

As Introduced

**130th General Assembly
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H. B. No. 683

Representative Gonzales

Cosponsors: Representatives Brenner, Foley, Rogers

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A B I L L

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 (5162.369) 12
be amended for the purpose of adopting new section numbers as 13
indicated in parentheses; and new section 5162.362 and sections 14
5162.365, 5162.366, 5162.367, and 5162.368 of the Revised Code be 15
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 19

Security Act," 42 U.S.C. 1396 et seq., including any medical 20
assistance provided under the medicaid state plan or a federal 21
medicaid waiver granted by the United States secretary of health 22
and human services. 23

(2) "Medicare" and "medicare program" mean the federal health 24
insurance program established by Title XVIII of the "Social 25
Security Act," 42 U.S.C. 1395 et seq. 26

(B) As used in this chapter: 27

(1) "Dual eligible individual" has the same meaning as in 28
section 5160.01 of the Revised Code. 29

(2) "Exchange" has the same meaning as in 45 C.F.R. 155.20. 30

(3) "Federal financial participation" has the same meaning as 31
in section 5160.01 of the Revised Code. 32

(4) "Federal poverty line" means the official poverty line 33
defined by the United States office of management and budget based 34
on the most recent data available from the United States bureau of 35
the census and revised by the United States secretary of health 36
and human services pursuant to the "Omnibus Budget Reconciliation 37
Act of 1981," section 673(2), 42 U.S.C. 9902(2). 38

(5) "Healthy start component" means the component of the 39
medicaid program that covers pregnant women and children and is 40
identified in rules adopted under section 5162.02 of the Revised 41
Code as the healthy start component. 42

(6) "Home and community-based services" means services 43
provided under a home and community-based services medicaid waiver 44
component. 45

(7) "Home and community-based services medicaid waiver 46
component" has the same meaning as in section 5166.01 of the 47
Revised Code. 48

(8) "ICF/IID" has the same meaning as in section 5124.01 of 49

the Revised Code.	50
(9) <u>"Individualized education program" has the same meaning as in section 3323.011 of the Revised Code.</u>	51 52
(10) "Medicaid managed care organization" has the same meaning as in section 5167.01 of the Revised Code.	53 54
(10) (11) "Medicaid provider" has the same meaning as in section 5164.01 of the Revised Code.	55 56
(11) (12) "Medicaid services" has the same meaning as in section 5164.01 of the Revised Code.	57 58
(12) (13) "Nursing facility" and "nursing facility services" have the same meanings as in section 5165.01 of the Revised Code.	59 60
(13) (14) <u>"Personal care services" has the same meaning as in 42 C.F.R. 440.167.</u>	61 62
(15) "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.	63 64 65 66
(14) (16) "Prescribed drug" has the same meaning as in section 5164.01 of the Revised Code.	67 68
(15) (17) "Provider agreement" has the same meaning as in section 5164.01 of the Revised Code.	69 70
(16) (18) "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:	71 72 73 74 75 76
(a) It holds a valid provider agreement.	77
(b) It meets all other conditions for participation in the	78

medicaid school component of the medicaid program established in 79
rules authorized by section ~~5162.364~~ 5162.369 of the Revised Code. 80

~~(17)~~(19) "State agency" means every organized body, office, 81
or agency, other than the department of medicaid, established by 82
the laws of the state for the exercise of any function of state 83
government. 84

~~(18)~~(20) "Vendor offset" means a reduction of a medicaid 85
payment to a medicaid provider to correct a previous, incorrect 86
medicaid payment to that provider. 87

Sec. 5162.36. ~~(A)~~ ~~(B)~~ The medicaid director shall create, in 88
accordance with sections 5162.36 to ~~5162.364~~ 5162.369 of the 89
Revised Code, the medicaid school component of the medicaid 90
program. 91

Sec. 5162.361. A qualified medicaid school provider 92
participating in the medicaid school component of the medicaid 93
program may submit a claim to the department of medicaid for 94
federal financial participation for providing, ~~in schools,~~ 95
services covered by the medicaid school component to medicaid 96
recipients who are eligible for the services. No qualified 97
medicaid school provider may submit such a claim before the 98
provider incurs the cost of providing the service. 99

The claim shall include certification of the qualified 100
medicaid school provider's expenditures for the service. The 101
certification shall show that the money the qualified medicaid 102
school provider used for the expenditures was nonfederal money the 103
provider may legally use for providing the service and that the 104
amount of the expenditures was sufficient to pay the full cost of 105
the service. 106

Except as otherwise provided in sections 5162.36 to ~~5162.364~~ 107
5162.369 of the Revised Code and rules authorized by sections 108

~~5162.363~~ 5162.364 and ~~5162.364~~ 5162.369 of the Revised Code, a 109
qualified medicaid school provider is subject to all conditions of 110
participation in the medicaid program that generally apply to 111
providers of goods and services under the medicaid program, 112
including conditions regarding audits and recovery of 113
overpayments. A qualified medicaid school provider also must 114
annually submit to the department of education a report showing 115
the number of the provider's students who received special 116
education and related services provided pursuant to Chapter 3323. 117
of the Revised Code in the most recent previous October. 118

Sec. 5162.362. (A) A qualified medicaid school provider's 119
claim for a service covered by the medicaid school component of 120
the medicaid program shall be rejected if any of the following 121
applies: 122

(1) Unless the service is an initial assessment or evaluation 123
performed in the development of a medicaid recipient's 124
individualized education program, the service is not included in 125
the individualized education program developed for the recipient 126
to whom the service is provided. 127

(2) Except as provided in division (B) of this section, the 128
medicaid recipient who receives the service fails to show progress 129
in meeting the goals included in the recipient's individualized 130
education program over two consecutive three-month periods. 131

(3) Another reason for rejection specified in rules 132
authorized by section 5162.369 of the Revised Code applies to the 133
claim. 134

(B) A qualified medicaid school provider's claim for a 135
service covered by the medicaid school component may be paid even 136
though the circumstance described in division (A)(2) of this 137
section applies if either of the following is the case: 138

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

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

Sec. ~~5162.362~~ 5162.363. The department of medicaid shall seek federal financial participation for each claim a qualified medicaid school provider properly submits to the department under section 5162.361 of the Revised Code. The department shall disburse the federal financial participation the department receives from the federal government for such a claim to the qualified medicaid school provider that submitted the claim. The department may not pay the qualified medicaid school provider the nonfederal share of the cost of the services for which the claim was submitted.

Sec. ~~5162.363~~ 5162.364. The department of medicaid shall enter into an interagency agreement with the department of education under section 5162.35 of the Revised Code that provides for the department of education to administer the medicaid school component of the medicaid program other than the aspects of the component that sections 5162.36 to ~~5162.364~~ 5162.369 of the Revised Code require the department of medicaid to administer. The interagency agreement may include a provision that provides for the department of education to pay to the department of medicaid the nonfederal share of a portion of the administrative expenses the department of medicaid incurs in administering the aspects of the medicaid school component that the department of medicaid administers. The interagency agreement shall include a provision that provides for the department of education to receive at least three and one-half per cent of the federal financial participation

the state receives for the medicaid school component. 170

To the extent authorized by rules authorized by section 171
5162.021 of the Revised Code, the department of education shall 172
establish, in rules adopted under section 5162.02 of the Revised 173
Code, a process by which qualified medicaid school providers 174
participating in the medicaid school component pay to the 175
department of education the nonfederal share of the department's 176
expenses incurred in administering the component. The rules shall 177
be adopted in accordance with Chapter 119. of the Revised Code. 178

Sec. 5162.365. The department of medicaid and department of 179
education jointly shall prepare and annually update procedural 180
guidelines for, and other informational materials about, the 181
medicaid school component of the medicaid program that give 182
qualified medicaid school providers clear instructions for 183
participation in the component. 184

Sec. 5162.366. The medicaid school component of the medicaid 185
program shall cover nursing services provided by any of the 186
following: 187

(A) A registered nurse; 188

(B) A licensed practical nurse; 189

(C) An individual (including a school health aide), 190
regardless of whether the individual is licensed, certified, or 191
otherwise authorized by a board or other agency of the state to 192
provide a health care service, to whom all of the following apply: 193

(1) The individual is at least eighteen years of age. 194

(2) A registered nurse or licensed practical nurse has 195
delegated the nursing services to the individual in accordance 196
with rules adopted under section 4723.07 of the Revised Code. 197

(3) The individual and the registered nurse or licensed practice nurse who delegated the nursing services to the individual are employed by or under contract with the qualified medicaid school provider that submits the claim to the department of medicaid for the nursing services. 198
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Sec. 5162.367. (A) Subject to divisions (B) and (C) of this section, the medicaid school component of the medicaid program shall cover personal care services. 203
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(B) A medicaid recipient who is eligible for the medicaid school component may receive personal care services covered by the component if both of the following apply: 206
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(1) The recipient needs the services because the recipient either cannot perform one or more activities of daily living or instrumental activities of daily living or has a limitation in performing one or more such activities due to a functional, cognitive, or behavioral impairment. 209
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(2) The personal care services help the recipient benefit from special education and related services provided pursuant to Chapter 3323. of the Revised Code. 214
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(C) Personal care services covered by the medicaid school component may be provided by an individual who meets all of the following requirements: 217
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(1) The individual must be at least eighteen years of age. 220

(2) The individual must be trained to provide the personal care services to the medicaid recipient who receives the services. 221
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(3) The individual must provide the personal care services under the direct supervision of a health care professional to whom both of the following apply: 223
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(a) The health care professional is licensed, certified, or otherwise authorized by a board or other agency of the state to 226
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provide a health care service. 228

(b) The health care professional is employed by or under 229
contract with the qualified medicaid school provider that submits 230
the claim to the department of medicaid for the personal care 231
services. 232

Sec. 5162.368. (A) Subject to divisions (B) to (E) of this 233
section, the medicaid school component of the medicaid program 234
shall cover specialized medical transportation services. 235

(B) A medicaid recipient eligible for the medicaid school 236
component may receive specialized medical transportation services 237
covered by the component if both of the following requirements are 238
met: 239

(1) Either of the following must apply to the recipient: 240

(a) School bus transportation to the school in which the 241
medicaid recipient is enrolled must not be provided to the 242
school's students who reside in the same area as the recipient. 243

(b) If school bus transportation to the school in which the 244
medicaid recipient is enrolled is provided to the school's 245
students who reside in the same area as the recipient, the school 246
bus used for the transportation must not have the adaptations that 247
the recipient needs to be able to be transported in the school 248
bus. 249

(2) On the same day that the medicaid recipient receives the 250
specialized medical transportation services, the recipient must 251
also receive at least one other service covered by the medicaid 252
school component. The other service may be personal care services 253
provided to the recipient while receiving the specialized medical 254
transportation services. 255

(C) Specialized medical transportation services covered by 256
the medicaid school component must be provided in a specially 257

adapted vehicle that has been physically modified in a manner that 258
enables the medicaid recipient receiving the services to be 259
transported in the vehicle. Modifications may include the addition 260
of a wheelchair lift, seatbelts, harnesses, child protective 261
seats, air conditioning, and similar modifications. The use of a 262
school bus monitor or other personnel who accompany students on a 263
school bus is not a modification. 264

(D) A medicaid recipient eligible to receive specialized 265
medical transportation services covered by the medicaid school 266
component may receive the services for any of the following 267
one-way trips: 268

(1) From the recipient's residence to the recipient's school; 269

(2) From the recipient's school to the recipient's residence; 270

(3) From the recipient's residence or school to a location to 271
receive a service covered by the medicaid school component from a 272
health care provider under contract with the qualified medicaid 273
school provider; 274

(4) From the location where a service specified in division 275
(D)(3) of this section is received to the recipient's residence or 276
school; 277

(5) From the recipient's school to another school operated by 278
a qualified medicaid school provider; 279

(6) From another school operated by a qualified medicaid 280
school provider to the recipient's school. 281

(E) A claim for specialized medical transportation services 282
provided to a medicaid recipient under the medicaid school 283
component shall show a separate charge for each one-way trip that 284
the recipient receives. 285

Sec. ~~5162.364~~ 5162.369. The medicaid director shall adopt 286
rules under section 5162.02 of the Revised Code as necessary to 287

implement the medicaid school component of the medicaid program, 288
including rules that establish or specify all of the following: 289

(A) Conditions a board of education of a city, local, or 290
exempted school district, governing authority of a community 291
school established under Chapter 3314. of the Revised Code, the 292
state school for the deaf, and the state school for the blind must 293
meet to participate in the component; 294

(B) ~~Services~~ In addition to the services specified in 295
sections 5162.366, 5162.367, and 5162.368 of the Revised Code, 296
services the component covers; 297

(C) Payment rates for the services the component covers. 298

The rules shall be adopted in accordance with Chapter 119. of 299
the Revised Code. 300

Sec. 5162.54. (A) There is hereby created in the state 301
treasury the health care services administration fund. Except as 302
provided in division (C) of this section, all the following shall 303
be deposited into the fund: 304

(1) Amounts deposited into the fund pursuant to sections 305
5162.12, 5162.40, and 5162.41 of the Revised Code; 306

(2) The amount of the state share of all money the department 307
of medicaid recovers each fiscal year pursuant to a tort action 308
under the department's right of recovery under section 5160.37 of 309
the Revised Code that exceeds the state share of all money the 310
department, in fiscal year 2002, recovers pursuant to a tort 311
action under that right of recovery; 312

(3) Subject to division (B) of this section, the amount of 313
the state share of all money the department of medicaid, in fiscal 314
year 2003 and each fiscal year thereafter, recovers through audits 315
of medicaid providers that exceeds the state share of all money 316

the department, in fiscal year 2002, recovers through such audits;	317
(4) Amounts from assessments on hospitals under section 5168.06 of the Revised Code and intergovernmental transfers by governmental hospitals under section 5168.07 of the Revised Code that are deposited into the fund in accordance with the law;	318 319 320 321
(5) Amounts that the department of education pays to the department of medicaid, if any, pursuant to an interagency agreement authorized by section 5162.363 <u>5162.364</u> of the Revised Code;	322 323 324 325
(6) The application fees charged to providers under section 5164.31 of the Revised Code;	326 327
(7) The fines collected under section 5165.1010 of the Revised Code;	328 329
(8) Money the department receives in a fiscal year for performing eligibility verification services necessary for compliance with the independent, certified audit requirement of 42 C.F.R. 455.304, other than the amounts of such money that are to be credited to the health care/medicaid support and recoveries fund under section 5162.52 of the Revised Code.	330 331 332 333 334 335
(B) In determining under division (A)(3) of this section the amount of money the department, in a fiscal year, recovers through audits of medicaid providers, the amount recovered in the form of vendor offset shall be excluded.	336 337 338 339
(C) The department of medicaid shall use funds available in the health care services administration fund to pay for costs associated with the administration of the medicaid program.	340 341 342
Sec. 5162.64. (A) There is hereby created in the state treasury the medicaid school program administrative fund.	343 344
(B) Both of the following shall be deposited into the medicaid school program administrative fund:	345 346

(1) The federal funds the department of education receives 347
for the expenses the department incurs in administering the 348
medicaid school component of the medicaid program created under 349
section 5162.36 of the Revised Code; 350

(2) The money the department collects from qualified medicaid 351
school providers in the process established in rules authorized by 352
section ~~5162.363~~ 5162.364 of the Revised Code. 353

(C) The department of education shall use money in the 354
medicaid school program administrative fund for both of the 355
following purposes: 356

(1) Paying for the expenses the department incurs in 357
administering the medicaid school component of the medicaid 358
program; 359

(2) Paying a qualified medicaid school provider a refund for 360
any overpayment the provider makes to the department under the 361
process established in rules authorized by section ~~5162.363~~ 362
5162.364 of the Revised Code if the process results in an 363
overpayment. 364

Section 2. That existing sections 5162.01, 5162.36, 5162.361, 365
5162.362, 5162.363, 5162.364, 5162.54, and 5162.64 of the Revised 366
Code are hereby repealed. 367