

CHAPTER 97-168

House Bill No. 1853

An act relating to Medicaid; amending ss. 236.0812, 409.9071, 409.908, 409.9122, and 409.9126, F.S.; revising and conforming provisions relating to school-based services provided to children under the Medicaid certified school match program; expanding included services; providing limitations; deleting obsolete language; clarifying recipient eligibility requirements and providing for cooperation with the Department of Education; directing the Agency for Health Care Administration to submit a state plan amendment, and to seek federal waivers when necessary; authorizing the agency to conduct school district compliance reviews; revising budget and reimbursement provisions; directing the agency to develop a reimbursement schedule; authorizing certain retroactive reimbursements; providing an exemption from background screening requirements; providing for managed care plan agreements with school districts and county health departments; providing for procedures to ensure continuity of care; providing an effective date.

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

Section 1. Section 236.0812, Florida Statutes, is amended to read:

236.0812 Medicaid certified school funding maximization.—

(1) Each school district, subject to the provisions of ss. s. 409.9071 and 409.908(21) and this section, is authorized to certify funds provided for a category of required Medicaid services termed “school-based services,” which are reimbursable under the federal Medicaid program. Such services shall include, but not be limited to, physical, occupational, and speech therapy services, behavioral health services, mental health services, transportation services, Early Periodic Screening, Diagnosis, and Treatment (EPSDT) administrative outreach for the purpose of determining eligibility for exceptional student education, and any other such physical, occupational, and speech therapy services, for the purpose of receiving earning federal Medicaid financial participation. Certified school funding shall not be available for the following services:

(a) Family planning.

(b) Immunizations.

(c) Prenatal care.

(2) Each district’s portion of the available ~~budgeted~~ Medicaid ~~reimbursement earnings~~ shall be in the same proportion as the district’s share of the total amount eligible to be certified as state match under the approved federal methodology for certification; however, the proportionate share of the total amount eligible to be certified for districts which fall below the statewide average in total potential dollars per weighted FTE shall receive

a weight of 25 percent greater than the districts above the statewide average. The maximum amount eligible to be certified for state match shall be limited by the amount of federal Medicaid earnings budgeted in the General Appropriations Act or other general law.

(3) The Department of Education shall monitor compliance of each participating school district with the Medicaid provider agreements. In addition, the department shall develop standardized recordkeeping procedures for the school districts that meet Medicaid requirements for audit purposes.

~~(4) Federal Medicaid earnings received as a result of funds certified pursuant to this section shall be deposited into the Medicaid Earnings Trust Fund, if created by law, otherwise in the Educational Aids Trust Fund. Of the funds earned by each district, not less than 25 percent shall be used to enhance the district's exceptional student education nongifted programs. The remaining funds shall be used by the district in areas which directly impact on classroom activities. However, if Committee Substitute for Committee Substitute for House Bill 165 or similar legislation becomes law, up to \$150,000 of any funds which may become available as a result of a district certifying state or local education funds to earn federal Medicaid match may be allocated to each of the five school districts whose school improvement plans, pursuant to s. 230.23(18), include the establishment of a school of the 21st century.~~

~~(4)(5) Each school district's continued participation in certifying funds to be reimbursed for Medicaid expenditures earn Medicaid is contingent upon the district providing to the department an annual accounting of how the federal Medicaid reimbursements earnings are utilized.~~

(5) Funds generated pursuant to this section may be used for autism therapy services allowed by federal law.

Section 2. Section 409.9071, Florida Statutes, 1996 Supplement, is amended to read:

409.9071 Medicaid provider agreements for school districts certifying state match.—

(1) The agency shall submit a state plan amendment by September 1, 1997, for the purpose of obtaining federal authorization to reimburse school-based services as provided in s. 236.0812 pursuant to the rehabilitative services option provided under 42 USC s. 1396d(a)(13). For purposes of this section, billing agent consulting services shall be considered billing agent services, as that term is used in s. 409.913(9), and, as such, payments to such persons shall not be based on amounts for which they bill nor based on the amount a provider receives from the Medicaid program. This provision shall not restrict privatization of Medicaid school based services. Subject to any limitations provided for in the General Appropriations Act, the agency, in compliance with appropriate federal authorization, shall develop policies and procedures and shall to allow for certification of state and local education funds which have been provided for school-based physical, occupational, and speech therapy services as specified in s. 236.0812 and authorized by a physician's order where required by federal Medicaid law. Any state or

local funds certified pursuant to this section shall be for children with specified disabilities who are eligible for both Medicaid and Part B or Part H of the Individuals with Disabilities Education Act (IDEA), or the exceptional student education program, or and who have an individualized educational plan that demonstrates that such services are medically necessary and a physician authorization order where required by federal Medicaid laws.

(2) School districts ~~who wish~~ wishing to enroll as Medicaid providers and who certify state match in order to receive federal Medicaid reimbursements for services, pursuant to subsection (1), shall agree to:

(a) Verify Medicaid eligibility. The agency and the Department of Education shall work cooperatively to facilitate local school districts' verification of Medicaid eligibility. Be responsible for verifying that the child was eligible for each month of service.

(b) Develop and maintain the financial and individual education plan ~~medical~~ records needed to document the appropriate use of state and federal Medicaid funds.

(c) Comply with all state and federal Medicaid laws, rules, regulations, and policies, including, but not limited to, those related to the confidentiality of records and freedom of choice of providers.

(d) Be responsible for reimbursing the cost of any state or federal disallowance that results from failure to comply with state or federal Medicaid laws, rules, or regulations.

(3) State and local education dollars certified as state Medicaid match ~~may shall~~ be capped based on the maximum amount of federal participation budgeted in the Medicaid budget for this purpose. Unless otherwise specifically provided for in the General Appropriations Act, certification of such funds shall be reduced proportionately to other voluntary Medicaid programs if a cap is established by the federal Medicaid agency that reduces federal Medicaid funding.

(4) Within 90 days after a school district applies to enroll as a Medicaid provider under the certified match program, the agency may conduct a review to ensure that the school district has the capability to comply with the requirements in subsection (2). A finding by the agency that a school district has the capability to comply with the requirements in subsection (2) shall not relieve a school district of its responsibility for correcting any deficiencies or for reimbursing the cost of the state or federal disallowances identified pursuant to any subsequent state or federal audits.

(5) The agency shall develop a reimbursement schedule specific to school-based services which is based on the federal rehabilitative services option.

(6) Retroactive reimbursements for services as specified in s. 236.0812 as of July 1, 1996, including reimbursement for the 1995-1996 and 1996-1997 school years, subject to federal approval.

Section 3. Subsection (21) of section 409.908, Florida Statutes, 1996 Supplement, is amended to read:

409.908 Reimbursement of Medicaid providers.—Subject to specific appropriations, the agency shall reimburse Medicaid providers, in accordance with state and federal law, according to methodologies set forth in the rules of the agency and in policy manuals and handbooks incorporated by reference therein. These methodologies may include fee schedules, reimbursement methods based on cost reporting, negotiated fees, competitive bidding pursuant to s. 287.057, and other mechanisms the agency considers efficient and effective for purchasing services or goods on behalf of recipients. Payment for Medicaid compensable services made on behalf of Medicaid eligible persons is subject to the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216. Further, nothing in this section shall be construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, or number of services, or making any other adjustments necessary to comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act, provided the adjustment is consistent with legislative intent.

(21) The agency shall ~~may~~ reimburse school districts which certify the state match pursuant to ss. 236.0812 and s. 409.9071 for the federal portion of ~~either the Medicaid fee or the school district's allowable costs to deliver the services, based on the reimbursement schedule whichever is less.~~ The school district shall determine the allowable costs for delivering therapy services as authorized in ss. 236.0812 and 409.9071 for which the state Medicaid match will be certified, ~~based on the policies and procedures published by the agency.~~ Reimbursement of school-based therapy providers is contingent on such providers being enrolled as Medicaid therapy providers and meeting the qualifications contained in 42 C.F.R. s. 440.110, unless otherwise waived by the federal Health Care Financing Administration. Speech therapy providers who are certified through the Department of Education pursuant to rule 6A-4.0176, Florida Administrative Code, are eligible for reimbursement ~~may bill~~ for services that are provided on school premises. Any employee of the school district who has been fingerprinted and has received a criminal background check in accordance with Department of Education rules and guidelines shall be exempt from any agency requirements relating to criminal background checks.

Section 4. Paragraph (a) of subsection (2) of section 409.9122, Florida Statutes, 1996 Supplement, is amended to read:

409.9122 Mandatory Medicaid managed care enrollment; programs and procedures.—

(2)(a) The agency shall enroll in a managed care plan or MediPass all Medicaid recipients, except for those Medicaid recipients who are: in an institution; enrolled in the Medicaid medically needy program; or eligible for both Medicaid and Medicare. However, to the extent permitted by federal law, the agency may enroll in a managed care plan or MediPass a Medicaid recipient who is exempt from mandatory managed care enrollment, provided that:

1. The recipient's decision to enroll in a managed care plan or MediPass is voluntary;

2. If the recipient chooses to enroll in a managed care plan, the agency has determined that the managed care plan provides specific programs and services which address the special health needs of the recipient; and

3. The agency receives any necessary waivers from the federal Health Care Financing Administration.

The agency shall develop rules to establish policies by which exceptions to the mandatory managed care enrollment requirement may be made on a case-by-case basis. The rules shall include the specific criteria to be applied when making a determination as to whether to exempt a recipient from mandatory enrollment in a managed care plan or MediPass. School districts participating in the certified school match program pursuant to ss. 236.0812 and 409.908(21) shall be reimbursed by Medicaid, subject to the limitations of s. 236.0812(1) and (2), for a Medicaid-eligible child participating in the school-based therapy program for speech, occupational, and physical therapy services as authorized in s. 236.0812, as provided for in s. 409.9071, regardless of whether the child is enrolled in MediPass or a managed care plan. Managed care plans shall make a good-faith effort to execute agreements with school districts and county health departments regarding the coordinated provision of services authorized under s. 236.0812. To ensure continuity of care for Medicaid patients, the agency and the Department of Education shall develop procedures for ensuring that a student's managed care plan or MediPass provider receives information relating to services provided in accordance with ss. 236.0812 and 409.9071.

Section 5. Subsection (11) of section 409.9126, Florida Statutes, 1996 Supplement, is amended to read:

409.9126 Children with special health care needs.—

(11) The Children's Medical Services network may contract with school districts participating in the certified school match program pursuant to ss. 236.0812 and 409.908(21) for the provision of school-based speech, occupational, and physical therapy services, as provided for in s. 409.9071, for Medicaid-eligible children who are enrolled in the Children's Medical Services network.

Section 6. This act shall take effect July 1, 1997.

Approved by the Governor May 29, 1997.

Filed in Office Secretary of State May 29, 1997.