Houston Independent School District
Medicaid Finance Department

Written Comments Submitted To:
Health and Human Services Commission
MCD Medical Benefits Policy

RE: Proposed Changes to SHARS Program Policy
School Health and Related Services (SHARS)
Comments on Proposed Rule Changes

June 28, 2024

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Attached, please find the Houston Independent School District (HISD) "Written Comments" to the Proposed Policy Changes for the School Health and Related Services (SHARS) Program that are due to the HHSC MCD Medical Benefits Policy Department, on or before July 8, 2024.

The Houston Independent School District (HISD) would like to thank the Texas Health and Human Services Commission (THHSC) and the MCD Medical Benefits Policy Department for the opportunity to submit our written response and comments for review. The HISD serves approximately 25,560 special education students, that on a daily basis, require medical, health, or related services pursuant to the Individuals with Disabilities Education Act (IDEA).

The Medicaid reimbursement funding that is generated from our SHARS program has enabled the district to enhance, improve, and expand the level and quality of health and related services being delivered to our students. The HISD strives to be in compliance with Medicaid and IDEA requirements and will work with THHSC to further assist the district in achieving higher levels of regulatory compliance.

The HISD looks forward to working with the THHSC to discuss and bring about meaningful policy changes that are not restrictive or prohibitive for school districts to seek Medicaid reimbursement for providing allowable Title XIX services to students with disabilities. If you should have any questions, please contact Michael Gonzalez, Sr. Executive Director of Medicaid Finance, at 713-556-9130 (Office).

Michael Gonzalez
Sr. Executive Director
Medicaid Finance and Consulting Services
Houston Independent School District

HISD Written Comments Submitted To: HHSC MCD Medical Benefits Policy Department Concerning Proposed Changes to the School Health and Related Services (SHARS) Program

ITEM NO. ONE: FISCAL IMPACT TO TEXAS SCHOOL DISTRICTS

The HISD Does Not Support the implementation of proposed THHSC changes that would impose additional time requirements, human resources, and significant costs increases to implement new regulations to the SHARS Program. The proposed THHSC changes to the SHARS Program will impose significant administrative and procedural challenges to school districts and their SHARS clinicians that are already overburdened with significant requirements being imposed by the Texas Health and Human Services (THHSC) and the SHARS Medicaid Program.

Significant Increases in Cost for School Districts or Local Education Agencies (LEA's):

If the THHSC proceeds forward with their proposed changes to the SHARS Program, school districts will incur significant increases in costs to accommodate the implementation of the new THHSC requirements. School districts will incur increased costs to change the following infrastructures:

(1) Computer Programming Changes and other Computer Reporting Systems Changes,
(2) PCS Clinician Training Guides and Media Changes,
(3) PCS Clinician Re-Training,
(4) Hiring Licensed Health Care Partitioners for PCA Certification and Oversight,
(5) Finance/Accounting Staff Training for Monitoring and Oversight of New Requirements, and
(6) Scope of Operation Changes to the Nursing Services and Special Education Department

Significant Decreases in Medicaid Reimbursement Revenue for School Districts or LEA's:

Concerning SHARS/Medicaid Revenue, school districts will incur Medicaid revenue losses because the proposed regulations will impact their ability to claim Medicaid reimbursement for allowable Personal Care Services (PCS) provided to Medicaid eligible special education students, pursuant to the IDEA (Individuals with Disabilities Education Act).

The THHSC continues to increase the administrative burden that school districts experience in participating in the SHARS/Medicaid Program, and the THHSC continues to disallow and reduce Medicaid reimbursement for Medicaid allowable services being provided because additional administrative "paperwork" to seek reimbursement does not align with the health care delivery systems that exist in school districts. The THHSC continues to increase the school district's cost to participate in the SHARS Program, and the SHARS reimbursement rates never seem to increase to accommodate a school district's increased cost to meet the ever-changing requirements of delivering Medicaid allowable services.

The THHSC reimbursement rates for SHARS services have traditionally been lower for school districts versus other Medicaid providers that participate in the Medicaid health care delivery system. School districts must employ individuals that are qualified to provide much needed personal care services to our special education students; however, THHSC continues to question or doubt that PCS are being provided

to students (patients) at the same level of competence and quality that PCS is being delivered in non-SHARS delivery systems. The reality is that every day, in every school district throughout the State of Texas, LEAs are providing quality PCS services to special education students, and these PCS services qualify as allowable Medicaid covered services. The only difference is that PCS services are being provided in a school or on a school bus as the Place of Service (POS), but nonetheless, they are personal care services being provided to assist and support special education students in seeking a free and appropriate public education.

In the Bowen v. Massachusetts case (487 U.S. 879 (1988) No. 87-712), the appellate court ruled that:

> "…it is the nature of the services, not what the services are called or who provided them that determines whether the services qualify for Medicaid reimbursement."

The appellate court overturned the HHS Department Appeals Board (DAB) Decision to deny and disallow reimbursement for Medicaid covered and allowable services, just because PCS Services were being provided in an educational institution operated by the Department of Education in the Commonwealth of Massachusetts.

Federal Law and Congressional Intent:

The intent of the United States Congress pursuant to 42 U.S. Code §1396b(c), was that the U.S. Department of Health and Human Services, (HHS), was not to prohibit or restrict payment for medical assistance for covered services provided to a child with a disability pursuant to IDEA legislation. Pursuant to a federal court decree, Assistant U.S. Attorney Sarah S. Normand's letter dated March 14, 2014, ECF No. 87, to the Honorable Paul A. Crotty, stated:

> *The "Government concludes that consistent with IDEA and Title XIX of the Social Security Act, a school district may seek reimbursement from Medicaid to pay for (covered) services necessary to ensure the provisions of (free appropriate public education) to Medicaid-eligible children with disabilities".*
>
> *"Title XIX of the Social Security Act, Title 42 U.S.C. 1396b(c) Treatment of Educationally-Related Services, warns that nothing in its subchapter should be construed as prohibiting or restricting or authorizing the Secretary to prohibit or restrict, payment under subsection (a) of this section for medical assistance for covered services furnished to a child with a disability because such services are included in the child's individual education program established pursuant to part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411)."*

The intent of Congress under 42 U.S.C. §1396b(c) is to ensure that school districts are afforded medical assistance under Title XIX for IDEA legislative mandates to provide medical and health related services to students with disabilities.

The Texas Health and Human Services Commission's (THHSC), proposed changes to the SHARS Program will significantly restrict and prohibit a school district or LEA's ability to seek Medicaid reimbursement, under federal law, 42 U.S.C. § 1396b(c), for providing allowable and necessary Title XIX services to children with disabilities pursuant to IDEA legislation.

CMS Informational Bulletin, Dated August 18, 2022, Concerning State Flexibilities and Easing Administrative Burdens of Medicaid for School Districts or LEAs:

The Centers for Medicare and Medicaid Services (CMS) recently issued *"CMS Informational Bulletin, dated August 18, 2022, from Daniel Tsai, Deputy Administrator and Director, Center for Medicaid and CHIP Services,* concerning "*Information on School-Based Services in Medicaid: Funding, Documentation and Expanding Services"*. The HISD was extremely encouraged by the promise of this CMS document, and we are hopeful that the THHSC will implement many of the CMS ideas and concepts.

The CMS document contains guidance for States to follow when implementing school-based Medicaid programs to meet federal regulations and policies. In addition, the CMS document affords school districts, as Local Education Agencies (LEA's) the benefits of existing "State Flexibilities" for maximizing Medicaid coverage for services being delivered to beneficiaries in schools while concurrently easing the administrative burdens of participating in Medicaid. The following is documented on page 2 of the CMS Informational Bulletin, dated August 18, 2022.

> *"CMS and the US Department of Education (ED) are supportive of school-based health programs and, where possible, we encourage states to ease administrative burden placed on school-based health providers to promote their participation in the Medicaid program and thereby increase access to Medicaid-covered services for Medicaid-enrolled students, while also maintaining fiscal and programmatic integrity of the Medicaid program."*

The CMS document also encourages State Medicaid Agencies to implement "Options for Paying School-Based Service Providers with flexibilities available to States". The following is documented on page 15 of the CMS Informational Bulletin, dated August 18, 2024.

> *States have considerable flexibility in how the provider rates are set. Generally, States' options to pay School-Based Providers include:*
>
> - *State plan rates established for services provided outside of school settings. States may use the existing state plan payment rates for the same services provided in settings other than the school-based setting when those services are provided by practitioners in schools, as these practitioner rates are approved under the Medicaid State Plan as economic and efficient payments for Medicaid services.*
>
> - *State Medicaid agency may also opt to develop unique payment rates for school-based providers that more closely reflect the costs incurred by such providers. The state will be asked to document the rate calculation for these services in the school setting and assure that those rates are consistent with efficiency, economy, and quality of care.*

HISD Recommendation: The HISD is recommending that the THHSC work collaboratively with LEAs to include them in the planning process when resigning or changing school-based Medicaid programs like the SHARS or MAC programs. Currently, THHSC's practice does not include LEAs in this process, and we are usually given just a mere two-week public comment period to provide important input to any proposed THHSC changes to either the SHARS or MAC programs.

ITEM NO. TWO: PERSONAL CARE SERVICES

The THHSC is proposing to make significant policy changes to Personal Care Services (PCS) in the SHARS Program, and some of these changes are not consistent with: (1) federal requirements for the definition, scope, and criteria of PCS, or (2) a school district's scope of operation for delivering PCS.

Group Personal Care Services:

Proposed HHSC Change: The PCS group rate of reimbursement and the group type of service for PCS is being eliminated in the THHSC proposed changes to the SHARS program.

HISD Response: In the delivery of PCS in a LEA's scope of operations, group PCS may be utilized in these PCS Service Categories, PCS-Eating, PCS-Locomotion/Mobility, or PCS-Escorting. These respective PCS service categories may be provided in an Individual delivery mode for profoundly disabled students; however, PCS service providers may be providing PCS services in a Group delivery mode concurrently to several special education students requiring on-going personal care assistance.

Personal Care Service Reimbursement Rates for FFY2024				
Procedure Code	**POS and TOS**	**Unit of Service**	**Rate**	**Rate: Federal Share**
T1019 (U5)	School / Individual	15 Minutes	$ 6.15 / Unit	$ 3.70 / Unit
T1019 (U5 & UD)	School / Group	15 Minutes	$ 2.05 / Unit	$ 1.23 / Unit
T1019 (U6)	Bus / Individual	Per One-Way Trip	$ 6.15 / Trip	$ 3.70 / Trip
T1019 (U6 & UD)	Bus / Group	Per One-Way Trip	$ 2.05 / Trip	$ 1.23 / Trip

School districts or LEAs have already developed and updated their 2024-25 school year IEP's (Individualized Education Plans) that will be implemented for their respective special education students, and these IEP's will be impacted by the THHSC proposed changes. School districts will have to amend their active IEP's because Group and Individual PCS services have already been identified and documented in the finalized IEPs for the 2024-25 school year.

The IDEA procedural requirements to amend an active IEP is a time-consuming process and costly to undertake. The 2024-25 school year will begin in approximately 6 to 7 weeks for most Texas school districts, and the implementation of this THHSC proposed change will be problematic for LEAs. The Procedural Safeguards of IDEA require LEAs to revise or amend their IEPs, to meet federal regulations, with the appropriate level of oversight from the applicable IEP Team and/or to reconvene an ARD (Admissions, Review, and Dismissal) meeting to amend a properly constituted ARD/IEP for the student.

HISD Recommendation: The HISD is recommending that the THHSC Does Not Eliminate the Group PCS Service Category, because LEAs continue to utilize this mode of service delivery for PCS-Eating, PCS-Locomotion/Mobility, and PCS-Escorting services being provided to special education students. This mode of operation is consistent with the Centers for Medicare and Medicaid Services' (CMS) "Multiple Initiatives" of care that focus on quality and efficiency in providing timely and effective measures of care to patients to improve outcomes for patients while reducing burdens on clinicians.

Proposed HHSC Change:

(7). Personal care services are medical support services provided to students who require assistance with activities of daily living (ADLs) and instrumental activities of daily living (IADLs) because of physical, functional, cognitive, or behavioral limitations related to a student's disability of chronic health conditions.

HISD Response:

The HISD Does Not Support the proposed change to the definition of personal care services (PCS) and recommends that the word "medical" be removed, from the proposed HHSC definition, because the actual delivery of PCS is not a medical activity or a medical service. The special education student may have a medical condition that subsequently requires the need for PCS support services, and as such, the HISD is recommending that THHSC utilize the following definition that more accurately defines PCS.

> Personal care services are support services provided to students who require assistance with activities of daily living (ADLs) and instrumental activities of daily living (IADLs) because of physical, functional, cognitive, or behavioral limitations related to a student's disability or chronic health conditions.

The HISD recommendation is consistent with the Health Care Finance Administration (HCFA) definition of personal care services. HCFA was the predecessor to the Centers for Medicare and Medicaid Services (CMS), and HCFA published their definition in the State Medicaid Manual (SMM), Section No. 4480, and it was also disclosed in the HHS Department Appeals Board (DAB), Appellate Division, Decision No. 3066, to the THHSC, and it reads as follows.

> "Personal care services (also known in States by other names such as personal attendant services, personal assistance services, or attendant care services, etc.) covered under the State's program may include a range of human assistance provided to persons with disabilities and chronic conditions of all ages which enable them to accomplish tasks that they would normally do for themselves if they did not have a disability. Assistance may be in the form of hands-on assistance (actually performing a personal care task for a person) or cuing so that the person performs the task by him/herself. Such assistance most often relates to performance of ADLs and IADLs. ADLs include eating, bathing, dressing, toileting, transferring, and maintaining continence. IADLs capture more complex life activities and include personal hygiene, light housework, laundry, meal preparation, transportation, grocery shopping, using the telephone, medication management, and money management. Personal care services can be provided on a continuing basis or on episodic occasions. Skilled services that may be performed by a health professional are not considered personal care services."

The HISD's experience in the delivery of PCS services being provided to special education students indicates that PCS are support services provided to help a student with a disability or chronic condition. PCS includes a range of human assistance provided to students, which enables them to accomplish age-appropriate tasks that they would normally do for themselves if they did not have a disability or chronic condition. An individual may be physically capable of performing activities of daily living (ADLs) and instrumental (IADLs) but may have limitations in performing these activities because of a physical, functional, cognitive, or behavioral impairment.

Proposed HHSC Change:

(9.1) PCS must only be provided by an individual employed by or contracted with the LEA who: Meets the requirements of 42 CFR §440.167 and 1 TAC §363.603.

HISD Response:

The HISD Does Not Support the proposed change contained in Proposed Change No. 9.1. Our review of 1 TAC §363.603 indicates that these THHSC requirements were specifically developed for Home and Community Support Service Agencies, and/or Licensed and Certified Home Health Service entities providing Consumer Directed Services Organizations, and the requirements do not align with the scope of operations for PCS being delivered in a school district or LEA.

The HISD is recommending that the THHSC continue to utilize its current PCS requirements for LEAs that align with the scope of operations that currently exist in delivering PCS in a school district or LEA. This requirement would be consistent with the federal (42 CFR §440.167) PCS requirements that state:

(1) the personal care provider be at least 18 years of age or older,
(2) the PCS provider must be trained and qualified to provide PCS, and
(3) the PCS provider cannot be related to the patient or student receiving the PCS Service.

School districts, including HISD, take seriously, the delivery of PCS for special education students, and they have consistently done a great job at employing qualified PCS providers to meet the PCS needs of their special education students. The THHSC proposed changes would be costly for a LEA to retrofit its current service delivery infrastructure and scope of operations or protocols that are already in place and have been effective in delivering PCS to our special education students.

Proposed HHSC Change:

(9.2) PCS must only be provided by an individual employed by or contracted with the LEA who: Has demonstrated the competence necessary to perform the eligible PCS tasks required by the student.

HISD Response:

The HISD Supports this proposed change to the SHARS Program. The HISD already meets this requirement and provides quality PCS services by competent PCS providers to meet the needs of our special education students.

Proposed HHSC Change:

(9.2.1) Understanding and competence must be verified prior to the individual providing PCS without the direct supervision of a licensed health care practitioner.

HISD Response: HISD Supports this proposed change to the SHARS Program. The HISD already meets this requirement. Our HISD Office of Special Education Services works in coordination with HISD's Health and Medical Services Department and other licensed clinicians to ensure that effective training is provided so that our PCS providers have an understanding and competence for the PCS provided to our students.

Proposed HHSC Change:

(9.2.2) The licensed health care practitioner, as defined by 1 TAC §352.3, must be eligible to provide reimbursement services under non-PCS SHARS in order to provide PCS-related training and evaluation.

HISD Response:

The HISD is Requesting Further Clarification for this proposed change to the SHARS Program. HISD's review of the definition and requirements for a Health Care Practitioner, as disclosed in 1 TAC §352.3, and the proposed change requirements disclosed in 9.2.2 indicate that HISD and other school districts would meet this requirement for its current licensed clinicians that participate in the SHARS program.

> **1 TAC §352.3, (10) Health Care Practitioner:** A physician or non-physician licensed or certified health care provider who is recognized by federal law or by HHSC as a provider who can bill for medical services or benefits, submits orders or referrals for services to treat, certifies medical need of services, or supervises other individuals providing services and benefits to Medicaid or CHIP recipients.

The HISD is requesting further clarification that the proposed THHSC changes would recognize that our licensed clinicians, such as our, Registered Nurses, Physical Therapists, Occupational Therapists, Speech Therapists, Psychologists, Audiologists, and other licensed clinicians that are approved to bill for SHARS services would qualify as a Health Care Practitioner, as defined in 1 TAC §352.3.

Proposed HHSC Change:

(10.) Understanding and competence to perform PCS services must include, but is not limited to:

- (10.1) Appropriate techniques for providing PCS, including written documentation procedures for SHARS
- (10.2) Appropriate techniques for managing adverse behaviors of the student
- (10.3) Basic body mechanics, mobility, and techniques for transferring students
- (10.4) The special needs of students with disabilities, and
- (10.5) Communication skills, including but not limited to techniques for communicating through alternative modes with persons with communication or sensory impairments.

HISD Response:

The HISD Supports these proposed changes to the SHARS Program. The HISD and many school districts already meet this requirement. The HISD Office of Special Education Services works in coordination with the HISD Health and Medical Services Department and other licensed clinicians to ensure that effective training is provided to PCS providers so that they have an understanding and competence for providing quality PCS to our special education students.

However, for districts that will have to develop and implement an infrastructure to accommodate these proposed changes, we are recommending that THHSC provide LEAs with sufficient time to implement these proposed changes that will further strengthen their respective SHARS program.

Proposed HHSC Change:

(11.) A licensed health care practitioner must evaluate and verify the individual has demonstrated understanding and competence before the individual is authorized to provide PCS independently without direct supervision:

(11.1) A licensed health care practitioner may consider education, experience, related certification, and on-site demonstration to evaluate each area of understanding and competence

(11.2) When competence cannot be demonstrated through education and experience, individuals must provide the PCS tasks under direct supervision of a licensed health care practitioner.

(11.3) A licensed health care practitioner may provide training to develop understanding and competence if the individual lacks understanding and competence in an area of PCS.

(11.4) A licensed health care practitioner may only provide training and evaluate understanding and competency for activities within their scope of practice.

HISD Response:

The HISD Supports these proposed changes to the SHARS Program. The HISD and many school districts already meet these requirements. The HISD Office of Special Education Services works in coordination with the HISD Health and Medical Services Department and other licensed clinicians to ensure that effective training is provided to PCS providers so that they have an understanding and competence for providing quality PCS to our special education students.

However, for districts that will have to develop and implement an infrastructure to accommodate these proposed changes, we are recommending that THHSC provide LEAs with sufficient time to implement these proposed changes that will further strengthen their respective SHARS program.

Proposed HHSC Change:

(12.) The LEA must retain documentation verifying the individual performing PCS tasks has been evaluated and verified as qualified by a licensed health care practitioner.

HISD Response:

The HISD Supports these proposed changes to the SHARS Program. The HISD and many school districts already meet this requirement. The HISD Office of Special Education Services works in coordination with the Health and Medical Services Department and other licensed clinicians to ensure that effective training and oversight functions are being conducted with PCS providers so that they have an understanding and competence for providing quality PCS to our special education students.

However, for districts that will have to develop and implement an infrastructure to accommodate these proposed changes, we are recommending that THHSC provide LEAs with sufficient time to implement these proposed changes that will further strengthen their respective SHARS program.

Proposed HHSC Change:

(30.3.1) Documentation for verifying qualifications and competency at performing PCS must be on file for each individual providing PCS. A licensed health care professional must complete, sign, and date the documentation indicating the individual is qualified to provide PCS.

HISD Response: The HISD Supports this proposed change to the SHARS Program. The HISD and many school districts already meet this requirement. The Special Education Department works in coordination with the Nursing Services Department and other licensed clinicians to ensure that effective training is provided to PCS providers so that they have an understanding and competence for the providing quality PCS to our special education students.

However, for districts that will have to develop and implement an infrastructure to accommodate these proposed changes, we are recommending that THHSC provide LEAs with sufficient time to implement these proposed changes that will further strengthen their respective SHARS program.

ITEM NO. THREE: Interim Claiming

Proposed HHSC Change:

(31.) LEAs must submit:

(31.1) At least one interim claim for each direct medical service that an eligible student receives within the cost report period;

(31.2) Interim claims for all personal care services that an eligible student receives within the cost report period; and

(31.3) Interim claims for all eligible specialized transportation trips provided within the cost report period.

HISD Response:

The proposed THHSC changes in TAC §355.8443, *Section (e) Reimbursement Methodology, (2) Interim Claims, (A) LEAs must submit(i)(ii)(iii)*, is a significant change for LEAs to achieve.

LEA's will have to significantly "retool" their scope of operations for billing and tracking services by clinician, to implement the new requirements of submitting 100% interim claiming for PCS and Special Transportation Services for each Medicaid eligible student receiving these respective services.

While it does appear that the proposed language does continue to meet the THHSC policy of "reconciling and settling" to the annual SHARS cost report, many LEAs will not have sufficient levels of allowable state and local costs being calculated in the cost report settlement process to support new Interim Claiming level of 100% for PCS and Special Transportation Services being delivered.

For the FFY2022 SHARS Cost Report Settlement Process, LEAs experienced a significant reduction in their Direct Medical Percentage (DMP) that effectively reduced their respective Medicaid Allowable Cost being calculated in the cost report settlement. The THHSC calculated the FFY2022 DMP at 20.04%, and this contributed to a significant reduction in allowable cost being calculated in the cost settlement process

which equated to a significant reduction in Medicaid Allowable Cost. For LEAs that experienced higher levels of Interim Claiming or Interim Reimbursement Payments during the FFY2022, this lower DMP of 20.04% became a problem because many LEAs had to payback THHSC because their Cost Report Settlement Amount was a negative balance once their Medicaid Allowable Cost was calculated, less the total amount received for Interim Claiming Payments during the federal fiscal year.

FFY2022 SHARS Cost Report Settlement Simulation of DMP at 20.04% Direct Medical Services Cost Allocation			
Cost Allocation Formulas:	**Allocation Ratios**	**Allowable Cost Per $ 100.00**	**Allowable Cost Per $ 1.00**
Allowable Cost		**$ 100.00**	**$ 1.00**
Less: Federal Funding		-10.00	.10
(=): Equals: Net Direct Cost		90.00	.90
Add: Indirect Cost	13.97%	12.57	.13
(=): Net Direct Cost w/Indirect Cost		**102.57**	**1.03**
(X): Direct Medical Percentage (DMP)	20.04 %	20.56	.21
(X): IEP Ratio	43.00 %	8.84	.09
(=) Medicaid Allowable Cost		**$ 8.84**	**$ .09**
(X) FMAP (Federal Medical Assistance Percentage)	67.00 %	5.92	.06
Less: HHSC 1% Fee	1.00 %	.06	.0006
Less: Medicaid Interim Payments by TMHP			
Proposed Cost Report Settlement Amount		**$ 5.67**	**$ .06**

FFY2023 SHARS Cost Report Settlement Simulation of DMP at 28.58% Direct Medical Services Cost Allocation			
Cost Allocation Formulas:	**Allocation Ratios**	**Allowable Cost Per $ 100.00**	**Allowable Cost Per $ 1.00**
Allowable Cost		**$ 100.00**	**$ 1.00**
Less: Federal Funding		-10.00	.10
(=): Equals: Net Direct Cost		90.00	.90
Add: Indirect Cost	13.97%	12.57	.13
(=): Net Direct Cost w/Indirect Cost		**102.57**	**1.03**
(X): Direct Medical Percentage (DMP)	28.58 %	29.31	.29
(X): IEP Ratio	43.00 %	12.61	.12
(=) Medicaid Allowable Cost		**$ 12.61**	**$ .12**
(X) FMAP (Federal Medical Assistance Percentage)	64.85 %	8.17	.08
Less: HHSC 1% Fee	1.00 %	.08	.0008
Less: Medicaid Interim Payments by TMHP			
Proposed Cost Report Settlement Amount		**$ 8.09**	**$ .08**

In FFY2022, for every allowable dollar ($1.00) that a LEA posted to their cost report, they only received approximately six cents ($.06) in cost report settlement, or for every hundred dollars ($100.00) in allowable cost, LEAs only received approximately $5.67 in cost report settlement.

In FFY2023, for every allowable dollar ($1.00) that a LEA posted to their cost report, they only received approximately eight cents ($.08) in cost report settlement, or for every hundred dollars ($100.00) in allowable cost, LEAs only received approximately $8.09 in cost report settlement.

FFY2022 Vs. FFY2023 SHARS Cost Report Settlement Simulation of DMP Direct Medical Services Cost Allocation		
Cost Allocation Criteria:	**FFY:2022**	**FFY: 2023**
Direct Medical Percentage (DMP)	**20.04 %**	**28.58 %**
IEP Ratio	**43.00 %**	**43.00 %**
Indirect Cost Rate	**13.97 %**	**13.97 %**
FMAP (Federal Medical Assistance Percentage)	**67.00 %**	**64.85 %**
HHSC 1% Fee	**1.00 %**	**1.00 %**
Allowable Cost Per $ 1.00	**$ 1.00**	**$ 1.00**
Proposed Cost Report Settlement Amount	**$ .06**	**$ .08**

FFY2022 Vs. FFY2023 SHARS Cost Report Settlement Simulation of DMP Direct Medical Services Cost Allocation		
Cost Allocation Criteria:	**FFY:2022**	**FFY: 2023**
Direct Medical Percentage (DMP)	**20.04 %**	**28.58 %**
IEP Ratio	**43.00 %**	**43.00 %**
Indirect Cost Rate	**13.97 %**	**13.97 %**
FMAP (Federal Medical Assistance Percentage)	**67.00 %**	**64.85 %**
HHSC 1% Fee	**1.00 %**	**1.00 %**
Allowable Cost Per $ 100.00	**$ 100.00**	**$ 100.00**
Proposed Cost Report Settlement Amount	**$ 5.67**	**$ 8.09**

This analysis of FFY2022 and FFY2023 indicates that LEAs are receiving significantly less Medicaid allowable cost for providing eligible Medicaid allowable services, because the DMP has been significantly reduced by THHSC. At 20.04 % and 28.58% DMP's respectively for FFY2022 and FFY2023, LEA's will have to determine if they can claim for 100% of Interim Billing/Claiming for PCS and Special Transportation Services because their Medicaid Portion of Allowable Cost (calculation) is only at six to eight cents per each dollar of allowable cost. For the FFY2023 Cost Report Settlement Process, if LEAs submitted 100%

of their Interim Claims for PCS and Special Transportation, it is possible that they will have a negative Proposed Cost Report Settlement Amount that the THHSC will recoup from the LEA.

Direct Medical Percentage (DMP) and RMTS Operations:

The HISD is recommending that THHSC review its methodology and criteria for:

- Calculating and utilizing the DMP to determine and reflect the actual percentage of time clinicians spend providing allowable SHARS services to special education students.
- Utilization of the DMP to calculate allowable Direct Medical Services costs.

The HISD has long been concerned that the THHSC methodology for allocating allowable Direct Medical Services Cost (DMSC) in the Annual SHARS Cost Report is not correct because the DMP should not be applied to a LEAs DMSC when the cost initiative is being provided by healthcare personnel that only provide healthcare to students, 100% of the time.

LEAs employ licensed clinicians such as Registered Nurses, Physical Therapist, Occupational Therapist, Audiologist, Contracted Physician, Psychologist, and unlicensed PCS Aides that only provide direct healthcare to our special education students. These healthcare professionals do not provide any educational services or instruction to our special education students, because they were hired only to provide direct healthcare services to our students, 100% of the time.

To accurately allocate the DMSC of these healthcare professionals within the Cost Report Reconciliation Process, the HISD is recommending that their respective allowable costs should not be discounted and/or reduced by the Direct Medical Percentage (DMP).

However, for other personnel that may provide dual services such as Personal Care Services (PCS) and educational instruction, then HISD is recommending that the DMP should be applied to their respective DMSC because these employees operate within two cost initiatives, (PCS and educational instruction). The allowable DMSC for these employees should be discounted or reduced by the DMP, utilizing the current methodology that THHSC is implementing in cost report reconciliation process for Direct Medical Services Costs.

The HISD is recommending that THHSC approve the following direct medical services cost categories to achieve the accurate allocation of DMSC within the Cost Report Reconciliation Process.

- Direct Medical Service - Not Only
- Direct Medical Service - Only

This HISD recommendation would be consistent with what THHSC has approved for the two cost allocation methodologies that are currently being utilized in the cost report for Transportation Services:

- Transportation Services - Not Only
- Transportation Services - Only

In the current cost report settlement process, the Special Adaptive Vehicle (VAC) percentage is not applied to the Transportation Services-Only cost category, as approved by THHSC and CMS.

HISD's Proposed Methodology for Cost Report Settlement Process Direct Medical Services Cost Allocation Direct Medical Services – NOT ONLY			
Cost Allocation Formulas:	**Allocation Ratios**	**Allowable Cost Per $ 100.00**	**Allowable Cost Per $ 1.00**
Allowable Cost		**$ 100.00**	**$ 1.00**
Less: Federal Funding		-10.00	.10
(=): Equals: Net Direct Cost		90.00	.90
Add: Indirect Cost	13.97%	12.57	.13
(=): Net Direct Cost w/Indirect Cost		**102.57**	**1.03**
(X): Direct Medical Percentage (DMP)	28.58 %	29.31	.21
(X): IEP Ratio	43.00 %	12.61	.09
(=) Medicaid Allowable Cost		**$ 12.61**	**$ .12**
(X) FMAP (Federal Medical Assistance Percentage)	67.00 %	8.17	.08
Less: HHSC 1% Fee	1.00 %	.08	.0008
Less: Medicaid Interim Payments by TMHP			
Proposed Cost Report Settlement Amount		**$ 8.09**	**$ .08**

HISD's Proposed Methodology for Cost Report Settlement Process Direct Medical Services Cost Allocation Direct Medical Services – ONLY			
Cost Allocation Formulas:	**Allocation Ratios**	**Allowable Cost Per $ 100.00**	**Allowable Cost Per $ 1.00**
Allowable Cost		**$ 100.00**	**$ 1.00**
Less: Federal Funding		-10.00	.10
(=): Equals: Net Direct Cost		90.00	.90
Add: Indirect Cost	13.97%	12.57	.13
(=): Net Direct Cost w/Indirect Cost		**102.57**	**1.03**
(X): Direct Medical Percentage (DMP)	0.00 %	102.57	1.03
(X): IEP Ratio	43.00 %	44.11	.44
(=) Medicaid Allowable Cost		**$ 44.11**	**$ .44**
(X) FMAP (Federal Medical Assistance Percentage)	67.00 %	29.55	.29
Less: HHSC 1% Fee	1.00 %	.30	.0003
Less: Medicaid Interim Payments by TMHP			
Proposed Cost Report Settlement Amount		**$ 29.25**	**$ .29**

HISD's Proposed Methodology for Cost Report Settlement Process Direct Medical Services Cost (DMSC) Allocation		
Cost Allocation Criteria:	**DMSC-NOT ONLY**	**DMSC-ONLY**
Direct Medical Percentage (DMP)	**20.04 %**	**0.00 %**
IEP Ratio	**43.00 %**	**43.00 %**
Indirect Cost Rate	**13.97 %**	**13.97 %**
FMAP (Federal Medical Assistance Percentage)	**67.00 %**	**64.85 %**
HHSC 1% Fee	**1.00 %**	**1.00 %**
Allowable Cost Per $ 1.00	**$ 1.00**	**$ 1.00**
Proposed Cost Report Settlement Amount	**$ .08**	**$ .29**

HISD's Proposed Methodology for Cost Report Settlement Process Direct Medical Services (DMS) Cost Allocation		
Cost Allocation Criteria:	**DMSC-NOT ONLY**	**DMSC-ONLY**
Direct Medical Percentage (DMP)	**20.04 %**	**28.58 %**
IEP Ratio	**43.00 %**	**43.00 %**
Indirect Cost Rate	**13.97 %**	**13.97 %**
FMAP (Federal Medical Assistance Percentage)	**67.00 %**	**64.85 %**
HHSC 1% Fee	**1.00 %**	**1.00 %**
Allowable Cost Per $ 100.00	**$ 100.00**	**$ 100.00**
Proposed Cost Report Settlement Amount	**$ 8.09**	**$29.25**

This analysis indicates that LEAs are receiving significantly less Medicaid allowable cost for providing allowable Direct Medical Services, because the DMP has significantly reduced their allowable costs for the services Licensed Clinicians and PCS-Aides provide.

For every allowable dollar ($1.00) that a LEA posts to their cost report for DMSC-Not Only, they only received approximately eight cents ($.08) in cost report settlement, and for every hundred dollars ($100.00) in allowable DMSC-Not Only cost posted, only received approximately $8.09 in cost report settlement.

In the HISD Recommendation, for every allowable dollar ($1.00) that a LEA posts to their cost report for DMSC-Only, they will receive approximately twenty-nine cents ($.29) in cost report settlement, or for every hundred dollars ($100.00) in allowable cost posted, LEAs will receive approximately $29.25 in cost report settlement. With this recommendation, LEAs will finally receive an equitable level of Medicaid reimbursement being provided by licensed clinicians and unlicensed PCA-Aides that were hired by the LEA to provide healthcare to special education students 100% of the time.

Houston ISD Does Not Support Proposed THHSC Changes that Potentially Prohibit or Restrict LEA's from Seeking Medicaid Reimbursement for Providing Allowable Medicaid Services:

The HISD is recommending that THHSC, MCM Medical Benefits Policy Department, and the HHSC Provider Finance (SHARS) Department meet and work collaboratively with Local Education Agencies (LEAs) to further discuss these proposed changes that will have significant impacts to the scope of operations for LEA's that provide SHARS services. LEAs consider these proposed changes to the cost reconciliation and cost report settlement process to be restrictive and prohibitive in their ability to seek Medicaid reimbursement, as a Medicaid Service Provider, for providing allowable Medicaid services to children with disabilities under federal law.

The HISD is recommending that THHSC provide LEAs with sufficient time to implement any proposed changes. LEAs will have to change and develop new processes and infrastructure to accommodate these proposed THHSC changes that are significant, so planning and timing is an important factor for LEAs to contend with during our school year.

The HISD Does Not Support any proposed changes that are restrictive and narrow in describing and defining what should be included in allowable health and related services (HRS), especially personal care services (PCS), to meet the needs of special education students that truly depends on these important supportive services to interact and experience the complexities and difficulties of getting a free appropriate public education.

The inconvenient truth is that HRS and PCS are an integral part of a special education student's life, and PCS are fundamental to their Activities of Daily Living (ADLs) while attending school, so the HISD will advocate and always defend a special education student's right to receiving PCS and HRS afforded to them under the Individuals with Disabilities Education Act (IDEA).

The Houston Independent School District looks forward to working with the Texas Health and Human Services Commission to discuss and bring about meaningful policy changes that are not restrictive and prohibitive for school districts to seek Medicaid reimbursement for providing allowable Title XIX services to students with disabilities.

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