

October 2, 2009

Dear Colleague:

We are writing to provide clarification on whether a State may use Government Services funds under the State Fiscal Stabilization Fund (SFSF) program (Title XIV of Division A of the American Recovery and Reinvestment Act of 2009 (ARRA)) to pay for Medicaid expenses. In particular, we want to clarify that States may not use Government Services funds to meet the non-Federal (State) share of expenditures required under the Medicaid program (Title XIX of the Social Security Act).

The Application for Initial Funding under the SFSF program provided a template for States to report intended uses of Government Services funds (SFSF Application, Part B, Section 5). The template includes "Medicaid" as one of the categories of expenditures. The U.S. Department of Education recognizes that this template may have inadvertently led States to believe that the Government Services funds could be used to pay the non-Federal share required under Medicaid.

While a State may use its Government Services funds for expenditures for health care services provided to Medicaid recipients or for administrative costs of Medicaid operations, it may not claim the expenditure of Government Services under the Medicaid program. Under the Federal Medicaid regulations in 42 C.F.R. 433.51(c), only Federal funds explicitly "authorized by Federal law to be used to match other Federal funds" may be used by a State to meet its non-Federal share required under the Medicaid program. The ARRA does not provide this explicit authorization with respect to the use of Government Services funds. Therefore, a State may not use Government Services funds to meet the non-Federal share required under Medicaid.

Any State that has (or may have) used its Government Services funds for expenditures that were claimed under the Medicaid program should contact Jim Butler of the Office of Elementary and Secondary Education at 202-260-9737 or james.butler@ed.gov who will work with the State and the Centers for Medicare & Medicaid Services to help facilitate resolution of any issues.

We apologize for any confusion regarding this matter. Please do not hesitate to contact us if you have any questions or concerns.

Sincerely,

Joseph C. Conaty
Director
Academic Improvement and
Teacher Quality Programs