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MaineCare in Education: Parental Consent

Federal Medicaid regulations at 42 CFR 431.51 and section 1902(a)(23) of the Social Security Act require Medicaid beneficiaries to have the freedom to choose from all qualified providers. Therefore, Medicaid-eligible children cannot be limited to school health providers for Medicaid-covered services. Federal law requires that for Medicaid to be billed, a public agency:

(A) Must obtain parental consent, consistent with 300.9; and (B) Notify parents that the parents' refusal to allow access to their public benefits or insurance does not relieve the public agency of its responsibility to ensure that all required services are provided at no cost to the parent (IDEA 300.154, (2) (iv) (A), (B)).

School districts cannot:

- Require parents to sign up for or enroll in public insurance programs in order for their child to receive a free appropriate public education (FAPE) under Part B of the Individuals with Disabilities Act (IDEA);
- Require parents to incur an out-of-pocket expense such as the payment of a deductible or co-pay amount, (but may pay the cost that the parent otherwise would be required to pay);
- Use a child's benefits under a public insurance program if that use would decrease available lifetime coverage or any other insured benefit;
- Result in the family paying for services that would otherwise be covered by the public insurance program and that are required for the child outside of the time the child is in school;
- Increase premiums or lead to the discontinuation of insurance;
- Risk loss of eligibility for home and community-based waivers, based on aggregate health-related expenditures.

The use of Medicaid funds to provide or pay for MaineCare's school-based services program **will not**:

- Require a parent/guardian to incur an out-of-pocket expense;
- Decrease a child's Medicaid benefits; or
- Increase premiums or lead to the discontinuation of insurance or a student's eligibility for home and community-based waivers.