

April 22, 2014

VIA E-MAIL AND FAX

The Honorable Kathleen Sebelius  
Secretary of Health and Human Services  
U.S. Department of Health and Human  
Services  
200 Independence Avenue, S.W.  
Washington, D.C. 20201

The Honorable Arne Duncan  
Secretary of Education  
U.S. Department of Education  
400 Maryland Ave, S.W.  
Washington, D.C. 20202

Dear Secretary Sebelius and Secretary Duncan,

On May 9, 2012, leaders from the undersigned organizations expressed their support for the recommendations included in the report *Health in Mind: Improving Education Through Wellness*. We believe Health in Mind includes important strategies for supporting and promoting health and wellness in our nation's schools and encouraged both of you to act on these recommendations. At the May 9 event, you both publicly expressed your support for implementing these recommendations.

Today, the undersigned organizations are writing to urge you to implement one of the key recommendations included in the Health in Mind report: *issuing clarification that health services provided in schools are exempted from the free care rule*. Clarifying the free care rule will move this nation towards two of our national goals, reforming the health care system and reducing the achievement gap.

The free care rule states that Medicaid funds may not be used to pay for services that are available without charge to everyone in the community. This rule has been inappropriately used to deny reimbursement to school districts for provision of essential medical care to Medicaid eligible children. Indeed, the free care rule has been the subject of dispute and lawsuits and in 2004 the U.S. Department of Health and Human Services Departmental Appeals Board ruled that the free care rule, as interpreted by the Centers for Medicare and Medicaid Services (CMS) and applied to school districts, has no basis in federal Medicaid law and that the rule, as applied to schools, is unenforceable. Most recently, CMS agreed to reimburse San Francisco Unified School District (SFUSD) for health services delivered to the general student population by school health professionals in SFUSD. CMS, however, still has not issued clarification that health services provided in schools are exempt from the free care rule.

Ensuring that schools are able to receive funding from the health sector will allow schools to deliver disease prevention and management and health promotion services and emerge as a key partner in addressing some of the nation's most serious health problems. Billing Medicaid for health services provided in schools represents an important source of funding that can be used to promote and support the provision of school health services for students who often lack access to ongoing medical care.

In addition, ensuring students have access to school health services is a critical strategy for addressing the academic achievement gap. The prevalence of chronic diseases — including asthma, obesity and diabetes — has doubled among children over the past several decades. This has implications not only for children’s long-term health but also for their opportunities to learn and succeed at school. In addition, low-income and minority students are at increased risk of health problems, such as vision and hearing deficits and asthma, that hinder learning. Providing students with access to school health services is a critical strategy for addressing the academic achievement gap and ensuring students are healthy and ready to learn.

Once again, we urge you to support the delivery of school health services by declaring that health services provided in schools are exempt from the free care rule. We also urge your agencies to work together to ensure appropriate guidance to schools is provided to support schools in accessing Medicaid funding for student populations. Thank you for your consideration of this request.

Sincerely,

American Federation of Teachers  
Healthy Schools Campaign  
National Association of School Nurses  
National Association of State Boards of Education  
National Education Association  
National Education Association Health Information Network  
National PTA  
Trust for America’s Health

cc: Cindy Mann, Deputy Administrator, Centers for Medicare and Medicaid Services and Director, CMSO

Deborah Delisle, Assistant Secretary for Elementary and Secondary Education, U.S. Department of Education