendors

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- Ensure vendors have accurate program and policy information from DHCS
- Develop additional resources to empower schools as they improve their billing infrastructure
  - E.g. sample contract language and resources to assist schools in selecting a vendor or bringing their billing infrastructure in-house

Finding 4: Significant Barriers Prevent Data Sharing

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- Sharing data between school-based health services and managed care plans/primary care providers could improve whole person care
  - E.g. chronic condition management, reduce duplication of services
- There are significant barriers to data sharing:
  - Family Educational Right and Privacy Act (FERPA) vs. Health Insurance Portability & Accountability Act (HIPAA)
  - Incompatible data infrastructure

Recommendation 4: Identify Opportunities for Schools in Health Information Sharing

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- Identify tools and resources that could help schools engage in discussions around data sharing and care coordination

FERPA

HIPAA

- Provide clear guidance on data sharing rules under HIPAA and FERPA
  - Interpretation of federal laws
  - Strategies for working within the laws to share data

Finding 5: Lack of School Participation in Health Care Delivery Transformation Efforts

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- Lack of data to demonstrate the value of school health services to the broader health delivery system
- Schools often are absent from conversations around health care delivery transformation
- Need business case for how schools add value
- Integration vs. coordination:
  - Not clear HOW schools should participate in the healthcare delivery system

Recommendation 5: Expand the Role of Schools in the Health Care Delivery System

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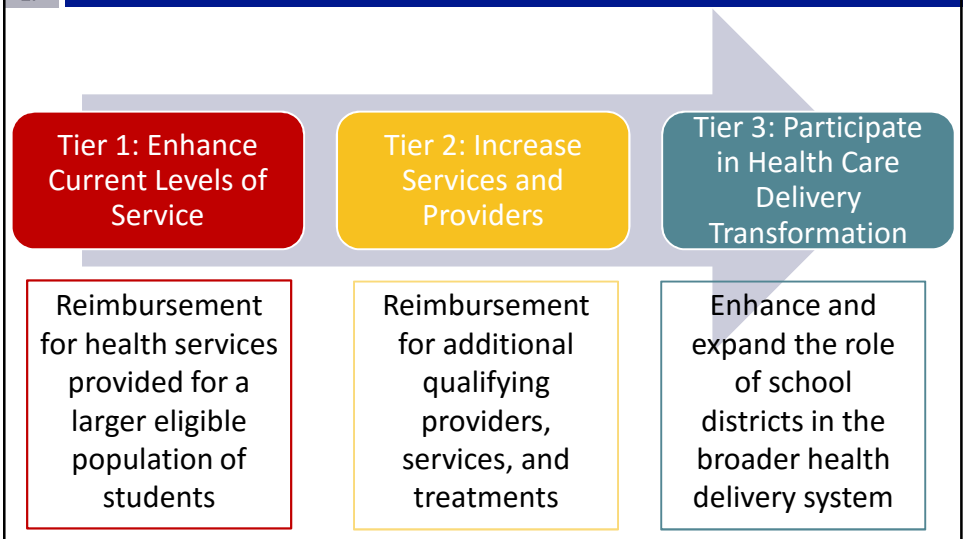

Next Steps

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- DHCS is continuing negotiations with CMS on SPA
  - DHCS LEA Website: http://www.dhcs.ca.gov/provgovpart/Pages/LEA.aspx
  - DHCS LEA listserv http://apps.dhcs.ca.gov/listsubscribe/default.aspx?list=DHCSLEA
- California School-Based Health Alliance and Harbage Consulting participating in a multi-state policy learning collaborative to further explore how to improve the role of California's schools in the health care delivery system

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Questions & Answers

Contact Information

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Full report is available at: http://www.calendow.org/wp-content/uploads/Policy-Considerations-for-California-Following-the-2014-Reversal-of-the-Medicaid-Free-Care-Rule-006-FINAL1.pdf