

As Introduced

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S. B. No. 94

Senators Bacon, Lehner

Cosponsors: Senators Jones, LaRose, Manning, Patton, Seitz

A BILL

To amend sections 5162.01, 5162.36, 5162.361, 1
5162.363, 5162.364, 5162.54, and 5162.64; to 2
amend, for the purpose of adopting new section 3
numbers as indicated in parentheses, sections 4
5162.362 (5162.363), 5162.363 (5162.364), and 5
5162.364 (5162.369); and to enact new section 6
5162.362 and sections 5162.365, 5162.366, 7
5162.367, and 5162.368 of the Revised Code 8
regarding the Medicaid School Program. 9

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

Section 1. That sections 5162.01, 5162.36, 5162.361, 10
5162.363, 5162.364, 5162.54, and 5162.64 be amended; sections 11
5162.362 (5162.363), 5162.363 (5162.364), and 5162.364 12
(5162.369) be amended for the purpose of adopting new section 13
numbers as indicated in parentheses; and new section 5162.362 14
and sections 5162.365, 5162.366, 5162.367, and 5162.368 of the 15
Revised Code be enacted to read as follows: 16

Sec. 5162.01. (A) As used in the Revised Code: 17

(1) "Medicaid" and "medicaid program" mean the program of 18

medical assistance established by Title XIX of the "Social Security Act," 42 U.S.C. 1396 et seq., including any medical assistance provided under the medicaid state plan or a federal medicaid waiver granted by the United States secretary of health and human services.

(2) "Medicare" and "medicare program" mean the federal health insurance program established by Title XVIII of the "Social Security Act," 42 U.S.C. 1395 et seq.

(B) As used in this chapter:

(1) "Clean claim" has the same meaning as in 42 C.F.R. 447.45(b).

(2) "Dual eligible individual" has the same meaning as in section 5160.01 of the Revised Code.

~~(2)~~(3) "Exchange" has the same meaning as in 45 C.F.R. 155.20.

~~(3)~~(4) "Federal financial participation" has the same meaning as in section 5160.01 of the Revised Code.

~~(4)~~(5) "Federal poverty line" means the official poverty line defined by the United States office of management and budget based on the most recent data available from the United States bureau of the census and revised by the United States secretary of health and human services pursuant to the "Omnibus Budget Reconciliation Act of 1981," section 673(2), 42 U.S.C. 9902(2).

~~(5)~~(6) "Healthy start component" means the component of the medicaid program that covers pregnant women and children and is identified in rules adopted under section 5162.02 of the Revised Code as the healthy start component.

~~(6)~~ (7) "Home and community-based services" means services provided under a home and community-based services medicaid waiver component.

~~(7)~~ (8) "Home and community-based services medicaid waiver component" has the same meaning as in section 5166.01 of the Revised Code.

~~(8)~~ (9) "ICF/IID" has the same meaning as in section 5124.01 of the Revised Code.

~~(9)~~ (10) "Individualized education program" has the same meaning as in section 3323.011 of the Revised Code.

(11) "Medicaid managed care organization" has the same meaning as in section 5167.01 of the Revised Code.

~~(10)~~ (12) "Medicaid provider" has the same meaning as in section 5164.01 of the Revised Code.

~~(11)~~ (13) "Medicaid services" has the same meaning as in section 5164.01 of the Revised Code.

~~(12)~~ (14) "Nursing facility" and "nursing facility services" have the same meanings as in section 5165.01 of the Revised Code.

~~(13)~~ (15) "Personal care services" has the same meaning as in 42 C.F.R. 440.167.

(16) "Political subdivision" means a municipal corporation, township, county, school district, or other body corporate and politic responsible for governmental activities only in a geographical area smaller than that of the state.

~~(14)~~ (17) "Prescribed drug" has the same meaning as in section 5164.01 of the Revised Code.

~~(15)~~(18) "Provider agreement" has the same meaning as in section 5164.01 of the Revised Code.

~~(16)~~(19) "Qualified medicaid school provider" means the board of education of a city, local, or exempted village school district, the governing authority of a community school established under Chapter 3314. of the Revised Code, the state school for the deaf, and the state school for the blind to which both of the following apply:

(a) It holds a valid provider agreement.

(b) It meets all other conditions for participation in the medicaid school component of the medicaid program established in rules authorized by section ~~5162.364~~ 5162.369 of the Revised Code.

~~(17)~~(20) "State agency" means every organized body, office, or agency, other than the department of medicaid, established by the laws of the state for the exercise of any function of state government.

~~(18)~~(21) "Vendor offset" means a reduction of a medicaid payment to a medicaid provider to correct a previous, incorrect medicaid payment to that provider.

Sec. 5162.36. ~~(A)~~~~(B)~~ The medicaid director shall create, in accordance with sections 5162.36 to ~~5162.364~~ 5162.369 of the Revised Code, the medicaid school component of the medicaid program.

Sec. 5162.361. A qualified medicaid school provider participating in the medicaid school component of the medicaid program may submit a claim to the department of medicaid for federal financial participation for providing, ~~in schools,~~ services covered by the medicaid school component to medicaid

recipients who are eligible for the services. No qualified 103
medicaid school provider may submit such a claim before the 104
provider incurs the cost of providing the service. 105

The claim shall include certification of the qualified 106
medicaid school provider's expenditures for the service. The 107
certification shall show that the money the qualified medicaid 108
school provider used for the expenditures was nonfederal money 109
the provider may legally use for providing the service and that 110
the amount of the expenditures was sufficient to pay the full 111
cost of the service. 112

Except as otherwise provided in sections 5162.36 to 113
~~5162.364~~ 5162.369 of the Revised Code and rules authorized by 114
sections ~~5162.363~~ 5162.364 and ~~5162.364~~ 5162.369 of the Revised 115
Code, a qualified medicaid school provider is subject to all 116
conditions of participation in the medicaid program that 117
generally apply to providers of goods and services under the 118
medicaid program, including conditions regarding audits and 119
recovery of overpayments. A qualified medicaid school provider
also must annually submit to the department of education a
report showing the number of the provider's students who
received special education and related services provided
pursuant to Chapter 3323. of the Revised Code in the most recent
previous October. 120
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Sec. 5162.362. (A) A qualified medicaid school provider's
claim for federal financial participation for providing a
service covered by the medicaid school component of the medicaid
program shall be rejected if any of the following applies: 126
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(1) Unless the service is an initial assessment or
evaluation performed in the development of a medicaid
recipient's individualized education program, the service is not 130
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included in the individualized education program developed for 133
the recipient to whom the service is provided. 134

(2) Except as provided in division (B) of this section, 135
the medicaid recipient who receives the service fails to show 136
progress in meeting the goals included in the recipient's 137
individualized education program over two consecutive three- 138
month periods. 139

(3) Another reason for rejection specified in rules 140
authorized by section 5162.369 of the Revised Code applies to 141
the claim. 142

(B) A qualified medicaid school provider's claim for 143
federal financial participation for providing a service covered 144
by the medicaid school component may be paid even though the 145
circumstance described in division (A) (2) of this section 146
applies if either of the following is the case: 147

(1) There is documentation that a method or technique of 148
the service has been modified to help the medicaid recipient 149
meet a goal included in the recipient's individualized education 150
program. 151

(2) It is not the purpose of the service to help the 152
medicaid recipient show progress in meeting the goals included 153
in the recipient's individualized education program. 154

Sec. ~~5162.362~~ 5162.363. The department of medicaid shall 155
seek federal financial participation for each clean claim a 156
qualified medicaid school provider properly submits to the 157
department under section 5162.361 of the Revised Code. The 158
department shall disburse the federal financial participation 159
the department receives from the federal government for such a 160
claim to the qualified medicaid school provider that submitted 161

the claim not later than nine months after the date the 162
department receives the claim, as indicated by a date stamp the 163
department shall put on the claim the day that the department 164
receives the claim. The department may not pay the qualified 165
medicaid school provider the nonfederal share of the cost of the 166
services for which the claim was submitted. 167

Sec. ~~5162.363~~ 5162.364. The department of medicaid shall 168
enter into an interagency agreement with the department of 169
education under section 5162.35 of the Revised Code that 170
provides for the department of education to administer the 171
medicaid school component of the medicaid program other than the 172
aspects of the component that sections 5162.36 to ~~5162.364~~ 173
5162.369 of the Revised Code require the department of medicaid 174
to administer. The interagency agreement may include a provision 175
that provides for the department of education to pay to the 176
department of medicaid the nonfederal share of a portion of the 177
administrative expenses the department of medicaid incurs in 178
administering the aspects of the medicaid school component that 179
the department of medicaid administers. The interagency 180
agreement shall include a provision that provides for the 181
department of education to receive at least three and one-half 182
per cent of the federal financial participation the state 183
receives for the medicaid school component. 184

To the extent authorized by rules authorized by section 185
5162.021 of the Revised Code, the department of education shall 186
establish, in rules adopted under section 5162.02 of the Revised 187
Code, a process by which qualified medicaid school providers 188
participating in the medicaid school component pay to the 189
department of education the nonfederal share of the department's 190
expenses incurred in administering the component. The rules 191
shall be adopted in accordance with Chapter 119. of the Revised 192

Code. 193

Sec. 5162.365. The department of medicaid and department 194
of education jointly shall prepare and annually update 195
procedural guidelines for, and other informational materials 196
about, the medicaid school component of the medicaid program 197
that give qualified medicaid school providers clear instructions 198
for participation in the component. 199

Sec. 5162.366. The medicaid school component of the 200
medicaid program shall cover nursing services provided by any of 201
the following: 202

(A) A registered nurse; 203

(B) A licensed practical nurse; 204

(C) A school health aide or any other individual who is 205
not licensed, certified, or otherwise authorized by a board or 206
other agency of the state to provide a health care service, but 207
only if all of the following apply: 208

(1) The individual is at least eighteen years of age. 209

(2) A registered nurse or licensed practical nurse has 210
delegated the nursing services to the individual in accordance 211
with rules adopted under section 4723.07 of the Revised Code. 212

(3) The individual and the registered nurse or licensed 213
practical nurse who delegated the nursing services to the 214
individual are employed by or under contract with the qualified 215
medicaid school provider that submits the claim to the 216
department of medicaid for federal financial participation for 217
providing the nursing services. 218

Sec. 5162.367. (A) Subject to divisions (B) and (C) of 219
this section, the medicaid school component of the medicaid 220

program shall cover personal care services. 221

(B) A medicaid recipient who is eligible for the medicaid 222
school component may receive personal care services covered by 223
the component if both of the following apply: 224

(1) The recipient needs the services because the recipient 225
either cannot perform one or more activities of daily living or 226
instrumental activities of daily living or has a limitation in 227
performing one or more of those activities due to a functional, 228
cognitive, or behavioral impairment. 229

(2) The personal care services help the recipient benefit 230
from special education and related services provided pursuant to 231
Chapter 3323. of the Revised Code. 232

(C) Personal care services covered by the medicaid school 233
component may be provided by an individual who meets all of the 234
following requirements: 235

(1) The individual must be at least eighteen years of age. 236

(2) The individual must be trained to provide the personal 237
care services to the medicaid recipient who receives the 238
services. 239

(3) The individual must provide the personal care services 240
under the direct supervision of a health care professional to 241
whom both of the following apply: 242

(a) The health care professional is licensed, certified, 243
or otherwise authorized by a board or other agency of the state 244
to provide a health care service. 245

(b) The health care professional is employed by or under 246
contract with the qualified medicaid school provider that 247
submits the claim to the department of medicaid for federal 248

financial participation for providing the personal care 249
services. 250

Sec. 5162.368. (A) Subject to divisions (B) to (E) of this 251
section, the medicaid school component of the medicaid program 252
shall cover specialized medical transportation services. 253

(B) A medicaid recipient eligible for the medicaid school 254
component may receive specialized medical transportation 255
services covered by the component if both of the following 256
requirements are met: 257

(1) Either of the following must apply to the recipient: 258

(a) School bus transportation to the school in which the 259
medicaid recipient is enrolled must not be provided to the 260
school's students who reside in the same area as the recipient. 261

(b) If school bus transportation to the school in which 262
the medicaid recipient is enrolled is provided to the school's 263
students who reside in the same area as the recipient, the 264
school bus used for the transportation must not have the 265
adaptations that the recipient needs to be able to be 266
transported in the school bus. 267

(2) On the same day that the medicaid recipient receives 268
the specialized medical transportation services, the recipient 269
must also receive at least one other service covered by the 270
medicaid school component. The other service may be personal 271
care services provided to the recipient while receiving the 272
specialized medical transportation services. 273

(C) Specialized medical transportation services covered by 274
the medicaid school component must be provided in a specially 275
adapted vehicle that has been physically modified in a manner 276
that enables the medicaid recipient receiving the services to be 277

transported in the vehicle. Modifications may include the 278
addition of a wheelchair lift, seat belts, harnesses, child 279
protective seats, air conditioning, and similar modifications. 280
The use of a school bus monitor or other personnel who accompany 281
students on a school bus is not a modification. 282

(D) A medicaid recipient eligible to receive specialized 283
medical transportation services covered by the medicaid school 284
component may receive the services for any of the following one- 285
way trips: 286

(1) From the recipient's residence to the recipient's 287
school; 288

(2) From the recipient's school to the recipient's 289
residence; 290

(3) From the recipient's residence or school to a location 291
to receive a service covered by the medicaid school component 292
from a health care provider under contract with the qualified 293
medicaid school provider; 294

(4) From the location where a service specified in 295
division (D) (3) of this section is received to the recipient's 296
residence or school; 297

(5) From the recipient's school to another school operated 298
by a qualified medicaid school provider; 299

(6) From another school operated by a qualified medicaid 300
school provider to the recipient's school. 301

(E) A qualified medicaid school provider that submits a 302
claim to the department of medicaid for federal financial 303
participation for providing specialized medical transportation 304
services to a medicaid recipient under the medicaid school 305

component shall show on the claim a separate charge for each 306
one-way trip that the recipient receives. 307

Sec. ~~5162.364~~ 5162.369. The medicaid director shall adopt 308
rules under section 5162.02 of the Revised Code as necessary to 309
implement the medicaid school component of the medicaid program, 310
including rules that establish or specify all of the following: 311

(A) Conditions a board of education of a city, local, or 312
exempted school district, governing authority of a community 313
school established under Chapter 3314. of the Revised Code, the 314
state school for the deaf, and the state school for the blind 315
must meet to participate in the component; 316

(B) ~~Services~~ In addition to the services specified in 317
sections 5162.366, 5162.367, and 5162.368 of the Revised Code, 318
services the component covers; 319

(C) Payment rates for the services the component covers. 320

The rules shall be adopted in accordance with Chapter 119. 321
of the Revised Code. 322

Sec. 5162.54. (A) There is hereby created in the state 323
treasury the health care services administration fund. Except as 324
provided in division (C) of this section, all the following 325
shall be deposited into the fund: 326

(1) Amounts deposited into the fund pursuant to sections 327
5162.12, 5162.40, and 5162.41 of the Revised Code; 328

(2) The amount of the state share of all money the 329
department of medicaid recovers each fiscal year pursuant to a 330
tort action under the department's right of recovery under 331
section 5160.37 of the Revised Code that exceeds the state share 332
of all money the department, in fiscal year 2002, recovers 333

pursuant to a tort action under that right of recovery; 334

(3) Subject to division (B) of this section, the amount of 335
the state share of all money the department of medicaid, in 336
fiscal year 2003 and each fiscal year thereafter, recovers 337
through audits of medicaid providers that exceeds the state 338
share of all money the department, in fiscal year 2002, recovers 339
through such audits; 340

(4) Amounts from assessments on hospitals under section 341
5168.06 of the Revised Code and intergovernmental transfers by 342
governmental hospitals under section 5168.07 of the Revised Code 343
that are deposited into the fund in accordance with the law; 344

(5) Amounts that the department of education pays to the 345
department of medicaid, if any, pursuant to an interagency 346
agreement authorized by section ~~5162.363~~ 5162.364 of the Revised 347
Code; 348

(6) The application fees charged to providers under 349
section 5164.31 of the Revised Code; 350

(7) The fines collected under section 5165.1010 of the 351
Revised Code; 352

(8) Money the department receives in a fiscal year for 353
performing eligibility verification services necessary for 354
compliance with the independent, certified audit requirement of 355
42 C.F.R. 455.304, other than the amounts of such money that are 356
to be credited to the health care/medicaid support and 357
recoveries fund under section 5162.52 of the Revised Code. 358

(B) In determining under division (A) (3) of this section 359
the amount of money the department, in a fiscal year, recovers 360
through audits of medicaid providers, the amount recovered in 361
the form of vendor offset shall be excluded. 362

(C) The department of medicaid shall use funds available 363
in the health care services administration fund to pay for costs 364
associated with the administration of the medicaid program. 365

Sec. 5162.64. (A) There is hereby created in the state 366
treasury the medicaid school program administrative fund. 367

(B) Both of the following shall be deposited into the 368
medicaid school program administrative fund: 369

(1) The federal funds the department of education receives 370
for the expenses the department incurs in administering the 371
medicaid school component of the medicaid program created under 372
section 5162.36 of the Revised Code; 373

(2) The money the department collects from qualified 374
medicaid school providers in the process established in rules 375
authorized by section ~~5162.363~~ 5162.364 of the Revised Code. 376

(C) The department of education shall use money in the 377
medicaid school program administrative fund for both of the 378
following purposes: 379

(1) Paying for the expenses the department incurs in 380
administering the medicaid school component of the medicaid 381
program; 382

(2) Paying a qualified medicaid school provider a refund 383
for any overpayment the provider makes to the department under 384
the process established in rules authorized by section ~~5162.363~~ 385
5162.364 of the Revised Code if the process results in an 386
overpayment. 387

Section 2. That existing sections 5162.01, 5162.36, 388
5162.361, 5162.362, 5162.363, 5162.364, 5162.54, and 5162.64 of 389
the Revised Code are hereby repealed. 390