

Research Plan: School-Based Services and TennCare Reimbursement

Research Director: Melissa Brown

Lead Research Associate: Matt Owen

Support:

Deputy Executive Director Approval: Initial: MMB Date: 5-24-2024

Executive Director Approval: Initial:  Date: 5/24/24

Purpose

Review issues related to the claiming process when school-based health services are provided to students covered by TennCare, and assist the parties involved in reaching a resolution.

Background

It is not uncommon for K-12 students to receive healthcare services at school. When a student receiving school-based health services is covered by TennCare—Tennessee’s Medicaid program¹—some of the services provided may be reimbursable through TennCare. In general, for a school-based service to be reimbursable, the provider must be registered with TennCare and contracted and credentialed with the student’s TennCare Managed Care Organization (MCO). Additionally, billable school-based services must be a medically necessary covered service, with a valid parental consent form, and either be

- included in the student’s individualized education program (IEP),
- included in the student’s individual health plan (IHP),
- included in the student’s individual family service plan (IFSP), or be
- a behavioral health service.

¹ Medicaid is the federally funded, state-administered program that provides health insurance for individuals with low incomes and those with some disabilities.

In recent years, the state has made changes to TennCare to facilitate reimbursement for school-based services. For example, to be reimbursable, services must be ordered by a licensed healthcare provider, which historically had to be ordered by providers with the ability to order services within their scope of practice under state law, including physicians, physician assistants, nurse practitioners, and behavioral health clinicians. In Public Chapter 695, Acts of 2022, the General Assembly expanded the types of healthcare providers who could issue these orders for school-based services to include physical therapists, occupational therapists, speech-language pathologists, and audiologists when the services are being provided pursuant to a student's IEP.² This removed the requirement for school systems to seek orders for these services only from physicians and other types of providers who wouldn't necessarily participate in the IEP process.

Although the state has made progress in some areas, stakeholders report other concerns. One specific concern focuses on the contracts that school systems must sign with managed care organizations (MCOs) to be reimbursed directly for school-based services. Under the TennCare program, MCOs are functionally like insurance companies in the private market. And entering contracts with these MCOs is somewhat akin to becoming an in-network provider for a private insurer. Tennessee is the only state to administer school-based services for its Medicaid program fully through MCOs. But this policy is consistent with the state's decision to administer all TennCare services and reimbursements via MCOs. Regardless of whether the entity seeking reimbursement is a school system, it must have contracted with the student's MCO to be reimbursed directly.

According to some stakeholders, the standard language that MCOs include in these contracts is creating conflicts with at least one school system. As a result, this system refused to sign a new contract with one of the MCOs and is unable to be directly reimbursed for school-based services provided to students covered by that MCO, costing the school system approximately \$250,000 per year in foregone reimbursements. Although MCOs work with school systems to modify contract language, the contracts are subject to state oversight for compliance with state and federal program requirements for TennCare and, according to staff with one MCO, can be modified without state approval only in limited circumstances. Having been made aware of this particular contract-related issue, Senator Lundberg, Representative White, and

² An IEP stipulates services to be provided to a student with a disability consistent with the federal Individuals with Disabilities Education Act (IDEA).

Representative Sherrell sent a letter to Chairman Yager on April 3, 2024, requesting that the Commission review the problem and assist the parties in reaching a resolution.

These unresolved contractual issues aren't affecting the care students receive at school. For example, consistent with federal law, school systems must provide the school-based health services included in the IEPs of students covered by TennCare, as they would for any other students with IEPs. At issue, however, is whether these services can be reimbursed.

Define the Problem

School systems that would otherwise seek reimbursement for school-based services provided to students covered by TennCare are unable to do so because of unresolved contract-related issues between the school systems, managed care organizations, and TennCare.

Assemble Some Evidence

- Review referral letter to determine what it asks the commission to study.
- Interview stakeholders to determine what is driving this issue.
 - Stakeholders to be interviewed include but are not limited to
 - TennCare;
 - Tennessee Department of Education;
 - Tennessee Comptroller of the Treasury;
 - Tennessee Department of Intellectual and Developmental Disabilities;
 - managed care organizations serving students covered by TennCare in Tennessee;
 - Tennessee School Boards Association;
 - Tennessee Organization of School Superintendents;
 - individuals representing
 - urban school districts,
 - suburban school districts, and
 - rural school districts;
 - vendors that assist school districts with TennCare billing;

- representatives for students covered by TennCare receiving school-based medical services; and
 - representatives for providers of school-based medical services.
- Review Tennessee’s statutes and regulations relevant to school-based TennCare services, and other topics germane to the study.
 - Review relevant federal statutes and regulations.
 - Review similar laws, regulations, and programs in other states.
 - Review relevant literature.
 - Gather relevant data sets, including statistics related to school-based TennCare services.
 - Review industry information related to school-based TennCare services.

Proposed Research Timeline





JON LUNDBERG
 SENATOR
 4TH DISTRICT
 SULLIVAN &
 HAWKINS COUNTIES

HOUSE MEMBER
 105TH-109TH GENERAL ASSEMBLIES

SENATE MEMBER
 110TH-113TH GENERAL ASSEMBLIES

Senate Chamber State of Tennessee

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NASHVILLE

April 03, 2024

Senator Ken Yager
 Chairman, TACIR
 Chairman, Senate Republican Caucus
 425 Rep. John Lewis Way N.
 Ste. 704, Cordell Hull Bldg.
 Nashville, TN 37243

Re: SB 2487/HB 2616

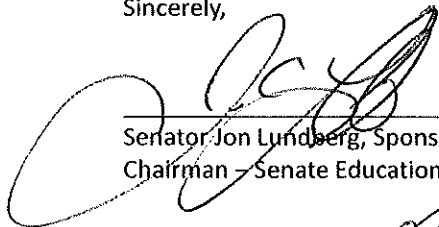
Dear Chairman Yager,

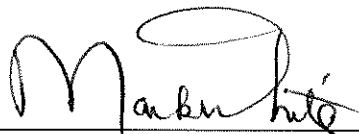
During the second session of the 112th General Assembly, companion bills were passed in both Chambers which were memorialized as Public Chapter 695. This legislation permitted certain medical disciplines, providing services in the various school districts to qualifying TennCare students, to receive the necessary credentials to support reimbursement claims to CMS through the appropriate MCO.


In order to complete the claiming process, it is necessary for the LEA to enter into an agreement with the appropriate MCO. The MCOs insist on a standard form agreement and the attorneys for several LEAs insist that the form agreement is inappropriate for their client. While the parties stand in disagreement, hundreds of thousands of reimbursement dollars go unpaid.

We feel it would be most helpful for TACIR to review this problem and assist the parties in reaching a resolution. Hopefully, SB2487/HB2616, filed in the current session, will serve as a point of discussion. Accordingly, please accept this letter as our request to refer the issue for review by the TACIR staff and committee.

Sincerely,


 Senator Jon Lundberg, Sponsor
 Chairman – Senate Education Committee


 Representative Mark White, Co-Sponsor
 Chairman – House Education Committee


 Representative Paul Sherrell
 House Sponsor

SENATE BILL 2487

By Lundberg

AN ACT to amend Tennessee Code Annotated, Title 49;
Title 63 and Title 68, relative to school-based
health-related services.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 49, Chapter 6, Part 3, is amended by adding the following as a new section:

Agreements and obligations of LEAs relative to school-based health-related services must be fair, reasonable, and suitable to the objectives of the LEA with respect to the school-based health-related services.

SECTION 2. This act takes effect July 1, 2024, the public welfare requiring it, and applies to agreements entered into, and obligations established, on or after that date.