

August 15, 2024

Director Mark Ghaly
California Health and Human Services Department
1215 O Street
Sacramento, CA 95814

Dear Director Ghaly:

As organizations deeply committed to the well-being of our children and youth, we write to convey our concerns and potential solutions regarding implementation of the statewide multi-payer school linked fee schedule (Fee Schedule), which was established in the 2021/22 Budget Act as part of the Children and Youth Behavioral Health Initiative (CYBHI). We are eager to ensure the success of this new funding opportunity for school-based mental health services and provide these comments out of concern that implementation decisions are being made that fundamentally undermine the feasibility, accessibility, and sustainability of the Fee Schedule for California's 1000+ local education agencies (LEAs). It is critical that state agencies collaborate with education partners to adopt changes to current guidance that will promote participation and prevent LEAs from declining to participate in the Fee Schedule or dropping out within a year.

Specifically, we provide the following concerns and recommendations regarding the Fee Schedule:

Removal of Eligible Practitioners Undermines Accessibility of the Fee Schedule for Most Local Education Agencies (LEAs)

The majority of school districts only employ mental health professionals with Pupil Personnel Services (PPS) credentials, such as school counselors and school social workers. These professionals complete nearly identical coursework as licensed individuals in the private sector but choose to complete their internships and pursue a career in a school-based setting. The Department of Health Care Services (DHCS) has recently decided to remove PPS mental health professionals as eligible practitioners for a number of services listed on the Fee Schedule. Because most schools only employ PPS professionals, this decision will substantially limit the amount of funding that LEAs can generate and disincentivizes LEAs from participating in the Fee Schedule. *DHCS should work with PPS associations to better understand the similar qualifications of PPS and licensed practitioners and update the Fee Schedule to include PPS professionals as eligible providers to the maximum extent allowable.*

Requiring Schools to Collect Health Plan Information for 5.8 Million Students is Not a Sustainable Solution

DHCS requested and received \$10 million in the 2023/24 Budget Act to contract with a third party administrator (TPA) that would simplify the claims submission process and route claims to the appropriate health plan. The signatories to this letter supported DHCS's funding request because schools do not and cannot collect student social security numbers¹, and the TPA was presented as a solution to identifying the correct health plan for each student. We were recently informed that the selected TPA will not assist schools in routing claims to the correct health plan and that instead schools will need to attempt to collect accurate insurance and health plan information for 5.8 million students. Each time health plan information is missing or incorrect, schools will not be paid for services rendered. Better solutions to this problem exist and have been suggested but are not being considered by DHCS or the selected TPA. If state assistance is not provided to resolve this issue, we estimate that schools will not be reimbursed for 20 to 40% of the services provided. ***DHCS and the TPA should work in good faith with education partners to identify a strategy for routing claims to the appropriate health plan in a way that does not place 100% of the burden on schools.***

Schools Will Not be Reimbursed for the 1/6 of Students with High Deductible Health Plans

The Department of Managed Health Care (DMHC) has also issued guidance stating that schools will not be reimbursed for services provided to students with high deductible health plans (HDHPs).² In California 1 out of every 6 students is enrolled in an HDHP with the greatest concentrations of HDHP members in high-cost counties in the Bay Area and Los Angeles. As a result of this administrative decision, schools will not be reimbursed for another 17% of the mental health services provided to students. ***DMHC should work in good faith with education partners to identify a solution that ensures schools are reimbursed for services provided to students regardless of their health plan.***

Implementation May Undermine California's Student Privacy Policies

LEAs have raised concerns that the Fee Schedule could undermine student privacy and discourage students from seeking help at school for two reasons. First, it is unclear whether health plans will bill parents with deductibles for mental health services provided by a school to a student. Receiving a bill from a health plan would inadvertently notify parents that services were provided and runs counter to the newly signed SAFETY Act, which affirms students' autonomy and privacy. Second, LEAs lack guidance on documentation of services provided to students and how to store documentation in a way that maximizes student privacy. Without guidance on documentation and storage of health information, LEAs could unintentionally share information about services provided at school. ***Implementing state agencies need to work with education lawyers and experts to create helpful guidance and templates that align with education laws and systems and can be used by LEAs to ensure student privacy is honored.***

Agencies' Failure to Provide Essential Guidance Has Delayed LEA's Ability to Receive Reimbursement

Pursuant to state law, schools were supposed to have the ability to bill for Fee Schedule services starting January 1, 2024. DHCS later announced that only Cohort 1 participants would be able to submit claims starting July 1, 2024. As of August 2024, the state is still unable to accept or process claims and has failed to provide critical guidance that is necessary for schools to begin submission. For example, there is still ambiguity regarding the following:

¹ Ed Code section 49076.7 prohibits LEAs from collecting or soliciting social security numbers or the last 4 digits of SS numbers from pupils or parents.

² DMHC APL 23-026 [https://www.dmhc.ca.gov/Portals/0/Docs/OPL/APL23-026-CompliancewithHealthandSafetyCodeSection1374.722andCYBHI\(12.20.23\).pdf](https://www.dmhc.ca.gov/Portals/0/Docs/OPL/APL23-026-CompliancewithHealthandSafetyCodeSection1374.722andCYBHI(12.20.23).pdf), pg 5

- Whether medical necessity must be established for all services on the Fee Schedule and, if so, how providers are expected to make this determination.³
- How to transmit claims and whether the TPA will provide access to a Secure File Transfer Protocol server. The claims volume is too high to expect LEAs and their vendors to perform this task manually.
- How providers can participate. Guidance is needed regarding the service documentation requirements, including whether practitioner signatures are required for ordering, referring, and prescribing treatment, and whether a signed care plan is required before providers can deliver services.
- Whether families with low deductible health plans will receive bills for school-based services if their annual deductible has not yet been met, and if so, what LEAs should do to ensure that billing for mental health services does not run afoul of language in the California Constitution and Education Code prohibiting schools from charging for services.
- When the Health Insurance Portability and Accessibility Act (HIPAA) should apply versus when the Family Educational Rights and Privacy Act (FERPA) should apply and guidance regarding storing and documenting claims to ensure HIPAA/FERPA compliance.

The implementing state agencies should incorporate feedback from education partners regarding how to address unresolved questions and draft guidance that aligns with the laws and systems applicable to educational settings.

The Fee Schedule has Become More Burdensome than LEA BOP

The Fee Schedule was created to be a less administratively burdensome avenue for accessing Medi-Cal funding than the LEA Billing Option Program (LEA BOP). However, implementation decisions have created more requirements for participation in the Fee Schedule than LEA BOP. For example, the Fee Schedule requires Council for Affordable Quality Healthcare (CAQH) credentialing, submission of monthly provider rosters, and management of entire provider networks, whereas LEA BOP does not. *DHCS and the TPA should work with education partners to revisit implementation decisions that increase the administrative burden on participating LEAs.*

Decisions are Being Made Without Collaboration or Consultation with LEAs

The Fee Schedule Workgroup and Cohort 1 were intended to be opportunities for LEA representatives to help inform and shape decisions regarding the Fee Schedule. Instead, our members in these groups indicate that they have been primarily used to disseminate guidance that has already been finalized without input from education partners. Furthermore, many of the most critical decisions, such as the details of claims submission and provider credentialing, have been delegated to the TPA, Carelon, which has no meaningful background in school-based health administration and is not engaging with members of the workgroups. Our understanding was that Carelon would be required to contract with an LEA for consultation; however, as of August 2024, no contract has been signed and feedback from LEAs has not been meaningfully incorporated. *Carelon should be required to incorporate feedback from a small group of diverse education partners to ensure that implementation of the Fee Schedule is aligned with school-based health delivery and billing systems and is accessible to all schools in California.*

While we appreciate that leaders at Health and Human Services, Department of Managed Health Care, and DHCS have engaged over the last few years with the signatories of this letter, we are deeply concerned that the culmination of the issues outlined above will render the Fee Schedule unusable by all but a few LEAs. We strongly support the Administration and Legislature's vision for building out accessible and equitable school-based behavioral health programs and will

³ See Fee Schedule Workgroup Session 3 Notes, pgs 2 and 3 <https://www.dhcs.ca.gov/CYBHI/Documents/Fee-Schedule-Workgroup-Session-3-Synthesis.pdf>

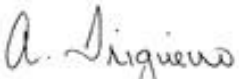
continue to make ourselves available as thought partners and allies in this critical effort to address the youth mental health crisis.

As Legislators begin planning for the 2025/26 session, we request that the Assembly and Senate commit to convening a joint hearing in January or February to discuss the issues raised in this letter. If you have questions about the content of this letter or would like to discuss our request for a hearing, please feel free to contact any of the signatories below.

Sincerely,



Dr. Mary Ann Dewan
Superintendent of Schools
Santa Clara County Office of Education



Toni Trigueiro
Legislative Advocate
California Teachers Association



Laura Wasco
Legislative Advocate
California School Psychologists Association



Derick Lennox
Senior Director, GR and Legal Affairs
California County Superintendents



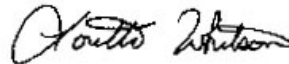
Erika K. Hoffman
Deputy Legislative Director, State and Federal Programs
California School Boards Association



Martha Alvarez
Director of Government Relations
Los Angeles Unified School District



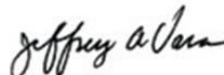
Serette Kaminski
Legislative Advocate
Association of California School Administrators



Loretta Whitson, Ed.D.
Executive Director
The California Association of School Counselors



Suzie Skadan, Med, RN, PHN, RCSN
President 2021-2023
California School Nurses Organization



Jeffrey Vaca
Chief Governmental Relations Officer
Riverside County Office of Education



Andrea Ball
Legislative Advocate
California Association of Suburban School Districts



Lee Angela Reid
Legislative Advocate
Small School Districts' Association



Mishaal Gill
Director of Policy and Advocacy
California Association of School Business Officials



Hellan Dowden
Teachers for Healthy Kids



Lucy Salcido Carter, M.A., J.D.
Director of Policy and Governance
Alameda County Office of Education

cc: Governor Gavin Newsom
Nichole Muñoz-Murillo, Office of Governor Gavin Newsom
Dr. Sohil Sud, Children and Youth Behavioral Health Initiative
Michael Lombarto, Children and Youth Behavioral Health Initiative
Dr. Mark Ghaly, Secretary of the California Health and Human Services
Autumn Boylan, Department of Health Care Services
Mike McGuire, Senate President pro Tempore
Members, Senate Budget Committee
Members, Senate Budget and Fiscal Review Subcommittee #1
Members, Senate Budget and Fiscal Review Subcommittee #3
Scott Ogus, Senate Committee on Budget and Fiscal Review
Yong Salas, Senate Committee on Budget and Fiscal Review
Robert Rivas, Assembly Speaker
Members, Assembly Committee on Budget
Members, Assembly Budget Subcommittee #1
Members, Assembly Budget Subcommittee #3
Andrew Medina, Office of Senate President pro Tempore Mike McGuire
Misty Feusahrens, Office of Assembly Speaker Robert Rivas
Erin Gabel, Assembly Budget Committee
Lynn Lorber, Senate Education Committee
Melanie Moreno, Senate Health Committee
Lenin Del Castillo, Senate Appropriations Committee
Agnes Lee, Senate Appropriations Committee
Tanya Lieberman, Assembly Education Committee
Lisa Murawski, Assembly Health Committee
Natasha Collins, Assembly Appropriations Committee
Allegra Kim, Assembly Appropriations Committee
Brooks Allen, State Board of Education
Jessica Holmes, State Board of Education
Chris Ferguson, Department of Finance
Christian Griffith, Office of Assemblymember Jesse Gabriel
Ryan Miller, Legislative Analyst's Office
Michael Alferes, Legislative Analyst's Office
William Owen, Legislative Analyst's Office