

**To: NC Pediatric Society Members**

**From: NC Pediatric Council Co-Chairs:** Graham Barden, MD, FAAP; Christoph Diasio, MD, FAAP

**Subject: Recovering payment for the work you have ALREADY DONE!**

Many thanks to all of you for your work on vaccine administration! The Pediatric Council has been working on this issue since August 2014. It is a testament to all of us and NCDHHS that we continued to focus on the importance of child health and vaccines through this process. Happily, we have a ruling compelling DMA to pay us correctly for ALL Medicaid vaccine administrations in 2013 and 2014! It is still possible for the State to request an appeal in the next 30 days, and nothing is ever "for certain" in court, but we are confident we would likely win an appeal. Our judgment was based on State and Federal law in 2013 & 2014 and is rock solid! Since this is a court ruling, CMS is obligated to pay the money, not NC Medicaid!

This is great news and will mean money to bolster practices and health systems that provide vaccines to children insured by Medicaid. It will be a welcome relief for groups that typically operate on a very narrow margin. Instructions on how to calculate what you are due— and what you need to do to get the funds – are below.

### **What Happened?**

The Affordable Care Act (ACA) increased Medicaid rates for two classes of service: E&M codes and vaccine administrations during 2013 and 2014. The law specified that for those years, the vaccine administration payment rates be increased to the new Regional Maximum of \$20.45. In August 2014 we realized the – very confusing - ACA was not being followed correctly; there should have been only one fee paid by NC Medicaid - \$20.45 – for all vaccine administrations. Instead, approximately half were paid at the old \$13.71 rate (unchanged for 23 years!). NC Medicaid paid the correct rate of \$20.45 for only 90471 (first vaccine admin) and 90473 (first oral/intranasal) but the old rate for 90472 & 90474. This is a Big Deal since for many practices, 90472 (each additional vaccine) is the number one code billed!

By January 2015 we had convinced DMA to pay the correct amount. They agreed to re-process the old claims and asked for us to be patient. In May of 2016 DMA said their lawyers had determined the original payment had been correct and cancelled plans to re-process payments. Eight private practices answered a call for help and pooled resources with the NC Pediatric Society and the NC Chapter of the American Academy of Family Physicians to hire Joey Ponzi of the Brooks & Pierce Law Firm to represent us in a legal action to correct the underpayment. We were able to win a judgment requiring DMA to re-process and pay all attested primary care physicians in the state correctly. A \$6.74 increase for lots of administrations is millions in Federal dollars going back to practices and systems which worked diligently to assure children were vaccinated appropriately while working on very thin margins. The money will come from CMS, not North Carolina Medicaid. (Health Departments, non-attested physicians, and FQHC's are not likely to be affected by this decision.)

### **How can you calculate the payments you are likely to recover?**

Those of us who were attested and saw Medicaid children should expect an additional \$6.74 for every 90472 and 90474 performed during 2013 and 2014!!!

- 1) Ask your manager to run a report and get a total number of 90472 and 90474's performed by attested clinicians between 1/1/2013 and 12/31/2014.
- 2) Multiply that number by \$6.74 to get your expected payment.

This can be a significant amount of money – for a large practice with 11 FTE providers and approximately 40% Medicaid, that works out to approximately \$100,000 (\$9,000/FTE) in

“recovered, already-earned” money. This is important revenue as Medicaid rates have been frozen for over 10 years!

**Judge Gray ruled that DMA is to reprocess the claims without any additional work by providers. DMA has 120 days from October 4<sup>th</sup> to comply with the judge’s order. The state has the first 30 days to file an appeal and/or ask for a “stay” of the judgment, but we think that would only delay the final payment, and not likely change the outcome.**

#### **Now what?**

NCPeds needs help to finish paying for our legal fees. The 8 original practices have already donated about 5-10% of their expected payment - and they did it before we won! We think it is reasonable to ask all other Pediatricians in the state to voluntarily match that donation with 5%-10% of the money you expect to receive. Since we need to clear the debt now (and think it unreasonable to go back to the original risk-taking groups), **we are asking all NC practices & pediatricians to voluntarily contribute a donation to the NC Pediatric Society. We suggest about 5% of what you expect to receive.** Once DMA starts sending out the reprocessed claims, we suggest you make a second donation to bring your total giving to about 10% of recovered receipts. Remember, this is money none of us would have if it were not for the perseverance of the Pediatric Council and the NC Pediatric Society partnering with the NC Academy of Family Physicians, and the willingness of the original eight practices to take a significant financial risk to "Do The Right Thing." If each practice and/or provider contributes just 10 cents of every dollar recovered, we will pay our legal bills and may even be able to start a nest egg for future challenges expected with the looming Medicaid Reform and various issues. We want the MCO's to know that we are organized and we are not afraid to fight for children's access to care or defend ourselves from poor management!

**So please donate** - we ask that everyone give \$1 of every \$10 recovered back to the Pediatric Society so we can continue this work. Donate on line by going to [www.ncpeds.org](http://www.ncpeds.org) and login or go to <https://ncpeds.site-ym.com/donations/> Alternatively, you can mail a check payable to the NC Pediatric Society and send to:

**NC Pediatric Society  
1100 Wake Forest Road, Suite 200  
Raleigh NC, 27604**

Again – big shout out to the partners of **Blue Sky Pediatrics, Burlington Pediatrics, Cary Pediatric Center, Coastal Children’s Clinic, Goldsboro Pediatrics, Haywood Pediatric and Adolescent Medicine Group, KidzCare Pediatrics PC and Sandhills Pediatrics** for starting this lawsuit and making this good news possible.

It’s up to the rest of us to retire our legal bills and help NCPeds be well-poised to continue to advocate strongly for child health in North Carolina!

Sincerely,

NC Pediatric Council (Graham Barden & Christoph Diasio, Co-Chairs)