



401 Hathaway Building • Cheyenne, WY 82002
Phone (307) 777-7656 • 1-866-571-0944
Fax (307) 777-7439 • www.health.wyo.gov




Stefan Johansson
Interim Director

Mark Gordon
Governor

MEMORANDUM

Date: September 30, 2021

To: Joint Labor, Health, and Social Services Interim Committee
Joint Education Committee
Joint Appropriations Committee

From: Stefan Johansson, Interim Director
Wyoming Department of Health 

Subject: Medicaid Billing for School-Based Services - 2021 Report

Ref: J-2021-484

Section 4 of Senate Enrolled Act 20 from the 2021 General Session, requires the Department of Health to report on the implementation of Medicaid billing for school-based services.

Attached please find the report that meets these requirements.

SJ/ff/sg

c: Governor Mark Gordon
Legislative Service Office (electronic copy)
State Department Depository (electronic copy)

Wyoming Department of Health
Wyoming Department of Education

Report to the Joint Education Interim Committee,
Joint Labor, Health and Social Services Interim Committee, and
Joint Appropriations Committee

School-Based Services (SBS) Program 2021, as Authorized by Senate Enrolled Act 20 from the 2021 General Session

Prepared by:

Jan Stall, Provider and Benefit Management Administrator
E-mail: jan.stall@wyo.gov

Justin Browning, School-Based Services Program Manager
E-mail: justin.browning1@wyo.gov

Dicky Shanor, Chief of Staff
E-mail: dicky.shanor@wyo.gov

Trent Carroll, Chief Operations Officer
E-mail: trent.carroll@wyo.gov

Cheyenne, Wyoming 82002

October 1, 2021

Executive Summary

During the 2021 General Session, the Legislature authorized school districts to bill school-based services for Medicaid eligible students. As part of the authorization for this project, Senate Enrolled Act (SEA) 0020 required the Wyoming Department of Health (WDH) and the Wyoming Department of Education (WDE) to submit implementation reports by October 1 of 2021 and 2022.

Both reports are to include relevant information on: (1) action taken by school districts, (2) actions taken by the WDH and WDE and (3) any approvals received from the federal government for plan amendments or waivers to the Medicaid State Plan. Reports must also evaluate impediments to implementation and determine necessary or recommended improvements to the program and any required additional funding.

Generally speaking, the implementation of school-based services is still in its planning and development phase. WDE is engaging school districts, reviewing a drafted parental consent form, and exploring the capabilities of existing special education reporting software to capture Medicaid-related data for billing purposes. WDH has hired an SBS program manager, is preparing its Medicaid State Plan amendment for submission on December 1st, 2021, and is developing program and provider training materials.

School-Based Services (SBS) in Medicaid

Since the 1970s, the federal government has required schools to provide all children with disabilities appropriate services under the Individuals with Disabilities Education Act (IDEA).¹ This includes health-related services such as occupational therapy, physical therapy, speech therapy, nursing services, counseling services, and audiology services.² The IDEA requires students with disabilities to receive educational and related health services that will enable them to reach their educational goals as documented in their Individualized Education Program (IEP) or Individualized Family Service Plan (IFSP).³

By billing Medicaid for appropriate school-based services, school districts, also known as “Local Education Agencies” (LEAs), can draw down federal Medicaid dollars for IDEA-required services provided to Medicaid eligible students in a school-based setting. School-based services are authorized by the Centers for Medicare & Medicaid (CMS) and locally managed by the state Medicaid agency, the Wyoming Department of Health. For LEAs to receive Medicaid payments for school-based services, schools must document the service in a student’s IEP or IFSP and meet the following criteria:

1. The service is authorized in Section 1905(a) of the Social Security Act, and the service is medically necessary.
2. Schools and service providers follow all state and federal regulations, including provider qualification requirements.
3. The state has included the service in the Medicaid State Plan, or the service is available under the federal Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) benefits.

LEAs will not change their practices delivering IDEA services when participating with Medicaid. However, LEAs must adhere to additional Medicaid requirements that may exceed education requirements. These include, but are not limited to:

1. Service delivery and proper documentation: The LEA must deliver and document the service correctly, based upon the need of the student. In addition, the documentation must be retrievable in case of an audit.

¹ Individuals with Disabilities Act (IDEA). *About IDEA*. <https://sites.ed.gov/idea/about-idea/#IDEA-History>

² IDEA. *Sec. 300.34 Related Services*. <https://sites.ed.gov/idea/regs/b/a/300.34>

³ In 2014, the Centers for Medicare and Medicaid Services (CMS), who oversees the federal Medicaid program, expanded coverage of school-based services to reimburse for services outside of those required by IDEA. These services, often referred to as “free care,” are health services, such as behavioral health services or screening services, provided by the LEAs to the general student population, free of charge. Prior to this clarification, LEAs could not receive reimbursement for services provided to Medicaid eligible students that were also provided to the general student population. MACPAC. *Medicaid in Schools*. (April 2018): <https://www.macpac.gov/wp-content/uploads/2018/04/Medicaid-in-Schools.pdf>

2. Service authorization: Schools must authorize each student's school-based services by including them in an IEP or IFSP.
3. Medical necessity: Schools may only bill for medically-necessary services that meet the WDH's requirements of demonstrating medical necessity.
4. Qualified providers: All school-based services must be delivered by qualified providers or individuals under the supervision of a qualified provider.
5. National Provider Identifier (NPI): A provider must have an NPI to bill services to Medicaid.
6. Medicaid Eligibility: LEAs may only access Medicaid reimbursement for Medicaid-allowed services delivered to Medicaid-eligible students.
7. Parental Consent: LEAs must obtain and document consent from parents to bill school-based services to Medicaid.

Specific Requirements of Statute

Section 4 of the Senate Enrolled Act 20 from the 2021 General Session states:

The Department of Health and the Department of Education shall report on implementation of Medicaid billing for school-based services as provided for by this act. Reports on implementation required by this section shall include information on relevant action taken by school districts, relevant action taken by the Department of Health and the Department of Education and any approvals received from the federal government for plan amendments or waivers to the Medicaid State Plan. The departments shall evaluate impediments to implementation and determine necessary or recommended improvements to the program and any required additional funding. Findings shall be submitted in two (2) written reports to the Joint Education Interim Committee, the Joint Labor, Health and Social Services Interim Committee, and the Joint Appropriations Committee, one (1) report to be submitted not later than October 1, 2021 and the other report to be submitted not later than October 1, 2022.

Response to Specific Requirements of Statute

Relevant Action Taken by School Districts

There are 48 school districts in the State of Wyoming. Currently, four (4) school districts have reached out to the WDH and the WDE for more information regarding the SBS program.

Relevant Action Taken by the Department of Health and the Department of Education

In addition to engagement with school districts, the WDH and the WDE have held multiple meetings following the adoption of the 2021 SEA 0020 to discuss key implementation activities and timelines for the departments. The WDH initiated implementation of the SBS program in July 2021, with the recruitment and hiring of a SBS Program Manager. An implementation plan has been developed by the departments to include the following major project implementation tasks:

- Conduct project management for all SBS activities, including a work plan development, regular check-in meetings, and other support.
- Develop and disseminate the Parental Consent Form.
- Develop and submit a Medicaid State Plan Amendment (SPA).
- Conduct system changes in both the provider enrollment system and the benefit management system.
- Develop supporting program materials for implementation.
- Conduct stakeholder engagement.
- Modify the WDE684 data collection to include a new element for Medicaid eligibility.
- Develop a training plan, materials, and conduct provider training.
- Work with the fiscal intermediary to implement SBS reimbursement.

WDH conducted a kick-off meeting on September 22, 2021 to review the project timeline and tasks. The WDH coordinated this with the WDE to discuss the SBS program, implementation plan, stakeholder engagement, parental consent form, and training plan. The WDH and the WDE set a regular cadence to coordinate implementation of the SBS program, including discussions regarding school district engagement.

On the Medicaid side, the WDH is developing a State Plan Amendment (SPA) for its State Plan to incorporate licensed school social workers, school psychologists and address other CMS requirements for the SBS program (e.g., review of WY regulations on supervision, licensure/certification requirements, etc.). The WDH and the WDE discussed the SPA updates and the WDH will continue to develop the SPA with the WDE's input.

Over this same time period, the WDE has developed and is reviewing the Parental Consent Form. Once published, the WDE will provide technical assistance and training to districts to help promote a high return rate.

In addition, the WDE has completed modification of the October 2021 WDE684 Teacher/Course/Student, Special Education data collection instrument. The WDE684 now includes a new element for Medicaid eligibility that is optional for districts to report during the 2021-22 school year. In the 2022-23 school year the data element will be required. The data element is designed to capture whether a student's special education services overlap with a period of Medicaid coverage during the school year.

The WDE also worked with the three (3) special education student information systems currently used in Wyoming to ensure districts can store Medicaid eligibility data in their student information systems. At least one vendor currently offers billing functionality for Medicaid SBS. This software platform is currently being used by 42 of the 48 districts for maintaining special education documentation. Additionally, the WDH has conducted initial conversations with its vendors that operate and maintain the provider enrollment system and the benefit management system in order to ensure the claims processing and reimbursement side will function as intended.

Finally, the WDH and the WDE are coordinating the development of supporting materials for program implementation, including a provider manual, program information, and training. Training development will be conducted from October 2021 through March 2022, and will include stakeholder input from at least two school districts and one Board of Cooperative Educational Services (BOCES).

Once developed, the prepared training and program materials will be provided to school-based providers via webinar starting in April 2022; all webinars will be recorded for future access and availability. Training will include information on the program, enrollment, eligible providers and services, and key contacts for program support. The WDH plans to post training support materials, including FAQs for stakeholder access.

The WDH and the WDE established key contacts for SBS program implementation and continue to conduct the major implementation project tasks. Below are the key contacts for the WDH and the WDE:

- Justin Browning, WDH, SBS Program Manager
- Trent Carroll, WDE, Chief Operations Officer

Approvals from the Federal Government for Plan Amendments or Waivers to the Medicaid State Plan

As noted previously, the WDH is currently drafting a State Plan Amendment (SPA) and intends to submit it to CMS prior to December 1, 2021. The WDH plans to add the following school-based providers to the Medicaid State Plan (section 3.13, Rehabilitative Services):

- School Psychologist (K-12) with a Professional Teaching Standards Board (PTSB) license endorsement.
- School Social Worker (K-12) with a PTSB license endorsement.

The WDH and the WDE assume that PTSB licensed school social workers and school psychologists would be approved by CMS as SBS practitioners since other states include these practitioners in their school-based services programs.

As part of this SPA submission, the WDH plans to conduct a claims analysis by using information available from other states to determine the fiscal impact estimates for adding the additional practitioner types.

Once submitted to CMS, the WDH will work with the WDE during CMS review of the SPA to address CMS Requests for Additional Information (RAIs) and meet as needed with CMS to facilitate approval of the SPA. The WDH and the WDE will coordinate stakeholder communication (e.g., public notice, listserv, etc.) to inform stakeholders, including school districts, regarding the SBS program and related SPA updates. These activities will occur in the October – December 2021 quarter and through the CMS review period.

The WDH and the WDE do not plan on submitting or amending a Medicaid waiver.

In tandem with submission of the SPA, the WDE will review the implementation plan and the SBS revenue flow required under W.S. 21-13-321(h) with the U.S. Department of Education – Office of Special Education Programs (OSEP). The review with OSEP will ensure there are no concerns regarding Maintenance of Effort (MOE) or Maintenance of Financial Support (MFS) requirements under the Individual with Disabilities Education Act (IDEA).

Impediments to Implementation

The WDH and WDE will actively evaluate program implementation and identify impediments as they occur. Possible impediments include delays in regulatory approval from federal agencies or unforeseen changes in agency staffing or resources. The departments will work collaboratively to mitigate impediments if they arise and will adapt the joint implementation plan accordingly.

Determination for Necessary or Recommended Improvements to the Program and Any Required Additional Funding

The WDH and the WDE have determined there are currently no necessary or recommended improvements to the SBS program, and it does not require any additional funding at this time.

Appendices

Appendix A. 2021 General Session, SEA No. 0020 Legislation related to the SBS Program (Adopted and Assigned Chapter Number 60 on 4/1/2021; Effective 7/1/2021)

AN ACT relating to school finance; authorizing school districts to bill for school-based services for Medicaid eligible students as specified; providing reimbursement to school districts for administrative costs; providing appropriations; authorizing a position; requiring reports; and providing for effective dates.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 21-13-321(b) and by creating new subsections (h) and (j) and 42-4-103(a) by creating new paragraphs (xxxiv) through (xxxvi) are amended to read:

21-13-321. Special education; amount within foundation program formula for special education programs and services; district reporting requirements; billing for Medicaid authorized school-based services.

(b) The amount provided for special education within the education resource block grant model pursuant to W.S. 21-13-309(m)(v)(E)(II) shall be equal to one hundred percent (100%) of the amount actually expended by the district during the previous school year for special education programs and services, which shall include the amount actually expended by the district during the previous school year for reasonable administrative costs to bill for authorized Medicaid services under subsection (h) of this section. The statewide total amount reimbursed under this section in school year 2019-2020 or 2020-2021 shall not exceed the statewide total amount reimbursed under this section in school year 2018-2019, notwithstanding any additional appropriation for that purpose by the legislature.

(h) Beginning July 1, 2022, each school district with Medicaid eligible students receiving special education programs and services, as calculated by the department of education pursuant to subsection (j) of this section, may bill the department of health for the costs of any special education program and service covered under W.S. 42-4-103(a)(xxxiv) through (xxxvi) provided to the district's students. The Department of Health shall provide payment to each eligible school district that has billed the Department of Health as soon as reasonably practical for the costs of approved services. By September 1 of each school year, each school district shall remit to the Department of Education all funds received during the prior school year from the department of health for billed services. The Department of Education shall remit all funds received under this subsection to the state treasurer for deposit in the school foundation program account.

(j) A school district may report the number of Medicaid eligible students receiving special education programs and services enrolled within the school district on forms and in such manner required by the department for the 2021-2022 school year. Beginning with the 2022-2023 school year and each school year thereafter, a school district shall report the number of Medicaid eligible students receiving special education programs and services enrolled within the school district on forms and in the manner required by the department. The number of Medicaid eligible students receiving special education programs and services for a school year shall be determined by the Department of Education using data from October 1 of the immediately preceding school year.

42-4-103. Authorized services and supplies.

(a) Services and supplies authorized for medical assistance under this chapter include:

(xxxiv) The professional services of a school psychologist;

(xxxv) The professional services of a school social worker;

(xxxvi) School-based services delivered pursuant to an individualized education program, including services:

(A) Provided by an otherwise enrolled Medicaid provider type;

(B) Provided by a licensed professional in a school setting; or

(C) Otherwise covered under this chapter to support delivery of special education programs and services.

Section 2. The director of the Department of Health, with the consent of the governor, shall negotiate with the United States Department of Health and Human Services regarding necessary amendments to the Medicaid State Plan, or any necessary waiver under 42 U.S.C. § 1315, to provide the services specified under W.S. 42-4-103(a)(xxxiv) through (xxxvi), as created by this act. Any state Medicaid plan amendments or waiver under this subsection shall be effective July 1, 2022 or upon Medicaid State Plan or waiver approval from the Centers for Medicare and Medicaid Services, whichever is later.

Section 3. The Department of Health is authorized one (1) full-time position for the purposes of this act. There is appropriated one hundred forty-two thousand six hundred twenty-two dollars (\$142,622.00) from the school foundation program account to the Department of Health. Additionally, there is appropriated one hundred forty-two thousand six hundred twenty-two dollars (\$142,622.00) from federal funds to the Department of Health. These appropriations shall be used only for the purposes of implementing this act. Not more than one hundred eighty-seven thousand five hundred eighty-four dollars (\$187,584.00) of the

appropriations made under this section shall be expended for contract services to implement this act. Not more than ninety-seven thousand six hundred sixty dollars (\$97,660.00) of the appropriations made under this section shall be expended for salary and benefits. These appropriations shall be for the period beginning on the effective date of this section and ending June 30, 2022. These appropriations shall not be transferred or expended for any other purpose and any unexpended, unobligated funds remaining from these appropriations shall revert as provided by law on June 30, 2022.

Section 4. The Department of Health and the Department of Education shall report on implementation of Medicaid billing for school-based services as provided for by this act. Reports on implementation required by this section shall include information on relevant action taken by school districts, relevant action taken by the Department of Health and the Department of Education and any approvals received from the federal government for plan amendments or waivers to the Medicaid State Plan. The departments shall evaluate impediments to implementation and determine necessary or recommended improvements to the program and any required additional funding. Findings shall be submitted in two (2) written reports to the Joint Education Interim Committee, the Joint Labor, Health and Social Services Interim Committee, and the Joint Appropriations Committee, one (1) report to be submitted not later than October 1, 2021 and the other report to be submitted not later than October 1, 2022.

Section 5.

(a) Except as provided in subsection (b) of this section, this act is effective July 1, 2021.

(b) Sections 2 through 5 of this act are effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

(END)

Appendix B. Federal IDEA Statute: Parental Consent

Before a LEA may access public benefits or insurance (Wyoming Medicaid) on behalf of a student, there are federal IDEA parental consent requirements that the LEA must meet. The requirements guarantee that LEAs inform the parents of children with disabilities of their rights and legal protections before a public agency accesses public benefits or insurance to pay for services required under the IDEA.

The agencies must provide parents with written notification that meets the federal requirements as outlined in IDEA Part B, 34 CFR § 300. As part of these requirements, the LEA must obtain a one-time written consent prior to accessing a child's public benefit for the first time. Once the LEA has obtained written consent, the LEA must provide parents with an annual written notification, consistent with [34 CFR § 300.154\(d\)\(2\)](#). All written notifications must comply with requirements outlined in [34 CFR §300.503\(c\)](#). Parental consent is voluntary, and a parent may refuse or revoke their parental consent at any time. If a parent does not give consent or revokes consent, the LEA must still provide all services included in a child's IEP or IFSP at no cost to the family as part of Free Appropriate Public Education (FAPE).