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## MEMORANDUM

**TO:** Health and Human Services Committee  
**FROM:** Department of Health and Human Services  
**DATE:** July 14, 2020  
**RE:** Federal Compliance Concerns & MaineCare Section 106 rules

Below is an explanation of the concerns regarding Federal compliance that precipitated the work of MaineCare to propose rules for a new section, Section 106.

**Concern:**

The Department is limiting the ability to reimburse for services in a school that are not written into an IEP/IFSP.

Mandated	MaineCare Flexibility
CMS requires that health-related services required through IDEA be present on a student's IEP/IFSP to be eligible for reimbursement.	None. This is federal law pursuant to Social Security Act 1903 (c).

To date, MaineCare policy has not been clear on this requirement. This mandate is limited to **ONLY** those services a student needs to access their education program. Students may still receive health related services not required through IDEA through existing sections of policy.

**Concern:**

The Department is limiting a student's preschool/ childcare programming to the amount listed in the IEP/IFSP.

Regulatory Requirement/ Barrier	MaineCare Flexibility
Health-related services required through IDEA must be aligned with a student's IEP/IFSP to be eligible for reimbursement.	None. This is federal law pursuant to Social Security Act 1903 (c).
Services required through IDEA cannot be billed outside of the education program.	MaineCare may pay for services in addition to those required through IDEA through the appropriate section of policy.
MaineCare cannot fund childcare.	None. Childcare is not a medical service able to be reimbursed through a Medicaid program.

The proposed Section 106, School-Based Services, created a framework in order for MaineCare to clearly identify and provide reimbursement for the provision of health-related services listed in a member's Individualized Education Plan (IEP) or Individualized Family Service Plan (IFSP). Section 411(k)(13) of the Medicare Catastrophic Coverage Act of 1988(P.L. 100-360) amended section 1903(c) of the Act to permit Medicaid payments for medical services provided to children under IDEA through a child's IEP or IFSP. This amendment was enacted to ensure that Medicaid would cover the health-related services under IDEA.

We do not have an actual number for student impact. OMS already pays for most of the services now and it would be very difficult to determine from claims all services may that are delivered in a school-based setting. Th proposed rule would have covered services for all students who receive health-related services as a part of their IEP or IFSP, ages 3-20, whose parent/guardian has provided consent for their education agency to be reimbursed through MaineCare