SENATE COMMITTEE ON EDUCATION

Senator Benjamin Allen, Chair
2017 - 2018 Regular

Bill No:	AB 834	**Hearing Date:**	June 28, 2017
Author:	O'Donnell		
Version:	June 15, 2017		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Brandon Darnell		

Subject: School-based health programs

NOTE: This bill has been double referred to the Committee on Education and the Committee on Health. A "do pass" motion should include referral to the Committee on Health.

SUMMARY

This bill establishes an Office of School-Based Health Programs within the California Department of Education (CDE) to administer and support school-based health programs operated by public schools.

BACKGROUND

Existing law:

1) Establishes the Medi-Cal program, administered by the Department of Health Care Services (DHCS), under which qualified low-income persons to receive health care benefits.

2) Requires that specified services provided by a local educational agency (LEA) are covered Medi-Cal benefits, to the extent federal financial participation (FFP) is available, are subject to utilization controls and standards adopted by DHCS, and are consistent with Medi-Cal requirements for physician prescription, order, and supervision.

3) Defines the scope of covered services that an LEA may provide, which included targeted case management services (TCM) for children with an Individualized Education Program (IEP) or an Individual Family Service Plan (IFSP).

4) Defines LEA, for the purpose of the LEA billing option, to include school districts, county offices of education, state special schools, charter schools, and California State University and a University of California campuses.

5) Requires the DHCS to seek FFP for covered services that are provided by an LEA to a Medi-Cal eligible child regardless of whether the child has an IEP or an IFSP, or whether those same services are provided at no charge to the child or to the community at large.

6) Requires each local educational agency (LEA) that elects to participate in the School-Based Medi-Cal Administrative Activities (SMAA) program to submit claims through its local educational consortium (LEC) or local governmental agency (LGA), but not both.

7) Authorizes the Department of Health Care Services (DHCS) to contract with each LGA or LEC to assist with the performance of administrative activities.

8) Authorizes each participating LGA or LEC to subcontract with private or public entities to assist with the performance of administrative activities.

9) Defines an LEA for purposes of the SMAA program as the governing body of any school district or community college district, the county office of education, a state special school, a California State University campus, or a University of California campus.

10) Permits a LGA or LEC to charge an administrative fee to any entity claiming Administrative Claiming through that agency.

ANALYSIS

This bill establishes an Office of School-Based Health Programs within the California Department of Education (CDE) to administer and support school-based health programs operated by public schools. Specifically, this bill:

1) Requires that the CDE, by July 1, 2018, establish an Office of School-Based Health Programs (Office) for the purposes of:

    a) Administering current health-related programs under the purview of the CDE.

    b) Advising on issues related to the delivery of school-based Medi-Cal services in the state.

    c) Developing recommendations for an interagency agreement or memorandum of understanding between the DHCS and the CDE.

    d) Assisting DHCS in formulating the Medi-Cal state plan amendments.

2) Defines the scope of the Office to include improving the operation of, and participation in, the SMAA program and the LEA Medi-Cal billing option (LEA billing option).

3) Requires the Office to, by January 1, 2019, provide input to the CDE on the development of and, if applicable, continuing operations of the interagency agreement or memorandum of understanding (MOU).

4) Requires the recommendations of the Office to:

a) Identify opportunities for effective coordination between the state's health and education systems at the state, regional, and local level.

b) Identify ways the California Department of Education (CDE) can maximize its school-based Medicaid program expertise.

c) Review and recommend any improvements to appeals processes for the School-Based Medi-Cal Administrative Activities (SMAA) program and the local educational agency Medi-Cal billing option (LEA billing option).

d) Identify necessary legislation or state plan amendments to support its recommendations.

5) Requires the Office to advise the CDE on:

a) Contracts and processes for the SMAA program.

b) Recommendations to the State Department of Health Care Services (DHCS) regarding changes or flexibility that would make Medi-Cal programs easier to administer in a school-based setting.

6) Requires the Office to determine the opportunities for, and the benefits, costs, and feasibility of, program improvements, including, but not limited to, the following:

a) Increasing local education agency (LEA) participation and maximizing allowable federal financial participation in the SMAA program and the LEA billing option programs, including informing LEAs about the availability of training and guidance on permissible services for which to bill and how to submit claims through the LEA Medi-Cal billing option.

b) Identifying areas that may require a state plan amendment.

c) Integrating and expanding other school-based health and mental health programs with the SMAA program and the LEA billing option, including those being implemented in accordance with the LEA's local control and accountability plan.

7) Authorizes the Office of School-Based Health Programs (Office) to form advisory groups for technical assistance, for support in establishing the office, and other purposes as deemed necessary.

8) Requires CDE to make available to the Office any information on other school-based dental, health, and mental health programs, including mental health programs and school-based health centers that may receive Medi-Cal funding.

9) Increases the amount of federal funding from the LEA billing option DHCS may withhold and deposit into the LEA Medi-Cal Recovery Fund from $1.5 million to $2 million and authorizes $500,000 to be available for transfer to the CDE for support of the Office.

10) States that the Office of School-Based Health Programs (Office) shall be supported through an interagency agreement with the Department of Health Care Services (DHCS), by federal matching funds through the School-Based Medi-Cal Administrative Activities (SMAA) program, and any grants and other sources of funding.

STAFF COMMENTS

1) ***Need for the bill.*** According to the author, "School-based health services play a key role in ensuring that California students are safe and ready to learn. When poorly treated, health problems such as asthma, diabetes, and mental health issues can have a devastating impact on school attendance, behavior, and academic achievement.

   Due to a recent federal change, schools will soon have access to far greater resources to pay for these services. This change means that many more students will be eligible to receive health services at school, including school nurse services for chronic conditions, mental health and counseling services, occupational therapy, speech pathology, audiology, and targeted case management.

   To run smoothly and maximize funding eligibility, school districts require support from state agencies. But in California there is no institutionalized partnership between the DHCS and the California Department of Education (CDE). This is in part because, unlike many other states, California does not have an office within CDE to coordinate various health programs and services delivered through the schools.

   AB 834 will ensure that California schools have such a resource. The Office of School-Based Health Programs will support and advise school districts on issues related to the delivery of school-based health services.

   Other states have successfully drawn down federal funds to support the administrative costs of supporting school districts when they interface with both their state health agencies and the federal government, and California could do the same to support an Office of School-Based Health Programs.

   The expansion of eligibility to receive federal funds for school-based health services presents an unprecedented opportunity for the CDE to play a key role assisting districts that wish to serve the health and mental health needs of their students."

2) ***The School-Based Medi-Cal Administrative Activities (SMAA) program.*** The SMAA program provides federal reimbursements to local educational agencies (LEAs) for the federal share of certain costs for administering the Medi-Cal program. Those activities include outreach and referral, facilitating the Medi-Cal application, arranging non-emergency/non-medical transportation, program planning, and policy development, and Medi-Cal administrative activities claim coordination. The Centers for Medicare and Medicaid Services administers the

SMAA program at the federal level, and DHCS administers the SMAA program in California. Local educational agencies (LEAs) that elect to participate in the School-Based Medi-Cal Administrative Activities (SMAA) program must submit claims through a local educational consortium (LEC) or local governmental agency (LGA). An LEC is a group of LEAs located in one of the 11 service regions established by the California County Superintendent Educational Services Association. An LGA is a county, county agency, chartered city, Native American Indian tribe, tribal organization, or subgroup of a Native American Indian tribe or tribal organization. The Department of Health Care Services (DHCS) contracts with LGAs and LECs, which consolidate claims provided by LEAs for a fee. As a condition of participation in the SMAA program, each participating LGA and LEC is required to pay an annual fee to DHCS. The participation fee is used to cover the DHCS' cost of administering the SMAA program claiming process, including claims processing, technical assistance, and monitoring. Due to concerns regarding a lack of compliance and oversight, the Centers for Medicare and Medicaid Services have deferred reimbursements for claims through the SMAA program since 2012. Approximately $500 million in reimbursable funds have not been paid to California school districts in the last five years.

3) ***2014 State Audit.*** In July 2014, Senator Liu requested the Joint Legislative Audit Committee approve an audit of the SMAA program and the LEA Billing Option, the effectiveness of the LECs and LGAs associated with administering the program, the extent to which the necessary administrative controls and structures are in place to ensure schools receive the allowed Medicaid funding. The State Auditor concluded that while the reasonableness test criteria process DHCS used to review reimbursement claims for the MAA program from October 2013 through October 2014 was reasonable and not inconsistent with federal requirements, DHCS approved fewer than 10 percent of the claims submitted under this process. The entities with which DHCS contracts to review reimbursement claims – LECs and LGAs – added little value during this review process; they approved and forwarded to DHCS claims that did not comply with the reasonableness test criteria benchmarks and other limits. The Audit noted that at the time, DHCS was behind in its required reviews of LECs and LGAs, which the Auditor noted increased the risk that these entities are not performing the administrative tasks for which they are responsible. DHCS also does not effectively oversee the contracts between the LECs or LGAs and the claiming units.

The Auditor also found that DHCS missed an opportunity to cut costs through the implementation of a single statewide quarterly time survey when it implemented the Random Moment Time Survey (RMTS) methodology. The Audit estimated that the SMAA program could save as much as $1.3 million annually in coding costs alone if DHCS conducted a single statewide quarterly time survey. However, if DHCS implemented its own single statewide quarterly survey and took over responsibility for overseeing the administrative activities program, thus eliminating the need to use the LECs and LGAs for these purposes, it would result in significant savings to the SMAA program.

The Auditor found that Department of Health Care Services (DHCS) could increase federal funding by an estimated $10.2 million annually if more claiming units participated in the School-Based Medi-Cal Administrative Activities (SMAA) program and could have increased federal reimbursements by about $4.6 million from February 2009 through June 2015 if it increased the reimbursement rate for translation activities to the rate allowed by federal law.

4) ***Need for greater state-level capacity and interagency coordination.*** The California Department of Education's (CDE's) 2015 Blueprint for Great Schools identifies a need to "develop infrastructure at the CDE to improve cross-agency collaboration in support of student health." The need for greater collaboration between the DHCS and CDE is also recognized by health care stakeholders. In January of this year, the Medi-Cal Children's Health Advisory Panel (MCHAP), which advises DHCS on matters related to children enrolled in Medi-Cal and their families, issued a draft recommendation urging increased collaboration between DHCS and CDE. The MCHAP recommended that DHCS "collaborate with CDE to develop guidelines for mental health services and clarify reimbursement and financial responsibilities." Specifically, it recommended that DHCS:

a) Strengthen state-level collaboration with CDE to ensure an adequate continuum of services and remove barriers to reimbursement across different programs available to school providers.

b) Offer joint communication about how to develop, deliver and strengthen school-based services through the School-Based Medi-Cal Administrative Activities program and the local educational agency (LEA) billing option.

c) Complete the required Memorandum of understanding (MOU) between CDE and DHCS to facilitate services.

Another factor contributing to the demand for increased capacity and collaboration between health and education agencies is the renewed and increasing recognition of the intrinsic connection between student health and academic outcomes. While the associations between physical health problems and school attendance, behavior, and academic achievement have been noted for decades, increasing attention is now being paid to the relationship between adverse childhood experiences (ACEs), student mental health, and academic outcomes. Research has demonstrated a strong association between ACEs and poor performance in school, including a higher risk of learning and behavior problems. Other research into the effects of chronic stress on children (often caused by ACEs), has identified a profound effect on the developing brain, which in turn affects school performance and behavior. This research has led to an increased focus on the provision of health services at schools and is promoting closer connections between health and education agencies.

5) ***Recent change in federal policy will expand services to many more students.*** The LEA Billing Option was established in 1993 and since then has provided Medicaid funds to LEAs for health-related services provided to students who have individualized education plans (IEPs) or individual family service plans (IFSPs). Reimbursement is based upon a fee-for-service model, and school

expenditures for qualified services rendered are reimbursed at 50 percent of cost using federal Medicaid matching funds. Under the program, local educational agencies (LEAs) bill Medi-Cal for the direct medical services they provide to Medi-Cal eligible students. LEAs pay for the services and are reimbursed the federal financial participation (FFP) rate relative to the cost of each individual service from federal funds. In December, 2014, the Centers for Medicare and Medicaid Services (CMS) issued new guidance which will allow LEAs to serve all Medi-Cal-eligible students, whether or not they have an individualized education plan (IEP) or an individual family service plan (IFSP). It is anticipated that this will result in higher levels of claiming for services, including: health and mental health evaluations, health and mental health education, medical transportation, nursing services, occupational therapy, physical therapy, physician services, mental health and counseling services, school health aide services, speech pathology services, audiology services, and targeted case management services.

6) ***California historically poor at drawing down Medicaid funding.*** For many years California has drawn down a low share of Medicaid funding through the LEA billing option relative to the number of eligible students in the state. A 2000 report by the U.S. General Accounting Office found that California ranked in the bottom quartile of states by funding received through this option. The amount claimed has been increasing in recent years: a 2012 report from the Department of Health Care Services (DHCS) on the LEA billing option found that statewide reimbursement increased from $60 million in 2000-01 and to $130 million in 2009-10. But while California receives the largest total share of federal funds, the amount the state receives per eligible student is low relative to other states. In 2009-10, California served 240,000 of its 3.3 million eligible students, resulting in an average of $159 per eligible student. The average among the 32 states surveyed was $544 per eligible student. Nebraska (with 103,000 eligible students) received $796 per eligible student, Vermont received $694 per eligible student, and Rhode Island received $635 per eligible student (all figures include Medicaid administrative funds).

7) ***Fiscal impact.*** According to the Assembly Appropriations Committee, there would be approximately $873,000 general fund dollars in staffing costs to the California Department of Education (CDE), which anticipates needing 5 additional personnel years to establish and complete the workload associated with this new Office of School-Based Health. In the absence of a funding source, these costs would require a general fund appropriation.

8) ***Previous legislation.*** SB 123 (Liu) of the 2015-16 Session would have established a revised process for school-based and non-school-based administrative claiming, beginning January 1, 2018, authorized DHCS to administer or oversee a single statewide quarterly random moment time survey, required the DHCS and CDE to enter into an interagency agreement or memorandum of understanding by July 1, 2018, and established a workgroup to provide advice on issues related to the delivery of school-based Medi-Cal services to students. SB 123 was vetoed by the Governor, who stated:

This bill establishes a workgroup jointly administered by the Departments of Health Care Services (DHCS) and Education to recommend changes to school-based Medi-Cal programs.

There is an advisory committee within the DHCS whose very purpose is to continuously review and recommend improvements to these programs. Collaboration among the health and education departments and local education groups is very important, but the existing advisory committee is working well and certainly up to the task. Codification, in this case, is not needed.

SB 276 (Wolk, Chapter 653, Statutes of 2015) required the DHCS to seek federal financial participation (FFP) for covered services that are provided by a local educational agency (LEA) to a Medi-Cal eligible child regardless of whether the child has an individualized education plan (IEP) or an individual family service plan (IFSP) or whether those same services are provided at no charge to the child or to the community at large. This measure also stated that if there is no response to a claim submitted to a legally liable third party by an LEA within 45 days, the LEA may bill the Medi-Cal program.

AB 1955 (Pan) of the 2013-14 Session, would have required DHCS and California Department of Education (CDE) to cooperate and coordinate efforts in order to maximize receipt of federal financial participation under the School-Based Medi-Cal Administrative Activities (SMAA) process, and required DHCS, through an interagency agreement with the CDE, to provide technical advice and consultation to local educational agencies participating in a demonstration project established by the bill, in order to meet requirements to certify and bill valid claims for allowable activities under the SMAA program. AB 1955 was held in the Assembly Appropriations Committee

AB 2608 (Bonilla, Chapter 755, Statutes of 2012) made permanent and expanded provisions relating to program improvement activities in the Lea billing option program. AB 2608 also expanded the scope of reimbursable transportation services.

AB 834 (Ducheny, Chapter 712, Statutes of 2010) (the 2010-11 Budget Bill) required DHCS to withhold one percent of LEA reimbursements, not to exceed $650,000, for the purpose of funding the work and related administrative costs associated with the audit resources approved in a specified budget change proposal to ensure fiscal accountability of the LEA billing option and to comply with the Medi-Cal State Plan.

SB 231 (Ortiz, Chapter 655, Statutes of 2001) required the State DHS to amend the Medicaid state plan with respect to the LEA billing option to ensure that schools are reimbursed for all eligible services they provide that are not precluded by federal requirements. The bill required DHS to regularly consult with specified entities to assist in the formulating of the state plan amendments, and permitted DHS to enter into a sole source contract to comply with the requirements of this bill. It also authorized DHS to undertake all necessary activities to recoup matching funds from the federal government for reimbursable services that have already been provided in the State's public schools.

SUPPORT

Alliance for Boys and Men of Color
American Heart Association/American Stroke Association
California Association for Health, Physical Education, Recreation and Dance
CaliforniaHealth+ Advocates
California Pan-Ethnic Health Network
California Partnership to End Domestic Violence
California School-Based Health Alliance
California School Boards Association
California School Nurses Organization
California Teachers Association
Children Now
Children's Defense Fund – California
Chronic Absence and Attendance Partnership
Community Clinic Association of Los Angeles County
Equal Justice Society
Fathers & Families of San Joaquin
Fight Crime: Invest in Kids
Genders and Sexualities Alliance Network
InnerCity Struggle
Los Angeles Trust for Children's Health
Los Angeles Unified School District
National Association of Social Workers, California Chapter
Our Family Coalition
Partnership for Children and Youth
Philliber Research and Evaluation
Promesa Boyle Heights
Public Counsel
Santa Monica-Malibu Unified School District
San Francisco Unified School District
Teachers for Healthy Kids

OPPOSITION

California Right to Life Committee, Inc.

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