

Medicaid Update

Latest Update from Spring ASBO

During discussions with the West Virginia Department of Health and Human Resources (DHHR), the WVDE learned that the federal Centers for Medicare and Medicaid Services (CMS) has verbally indicated that the agency would be agreeable to delaying the effective date of the proposed amended plan to the School Based Health Services (SBHS) program for a year, from July 1, 2012 to July 1, 2013. In addition, because of the continuing delays that have been experienced in getting the amended plan approved, DHHR is going to request that the effective date be delayed for two years, until July 1, 2014.

Delaying the effective date has the following two benefits for the county boards of education: (1) Due to the CMS-mandated changes to the transportation methodology under the revised plan, county boards were projected to owe DHHR approximately \$12.6 million statewide for the 2012-13 year during the cost settlement process. Delaying the effective date means that county boards of education would no longer owe these funds but would instead receive Medicaid funding under the old fee-for-service methodology for this service; (2) Under the old fee-for-service methodology, the development of IEPs were an allowable claim, but not under the new plan. Delaying the effective date means that county boards who stopped billing for IEPs during the 2012-13 or 2013-14 years could bill and receive payments for IEP development services, as long as the claims are timely filed.

Because of this, county special education directors and the RESA billing specialists were instructed by the WVDE Office of Special Programs to go ahead and bill electronically for any 2012-13 IEP claims that were still within the one-year billing window and to prepare paper claims for any IEPs with dates of service beyond the one-year window. WVDE's understanding at the time was that DHHR would be able to honor all claims filed, even those that were outside of the one-year window. However, DHHR has subsequently decided, based on advice from legal counsel, that it would not be able to make an exception to the timely filing requirement and honor claims that were more than one year old from date of service. The requirement is contained in federal regulations under 42 CFR 447.45.

It is unfortunate that DHHR felt that it could not legally make an exception to the timely filing requirement for this situation, but county boards will still receive more of a benefit in Medicaid reimbursements than were lost by delaying the effective date of the plan. For example, the reimbursement claims filed ultimately totaled only \$939,297 with the federal portion amounting to \$667,747. By delaying the effective date by one year, county boards of education will receive an additional \$12.6 in benefits due to the transportation claims that they would not be able to receive under the new plan, and the amount for just the county boards that elected to stop billing for IEPs for the 2012-13 year was \$6.7 million.

If CMS approves DHHR's request to extend the effective date by two years until July 1, 2014, the IEPs for the 2013-14 year would be considered allowable claims if filed in a timely manner. Therefore, WVDE is recommending that all county boards of education submit their IEP claims for all services provided to date during the current fiscal year as soon as possible to avoid another denial due to the time

limitation. However, because there is no guarantee that CMS will approve to moving the effective date to July 1, 2014, it is recommended that all reimbursements received for IEP development be reserved until final approval is received.

As of June 30, 2014, the WVDHHR had no additional information to report regarding the state plan and its review by CMS.

Joe Panetta Email dated 5/29/14

The ongoing dispute between the West Virginia Department of Health and Human Resources (DHHR) and the Centers for Medicare & Medicaid Services (CMS) related to the audit of the school-based health services for the 2001, 2002, and 2003 years that was conducted years ago has finally been resolved, and the resolution is favorable to the county boards.

Therefore, the county boards that still have funds reserved in the special reserve accounts that were established years ago in case the resolution was not favorable can now release those funds. The funds would have been set aside in a local project code in Fund 11; a state assigned code was not created at that time. The recommended amounts of the reserves were 20% of the two additional billings that DHHR was able to distribute to the county boards during FY 2004 as a result of the revisions to the billing rates for the years in question.

This release does not apply to any Medicaid reserves being maintained in Project Code 00Y83 as a result of the recently implemented cost settlement requirements, including the funds set aside for the 2013-14 IEPs recently billed.

For those that were not employed during the 2003 time frame, the dispute related to the calculation of the “final” rates for 2001, 2002, and 2003. The interim rates included only payroll and fringe benefit costs as they are more consistent costs to estimate and there wasn’t sufficient data to reasonably calculate operating costs at that time. When the costs were final settled, in accordance with the Medicaid State Plan, “costs not to exceed actual, reasonable costs” were used, which included operating and indirect costs. After an audit by the Department of Health and Human Services (HHS) Office of Inspector General (OIG), CMS determined on November 21, 2012 that the inclusion of the operating and indirect costs was not allowable under the state plan resulting in a disallowance of \$22,806,230 in federal Medicaid funds. DHHR appealed the decision to the HHS Departmental Appeals Board (Board), who found in favor of DHHR on September 20, 2013. CMS subsequently asked for reconsideration of the Board’s decision. The request for reconsideration was denied, so the decision of the Board is now final.

For a copy of the decision, please click on the following link:

<http://www.hhs.gov/dab/decisions/dabdecisions/dab2536.pdf>

Keep in mind however, that DHHR will still need to calculate the final fee-for-service rates for fiscal years 2004 through 2012, so county boards are not totally out of the woods for the Medicaid amounts billed and received during that period. Depending on the final start date of the new Medicaid methodology, final rates may need to be calculated for the 2013 and 2014 years as well.

DHHR had been unable to finalize the rates for those years since the methodology being utilized was under dispute with CMS. The final rates will most likely differ from the interim rates that were used to pay county boards of education for those years, so there is a possibility that county boards may receive additional funding for those years or may be required to pay back some of the funds received during those years.

DHHR will notify WVDE when the final rate calculations for 2004 through 2012 will begin and what the process will be for gathering data to determine those final rates. Information will be relayed to the county boards of education as it becomes available.

Per discussion with Tara Buckner, CFO of the WVDHHR, the cost settlement work for the 2004-2012 years was included in their latest RFP for school-based health services (which is currently held by PCG). The earliest that the cost settlement work would begin would be in the fall of 2014, but it may not begin until early 2015 depending on when a vendor is selected and the contract becomes effective. WVDHHR will work closely with the WVDE Office of School Finance on the cost settlement process. Counties should expect various data requests during the process.

2nd Quarter 2015 RMTS Rosters & Cost Reports

The expected due date for the second quarter RMTS rosters (which would cover the period of October 1 – December 31, 2014) is the first Friday in September – **September 5, 2014**.

As a reminder, do not include independent contractors on your RMTS roster. Do not include individuals who are paid 100% with IDEA or other federal funds. Do not include classroom aides – only personal care aides.

The first quarterly cost report for the 2014-15 year, which will cover the October 1 – December 31, 2014 quarter, is expected to be due on **February 15, 2015** (roughly 45 days after the end of the quarter). The Office of School Finance will tentatively attempt to schedule refresher quarterly cost report training at the WVEIS Winter Conference in December since no cost reports were completed for the 2013-14 year.

Please note that the current contract between WVDHHR and PCG originally expired on June 30, 2014 but has been extended until December 31, 2014 pending finalization of the RFP/contract discussed above. The expected deadlines are therefore tentative and subject to change should a different vendor be selected to provide WVDHHR school-based health services support.