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## Support

### **House Bill 409 – Maryland Medical Assistance Program – Participation of School-Based Health Centers – Regulations**

House Health and Government Operations Committee

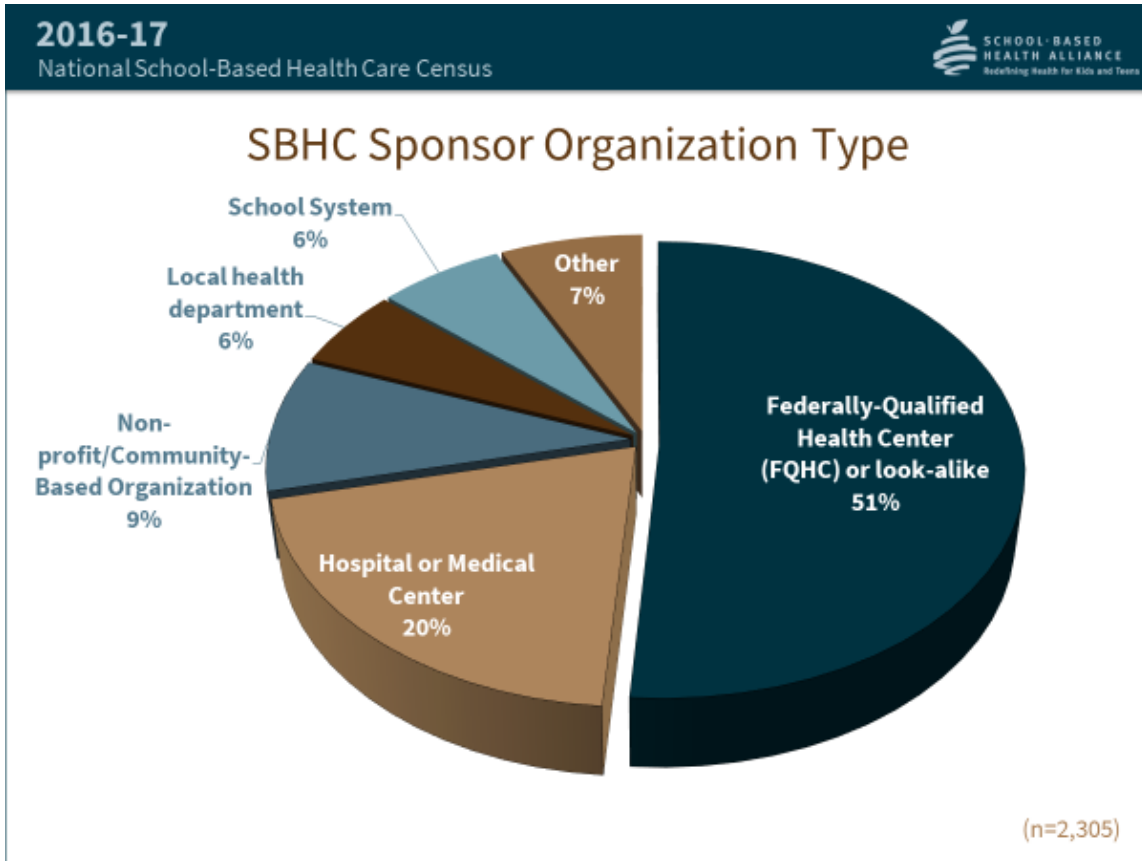
February 5, 2020

The Maryland Assembly of School-Based Health Care (MASBHC) strongly supports *House Bill 409 – Maryland Medical Assistance Program – Participation of School-Based Health Centers – Regulations*. This bill would require the Maryland Medicaid Program to revise its regulations for school-based health centers to correspond with current standards established by the Maryland State Department of Education.

School-based health centers are health centers located in, or on a school campus, which provide onsite comprehensive preventive and primary health services. When sufficient resources are available, services may also include behavioral health and oral health. Through leveraging additional funding, including reimbursement from health insurers, including Medicaid, school-based health centers have been able to improve access and quality of care for youth, particularly hard-to-reach and underserved populations. In fact, recent data shows that over 90% of school-based health centers in Maryland billed Medicaid for services during the 2017-2018 school year.<sup>i</sup>

Since 2006, standards for school-based health centers developed by the Maryland State Department of Education (MSDE), in consultation with the Maryland Department of Health, have included a comprehensive list of seven organization types that may sponsor a school-based health center. Unfortunately, the Maryland Medicaid Program only permits three types of sponsoring organizations: local health departments, federally qualified health centers, and general clinics. These regulations prohibit other health care organizations, including hospitals and medical centers from being able to sponsor school-based health centers if they plan to seek Medicaid reimbursement.

This is contrary to the current practices adopted by other states and Maryland's current rules outlining hospital partnerships with other community-based health services. As an example, a recent study conducted in 2019 for the Maryland Community Health Resources Commission and the Council for Advancement of School-Based Health Centers found that nationally, the second most frequent sponsor was hospitals only behind federally qualified health centers. This is illustrated in the chart below from a national survey by the School-Based Health Alliance, which shows that 20 percent of all school-based health centers nationally are sponsored by hospitals and medical centers. In addition, the 2019 study found that when looking at specific states, New York, for example, had 40 percent of their SBHCs sponsored by hospitals.<sup>i</sup>



Over the past several years, MASBHC has engaged in multiple conversations and actions to address this outstanding issue. Unfortunately, our efforts to avoid legislation have been unsuccessful. In an era when Maryland is focusing on the Total Cost of Care Model, we believe we should be looking to other types of sponsorship models that include hospitals and medical centers.

Thank you for hearing our testimony. We ask for a favorable vote. If you need any additional information, please contact Rachael Faulkner at [rfaulkner@policypartners.net](mailto:rfaulkner@policypartners.net) or (410) 693-4000.

<sup>1</sup> Demonstrating the Value of School-Based Health Centers in Maryland: A Roadmap. Tanya Schwartz, MPP, MSW and Megan Thomas, MPP. Harbage Consulting for The Maryland Community Health Resources Commission and the Council for the Advancement of School-Based Health Centers November 1, 2019.



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January 23, 2017

Michele Phinney, Director  
Office of Regulation and Policy Coordination  
Department of Health and Mental Hygiene  
201 West Preston Street, Room 512  
Baltimore, MD 21201

Dear Ms. Phinney:

Thank you for the opportunity to submit comments on the proposed regulations under COMAR 10.09.76 – *School Based Health Centers (SBHC)*, which was posted in the December 23, 2016 edition of the Maryland Register. The Maryland Assembly on School-Based Health Care (MASBHC) has reviewed the regulations and appreciates the Department’s work to create one chapter of regulations for SBHCs. We particularly appreciate the updated language regarding:

- The addition of behavioral health and dental services to the scope of services covered for reimbursement. This reflects the service mix of SBHCs; and
- Including reimbursement provisions that are similar to other covered services, creating consistency across Medicaid funded providers and programs.

### **Unintended Implementation Issues**

We have identified several areas in which the regulations may create implementation issues:

- In 10.09.76.01B(12)(d) and 10.09.76.03B(1), the Department is proposing to insert the requirement that SBHCs be approved by the Maryland State Department of Education (MSDE). This proposal is a change from the current requirement that the Department collaborate with MSDE on review.

It is important to note that MSDE does not have an approval process for SBHCs in either regulation or statute. Therefore, MASBHC views DHMH’s proposed approval requirement as an additional regulatory requirement.

MSDE’s review process for SBHCs has been inconsistent because of staff turnover. It used to be that MSDE reviewed new SBHCs as a means of providing technical assistance. However, the process has changed with new staff toward an approval mode. The changes in the review process have delayed new SBHC sites from opening on-time, resulting in children not being able to access health care services.



**We recommend that DHMH retain the current “collaboration” language.** This language gives DHMH sufficient flexibility to adapt to any future changes in MSDE’s review process. MASBHC is collaborating with MSDE to streamline the review process and ensure SBHCs can open on-time.

- In 10.09.76.03B, the Department is proposing to require SBHCs have a sponsoring entity in order to participate in the Medicaid Program. In Maryland, many of Maryland’s existing school-based health centers would not be able to meet this new requirement as they partner with sponsoring organizations currently excluded in the proposal. In addition, we have concerns that by including a finite list of sponsors in this regulation, there will be no opportunities for schools to create new, innovative partnerships as they are identified.

**We recommend that DHMH add to the list the following sponsor types:**

- local school system
- hospital or medical center
- private non-profit, and
- any other sponsor approved by the Department.

This list more closely matches existing sponsors of Maryland’s school-based health centers, as well as national trends shown in the attachment to this letter from a recent survey done by the School-Based Health Alliance.

In addition, by allowing flexibility in the regulations for another sponsor type at the discretion of the Department, schools would be able to contract with additional sponsors in the future without having to amend the regulations as long as the Department approves.

- Remove the limitation under 10.09.67.05E that requires participants to be enrolled in the school system. We recognize that this is a change from existing regulations. However, it is needed to reflect that some SBHCs are adapting their service models to include the siblings of students. If those siblings are Medicaid participants, it seems reasonable that Medicaid reimburse for those services. SBHCs would still be required to meet the same requirements in terms of communication with managed care organizations (MCOs) and primary care providers (PCPs).

## **Technical Amendments**

We suggest the following technical amendments to ensure the revised regulations use the most updated terminology and references:



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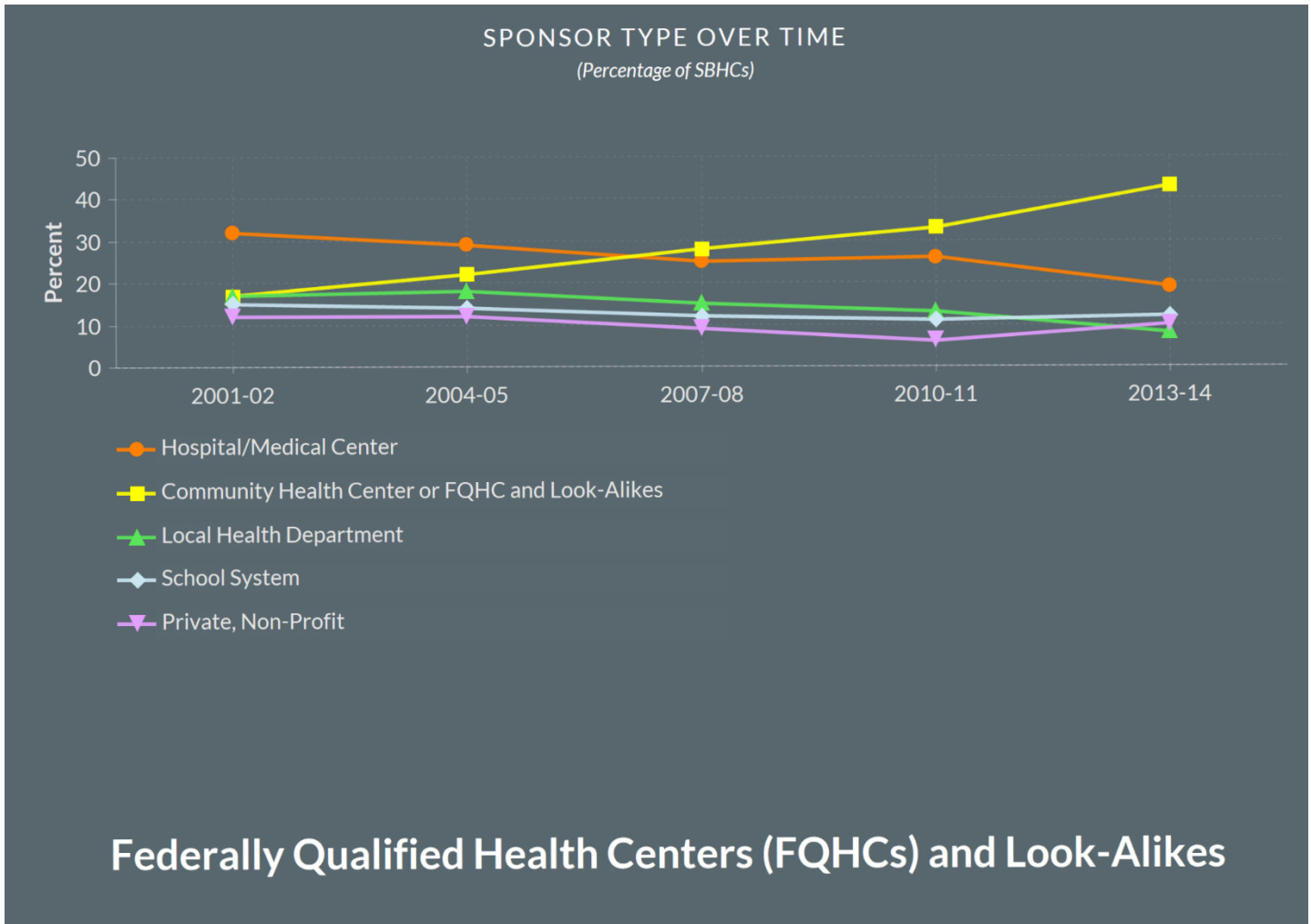
- Revise terminology in 10.09.76.0B(9)(g) from “midlevel providers, such as physician assistants and nurse practitioners” to “nurse practitioners; and (h) physician assistants.” The term “mid-level” is outdated.
- Remove the word “medicine” from 10.09.76.02B as the term is not inclusive of all health care services that may be provided by practitioners in a school-based health center. Only physicians may practice medicine.
- Include a reference to 10.09.80 under 10.09.76.06C(3). As drafted, the proposed regulation references specialty behavioral health but only includes the fee schedule for specialty mental health services. If it is the intention of including substance-related disorder services within specialty behavioral health, then we would request that the corresponding fee schedule for those services should also be referenced.

If you have any questions regarding our comments, please contact Robyn Elliott, our public policy and governmental affairs consultant. She can be reached at [relliott@policypartners.net](mailto:relliott@policypartners.net) or (443) 926-3443.

Sincerely,

Nicole A. Johnson  
President of the Board

Attachment  
 Redefining Health for Kids and Teens, 2013-14 Digital Census Report  
 School-Based Health Alliance





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September 29, 2017

Michele Phinney, Director  
Office of Regulation and Policy Coordination  
Department of Health and Mental Hygiene  
201 West Preston Street, Room 512  
Baltimore, MD 21201

Dear Ms. Phinney:

The Maryland Assembly on School-Based Health Care (MASBHC) is requesting an amendment to COMAR 10.09.76 - *School-Based Health Centers (SBHC)*, to expand the list of sponsoring entities required for participation under .03B(2). This request is being submitted under COMAR 10.01.07 - *Petitions for Adoption, Amendment, or Repeal of Regulations*, which permits any interested person to file a petition for amending regulations in which the Secretary has rulemaking authority,

MASBHC is a statewide advocacy organization dedicated to the promotion of school-based health care. Currently, there are over 75 school-based health centers (SBHCs) in Maryland that provide on-site preventive and primary health services to students. In many instances, SBHCs also provide on-site specialty health services including mental health, oral health, and sports physicals.

In December 2016, MDH published regulations updating COMAR 10.09.76 – *School Based Health Centers (SBHC)*. At the time, MASBHC submitted comments requesting that the list of sponsoring entities be expanded to align with a majority of other states' requirements. While we understand MDH's decision to not make any substantive changes to the regulations at the time the regulations were published, we are now requesting that the Department reconsider our request. Specifically, we are proposing the following amendment:

***10.09.76.03 Conditions for Participation***

B. Specific requirements for participation in the Program as an SBHC are that a provider shall:

- (1) Be approved by the Maryland State Department of Education (MSDE) as an SBHC;
- (2) Have a written agreement with one of the following enrolled sponsoring agencies:
  - (a) Local health department as defined in 45 CFR §164.501 (Public Health);
  - (b) Federally qualified health center as defined in 42 CFR §405.2400(b); [or]



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(c) General clinic as defined in 42 CFR §440.90;

*(d) Hospital or medical system;*

*(e) private-non-profit; or*

*(f) any other sponsor approved by the Department;*

By aligning Maryland's regulations with other states' requirements, these changes will create additional opportunities for Maryland schools to establish SBHCs, increasing greater access to on-site health care and referral services for students. In addition, the inclusion of B(2)(f) provides the Department with the discretion to consider additional sponsors in the future as best practices evolve without necessitating additional regulatory amendments.

If you have any questions regarding our comments, please contact Robyn Elliott, our public policy and governmental affairs consultant. She can be reached at [relliott@policypartners.net](mailto:relliott@policypartners.net) or (443) 926-3443.

Sincerely,

Barbara Masiulis, MS. CRNP  
MASBHC Co-President

Donna Behrens  
MASBHC Co-President