

Parental Consent

Requirements for School Based Medicaid Claiming



Medicaid Spring Training 2024

Considering Consent

- Consent to bill Medicaid under IDEA
- Consent to release personally protected information (PII) - FERPA
- Louisiana Statutes
- Consent to provide services per practice act guidelines
- Consent to share information with outside providers





Policy and Procedure

Each LEA should work with legal counsel and their board to determine policy and procedures around parental consent.

Template

- The LDOE has provided a template for the [one time consent to bill Medicaid](#) and the consent to release personal identifiable information (PII). School districts should construct their own consent and are advised to consult with their legal counsel regarding documentation of consent.
- School systems must make their own determination on consent to provide services and we will discuss several resources that can be helpful in making that plan.



Consent to Bill Medicaid - History

- In 2004, the reauthorization of IDEA clarified that LEAs must have parental consent to bill Medicaid.
- In 2013, USDOE [clarified](#) the parental consent requirements – allowing for a single written consent, followed by annual notification (rather than annual written consent).
- Pertinent in Louisiana - we allow services for all students – not just those with special needs (who qualify for services under IDEA).
- The requirement to get consent to release personally identifiable information (PII) (addressed next) is applicable to **all** students.



Proposed Rule

- The USDOE has issued a **proposed rule** to modify the requirement that an LEA must obtain consent prior to accessing the child or parent's public benefits or insurance for the first time.
- The transfer of personally identifiable information continues to be protected under the Family Educational Rights and Privacy Act (FERPA).



Required Elements of Medicaid Parental Consent IDEA

- The LEA cannot require a parent to enroll in Medicaid.
- The LEA cannot require parents to pay anything towards the cost of the health related activities at school.
- Giving permission to bill does not affect the child or families Medicaid coverage in any way.
- Giving or not giving permission will not have any affect on a child's special education rights.



Required Elements of Medicaid Parental Consent IDEA

- Giving permission does not lead to any changes in the child's Medicaid rights.
- Giving permission does not lead to any risk of losing eligibility for other Medicaid funded programs.
- Parents can withdraw consent at anytime by putting the request in writing.
- If permission is withdrawn or refused, the LEA will continue to be responsible for providing children with services, at no cost to the parent.



Frequency of Medicaid Parent Consent IDEA

- Consent to bill Medicaid must be obtained only **one time**.
- After the initial consent is obtained, the LEA is required to provide parents with an **annual notification** with the same information included in the one-time consent.



Consent to Release Personally Identifiable Information (PII)- FERPA

- In 1974, the passage of FERPA gave parents certain rights over the protected personal information (PII) of their children.
- In 1997, USDOE clarified that the information needed to bill Medicaid was considered PII and protected under FERPA.
- In a 2005 letter, USDOE [reiterated](#) that they unequivocally view Medicaid billing information as PII protected under FERPA.
- In 2013, USDOE [clarified](#) the Medicaid parental consent requirements (both for consent to bill and consent to release PII) – allowing for a single written consent, followed by annual notification (rather than annual written consent).



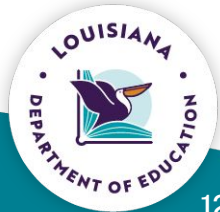
Clarification

- Unlike IDEA, FERPA applies to **all** students – and therefore this parental consent is required for any student:
 - Billing Medicaid
 - Checking Medicaid eligibility on any LDH portal



Required Elements

- The personally identifiable information that may be disclosed (e.g., records or information about the services that may be provided to a particular child).
- The purpose of the disclosure (e.g., billing for services).
- The agency to which the disclosure may be made (e.g., Medicaid).



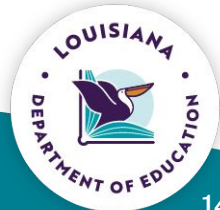
Frequency of Consent

- Consent to release PII must be obtained only **one time**.
- After the initial consent is obtained, the LEA is required to provide parents with an **annual notification** with the same information included in the one-time consent.



Written Consent for Services

- Some licensure types require a Professional Practice Statement to either be given to the client at the time of service or posted in the office.
- Each LEA should carefully discuss this with the provider types they employ.
- Recommend keeping this as a separate document.



LDH Required Language

LDH requires the following language be included in parental consent. If you use the LDOE provided forms, this language is already included:

“If your child is eligible to receive services to meet his/her needs, the services may be provided by the school system and/or you may take your child to another provider that accepts Medicaid.”



Annual Notice of Consent

“Prior to accessing a child's or parent's public benefits or insurance for the first time, and annually thereafter, must provide written notification, consistent with § 300.503(c), to the child's parents, that includes:

- (A) A statement of the parental consent provisions in paragraphs (d)(2)(iv)(A) and (B) of this section;
- (B) A statement of the “no cost” provisions in paragraphs (d)(2)(i) through (iii) of this section;
- (C) A statement that the parents have the right under 34 CFR part 99 and part 300 to withdraw their consent to disclosure of their child's personally identifiable information to the agency responsible for the administration of the State's public benefits or insurance program (e.g., Medicaid) at any time; and
- (D) A statement that the withdrawal of consent or refusal to provide consent under 34 CFR part 99 and part 300 to disclose personally identifiable information to the agency responsible for the administration of the State's public benefits or insurance program (e.g., Medicaid) does not relieve the public agency of its responsibility to ensure that all required services are provided at no cost to the parents.”



Record Keeping

- LEAs must retain parental consent for Medicaid for **7 years after** the last time they billed Medicaid for services provided to that student.
- Before billing Medicaid, LEAs must have a way of confirming they have received parental consent.



Resources

- [Joint Guidance on the Application of the Family Educational Rights and Privacy Act \(FERPA\) And the Health Insurance Portability and Accountability Act of 1996 \(HIPAA\) To Student Health Records](#)



Questions on Parental Consent?

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