

AMERICAN ACADEMY OF CHILD & ADOLESCENT PSYCHIATRY

W W W . A A C A P . O R G

Council

President
Warren Y.K. Ng, MD, MPH

President-Elect
Tami D. Benton, MD

Secretary
Debra E. Koss, MD

Treasurer
Neal D. Ryan, MD

Chair, Assembly
of Regional Organizations
of Child and Adolescent Psychiatry
Marian A. Swope, MD

Past President
Gabrielle A. Carlson, MD

Shirley Alleyne, MB,BS
Alicia A. Barnes, DO, MPH
Matthew G. Biel, MD, MSc
Jennifer L. Derenne, MD
Lisa R. Fortuna, MD, MPH
Lisa Hutchison, MD
Adam J. Sagot, DO
Shawn Singh Sidhu, MD
Jose Vito, MD
Sala Webb, MD

Jerry M. Wiener
Resident Member
Evelyn N. Ashiofu, MD, MPH

John E. Schowalter
Resident Member
Jessica Stephens, DO

DEI Emerging Leaders Fellow
Tashalee R. Brown, MD, PhD

Executive Director/CEO
Heidi B. Ford, CAE

JAACAP Editor-in-Chief
Douglas K. Novins, MD

AACAP News Editor
Uma Rao, MD

August 1, 2023

Honorable Miguel Cardona, EdD
Secretary of Education
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202

Re: Assistance to States for the Education of Children with Disabilities
(ED-2023-OSERS-0052-0001)

Dear Secretary Cardona,

The American Academy of Child and Adolescent Psychiatry (AACAP) is the professional home to more than 10,000 child and adolescent psychiatrists, child and adolescent psychiatry fellows, psychiatry residents, and medical students. Our mission includes promoting the healthy development of children, adolescents, and families. On behalf of the physicians we represent and the patients they serve, I commend the Department's efforts to improve access to school-based mental health services in the proposed rule Assistance to States for the Education of Children with Disabilities (ED-2023-OSERS-0052-0001).

AACAP appreciates the move to simplify billing practices for schools and districts which will help to increase access to school-based health services, while also putting Medicaid eligible services offered to students with a disability on equal footing as those provided to students without a disability. Under the proposed rule, schools must notify parents that they are billing Medicaid for Medicaid-reimbursable services under a student's Individual Education Program (IEP) rather than obtain written consent, like what is required for services offered to Medicaid-enrolled students without an IEP. AACAP acknowledges with the removal of this consent requirement, schools are still required to obtain parental consent under the Family Educational Rights and Privacy Act if any personally identifiable information of a student is shared with the state Medicaid agency, as is typically required.

AACAP appreciates the administration's emphasis that the Individuals with Disabilities Education Act (IDEA) requires schools to make a free and appropriate public education (FAPE) available to all eligible children with disabilities, which means, among other things, that the services offered under an IEP must be at no cost to the student or their family. AACAP recommends continuing the "no cost" protection of FAPE in a

written notification to parents prior to accessing the child’s public benefits or insurance for the first time and annually thereafter.

AACAP also appreciates the clarity in this proposed rule that changing this consent requirement in no way changes the mandate for parental consent for the initial evaluation to determine whether a child has a disability under IDEA, consent for the provision of special education services, or consent for the reevaluation of a child with a disability under IDEA.

In a January 2023 report, AASA (the School Superintendent Association), the Association of Educational Service Agencies, and the National Alliance for Medicaid in Education¹ surveyed school-district leaders and found the top two concerns with obtaining parental consent to bill Medicaid for services offered under a student’s IEP were overcoming general concerns by parents about signing any kind of release form related to Medicaid and the impact it would have on their child’s insurance, and the significant burden on staff to obtain the signed consent forms.

Given the long-understood shortage of school health providers, and the lack of school staff to assist with submitting for Medicaid reimbursement, it is essential that health providers and school staff are not overburdened with tracking down unnecessary parental consents, taking time away from providing student services or completing any of the other tasks they must perform, or risk missing out on the school’s Medicaid reimbursement. In this report, 18 percent of respondents determined that more than half of their Medicaid billing consent forms are not signed and returned by a parent. The report also mentions that Medicaid reimbursement is most often used to hire health providers, an increasingly essential school function to boost school-based mental health services post-COVID-19 pandemic.

AACAP, along with the American Academy of Pediatrics and Children’s Hospital Association, declared a national children’s mental health emergency in 2021, which persists today. Children are most likely to access mental health support when offered in school. And schools play an important role in early identification and connecting students to early interventions, both essential to prevent and eliminate impacts of long-term poor mental health. School-based mental health services can reduce absenteeism, help in times of crisis, help reduce youth suicide, improve student educational outcomes, reduce peer victimization, and improve school-wide culture and climate.

School-based mental health services are vital for minority and low-income students who are disproportionately impacted by adverse mental health, are more likely Medicaid-eligible, and more often diagnosed with a disability under IDEA than compared to higher-income peers. Students with disabilities are more likely to have a mental health challenge than their non-disabled peers. Allowing schools to submit for reimbursement from Medicaid more easily is key to helping schools that may lack funding or available providers to offer needed health services for all Medicaid enrolled students. Students cannot learn to their full potential with unmet physical or mental health needs.

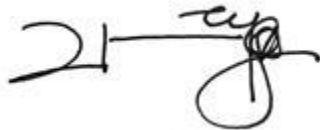
¹ AASA, Association of Educational Service Agencies, National Alliance for Medicaid in Education, Inc., Jan. 2023, *Obtaining Parental Consent in Billing Medicaid: An Unnecessary, Time-consuming and Emotionally Fraught Process for Districts and Parents*. [Medicaid Parental Consent \(aasa.org\)](https://www.aasa.org/medicaid-parental-consent)

The release of the long-awaited guide on delivering Medicaid reimbursable school-based health services, *Delivering Service in School-Based Settings: A Comprehensive Guide to Medicaid Services and Administrative Claiming*, by the Center for Medicaid and CHIP Services (CMCS) at the same time as this proposed rule will help countless students access school-based mental health services who may otherwise not have access. AACAP wishes to acknowledge the importance of the new school health guide for Medicaid reimbursable services and the increased flexibility offered to schools to provide health services but understands Districts and State Medicaid agencies may need to shift policies to help expand the type of school health services and the type of providers, including physicians such as child and adolescent psychiatrists, who can bill Medicaid for school-based services.

AACAP appreciates the many steps the U.S. Department of Education and Center for Medicaid and CHIP Services are taking to improve access to school-based mental health services for all Medicaid-eligible students and reduce the administrative burdens to school health providers and school personnel.

For any questions or additional information from AACAP, please contact Emily Rohlffs at erohlffs@aacap.org.

Sincerely,

A handwritten signature in black ink, appearing to read 'W. Ng', with a stylized flourish at the end.

Warren Y.K. Ng, MD, MPH
President