

SHARS Update: Policy Issues and Advocacy Strategies

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Today's Presentation



School Health And Related Services (SHARS) is a state program that provides reimbursement to schools through Medicaid for health-related services provided to students with disabilities. This session provides an overview of SHARS, explains why there is a reduction in funding, and offers advocacy tips to ensure students continue to receive needed health-related services at school.

Agenda

- SHARS Basics
- How SHARS Funding Works
- Federal Review of Texas
- Funding Cut for Schools
- Potential Effect on Students with Disabilities
- What Parents Should Do
- Questions and Answers

What Is SHARS?



The SHARS Program

- SHARS = School Health And Related Services
- Texas program that provides reimbursement to participating school districts and open-enrollment charter schools through Medicaid
- Covers certain medically necessary health-related services provided to students with disabilities
- The student with a disability must have an IEP, be enrolled in Medicaid, and the parent has given consent for Medicaid billing

Some Vocabulary

- ARD – Admission, review, and dismissal committee
- CMS – Centers for Medicare and Medicaid Services
- FAPE – Free appropriate public education
- HHS – U.S. Department of Health and Human Services
- HHSC – Texas Health and Human Services Commission
- IDEA – Individuals with Disabilities Education Act
- IEP – Individualized education program
- LEA – Local educational agency
- PWN – Prior written notice
- TEA – Texas Education Agency

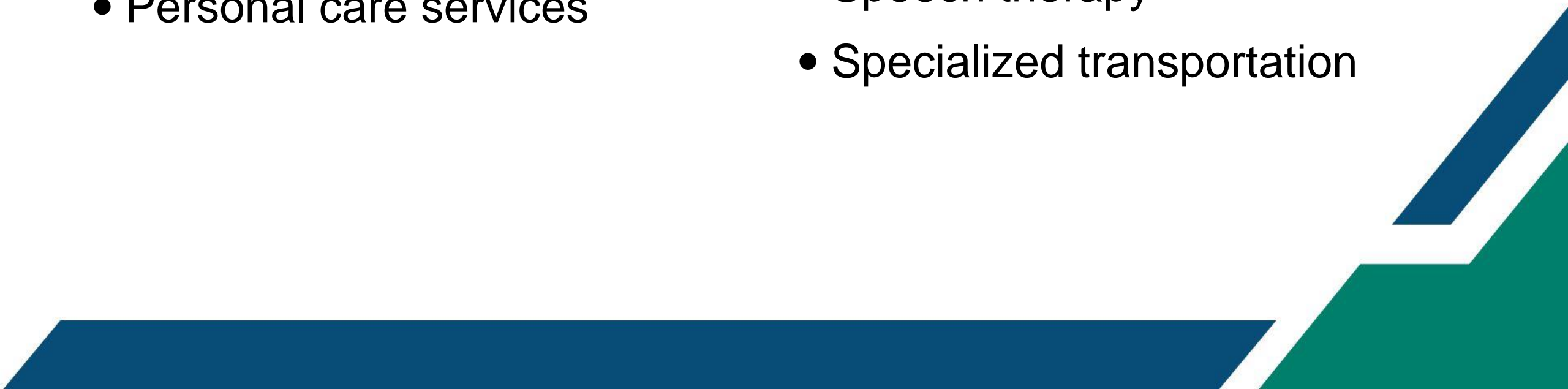
The History of SHARS

- 1975 – IDEA
 - Federal funding, along with detailed procedures, for special education and related services
- 1988 – Medicare Catastrophic Coverage Act
 - First time Medicaid was allowed to pay for certain services in IEPs
- 2006 – Texas Medicaid State plan amendment 06-005
 - The creation of SHARS
- 2010 – HHSC contracted with Fairbanks LLC for cost reporting & Medicaid claiming services

The Agencies & Groups Involved

- SHARS is a program of HHSC
- TEA and HHSC work together to oversee and administer SHARS
- LEAs are the recipients of SHARS funds
- ARD Committees are tasked with determining the special education and related services for each student with a disability
 - Some of the cost of some of the special educational services and related services might eventually be covered by SHARS

SHARS Services

- Audiology services
 - Counseling services
 - Nursing services
 - Occupational therapy
 - Personal care services
 - Physical therapy
 - Physician services
 - Psychological services and assessments
 - Speech therapy
 - Specialized transportation
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How Does SHARS Funding Work?



The State Medicaid Program

- SHARS is part of the Texas Medicaid State Plan
- The State Plan is developed by HHSC. It must be approved at the federal level by CMS, an agency within HHS
- Along with the Children's Health Insurance Program (CHIP), the State Plan provides insurance to:
 - More than 4 million Texans
 - Half of all children in the state

The Reimbursement Process

- To be reimbursed for provided services, the LEA must:
 - Include the service in the IEP of the student
 - Services must be medically necessary, reasonable, & included in the HHSC list of eligible services
 - Student must be currently enrolled in Medicaid
 - Obtain written permission from the student's parent to seek reimbursement
 - Enroll as a Medicaid provider
 - More than 900 of the 1,200 LEAs in Texas participate in SHARS

The Reimbursement Process

- To be reimbursed for provided services, the LEA must:
 - Submit interim claims to HHSC
 - Complete annual cost reporting with HHSC
 - Undergo cost reconciliation and cost settlement with HHSC
 - Participate in a “random moment time study” with HHSC

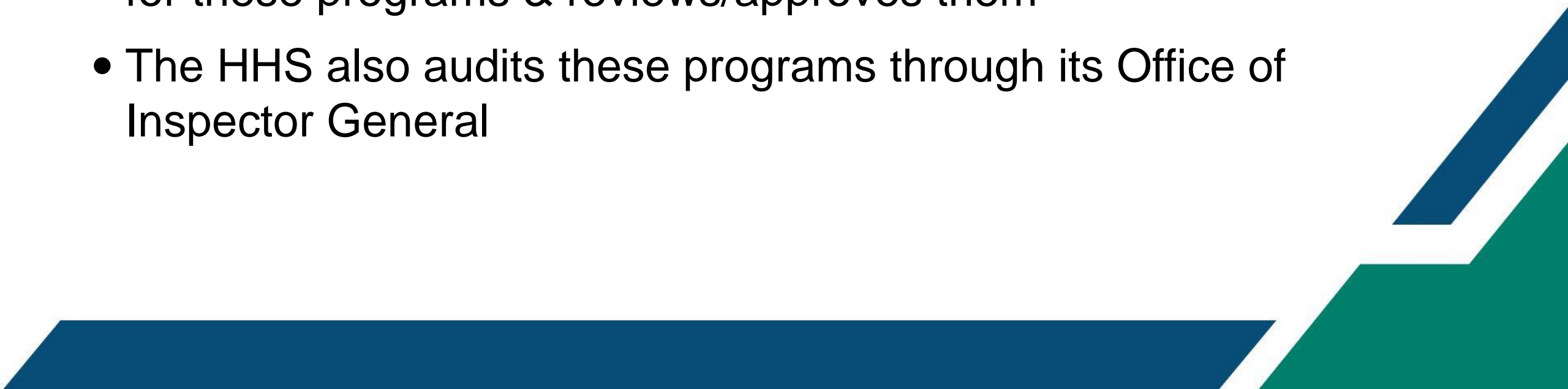
School District Budgeting Process Following Reimbursement

- Medicaid reimbursement payments through SHARS come to LEAs well after the student received the special education and related services that qualified under SHARS
- SHARS has become a significant revenue stream for LEAs
 - In total, LEAs have received as much as \$1.4 billion annually
- Most LEAs deposit the SHARS reimbursements into their general revenue fund and become part of the overall LEA budget

Federal Review of Texas: What Went Wrong for the State?



The Role of the U.S. Health & Human Services Department

- CMS is the agency within HHS that administers Medicaid
 - While individual states have created their own Medicaid and school-based health services programs, CMS sets the standards for these programs & reviews/approves them
 - The HHS also audits these programs through its Office of Inspector General
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Findings from the 2016 Audit

- About eight years ago, HHS conducted a routine audit of the SHARS program. HHS found that in the school year examined LEAs had improperly billed Medicaid \$18.9 million
 - The contractor had incorrectly coded 274 of 3,161 provided services during a random moment time study; also issues with the random sample itself
 - HHSC failed to follow its policies & procedures to ensure that costs claimed for direct medical services were accurate & supported
- The HHS's recommendations:
 - Refund the money to the federal government
 - Comply with federal requirements for statistical validity

Appeal of Federal Audit

- HHSC disputed the HHS audit report and made a series of appeals that continued over several years
 - HHSC exhausted the appeals process and lost – HHS upheld the denial of the Texas appeal in October of 2023
- To repay the \$18.9 million, HHSC announced it was cutting funding to LEAs in December of 2023
- In turn, LEAs had the right to appeal to HHSC
 - HHSC denied state appeals by LEAs


Funding Cut for Schools: How Much Impact?



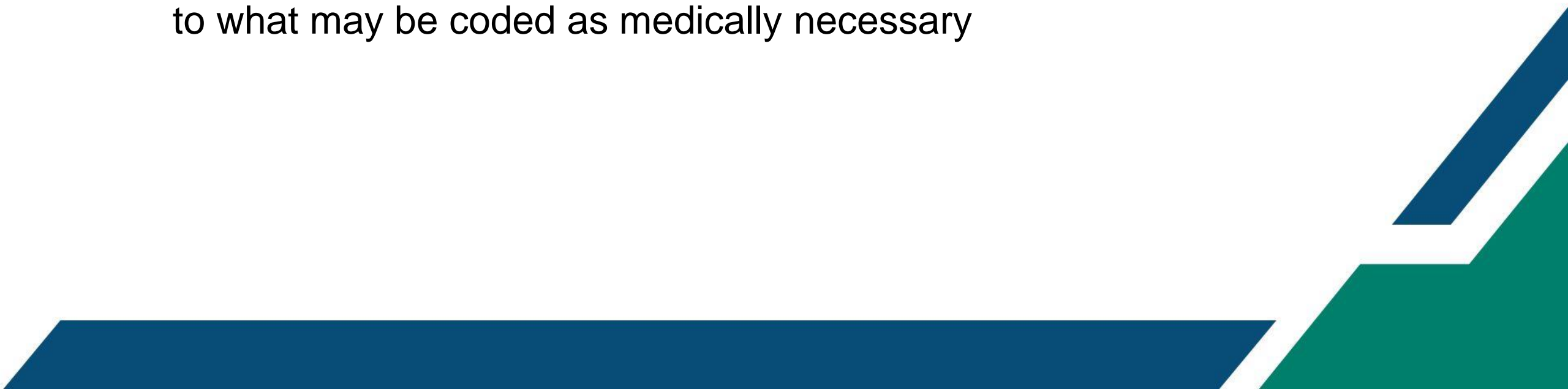
The Number of Districts Impacted

- More than 900 LEAs participate in the SHARS program; most are facing financial setbacks
- Some of the state's largest districts are seeing the biggest losses
 - Northside ISD → \$14 million lost
 - Dallas ISD → \$11 million lost
 - Cypress-Fairbanks ISD → \$10 million lost
 - Houston ISD → \$9 million lost
 - Austin ISD → \$6 million lost

Immediate Impact

- December 15, 2023 – HHSC announced that LEAs would lose over \$300 million in claimed SHARS reimbursements
 - Depending on the LEA, some lost up to half of its expected reimbursement
 - LEAs will either not collect on disallowed reimbursements or will have to pay them back
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Future Impact

- LEAs might receive approximately \$250 million less annually in SHARS reimbursements due to tighter HHSC methodology on medically necessary health-related services
 - HHSC must also apply the HHS audit determination going forward
 - LEAs claims under SHARS will be less given that there is new guidance as to what may be coded as medically necessary
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How Will This Affect Students with Disabilities?



Lack of Awareness of the Problem

- Since SHARS is a behind the scene mechanism for LEAs to collect additional revenue beyond school funding through TEA, parents and even educators are not aware of the program and its significance in financially supporting IEP services to student with disabilities
- Parents are not provided any information about SHARS following the LEA request that they sign consent for SHARS billing


Possible Reduction of IEP Services

- Advocates and some policymakers are worried that schools will reduce health-related special education and related services to students with disabilities because they are more difficult to pay for with the cuts in SHARS reimbursements
- While LEAs have the legal responsibility under IDEA to plan for and deliver all appropriate and necessary IEP services, parents must be aware of the financial reality for LEAs and be on the alert for either reductions of or denials of health-related services

What Should Parents Do?



ARD and IEP Issues

- Health-related services that qualify under SHARS might be the most vulnerable this school year and in coming school years
 - One risk is that they might not be offered to be included in the student's IEP
 - Another risk is that they are included in the student's IEP but might be reduced
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Advocacy Tips

- The key for health-related services is whether they are necessary for the student to function at school or for the student to receive special education instruction
 - If so, the service must be included in the IEP
- Procedurally, LEAs should provide proper notice and documentation – whether it is an issue of denial or reduction
 - PWN and ARD Committee meeting deliberations (notes)
- Substantively, parents should request either a reevaluation or an Independent Educational Evaluation (IEE) to establish necessity of health-related service

Advocacy Tips

- At the ARD Committee meeting, parents may request a “10-Day Recess” or temporary delay of the meeting before a final decision about the denial or reduction of a health-related service is reached
 - A “10-Day Recess” allows both sides to gather more information and reconsider the IEP issue
- Parents have a range of dispute resolution options following the ARD meeting if they are dissatisfied about the denial or reduction
 - Special Education Mediation – alternative dispute option through TEA
 - Special Education Complaint – investigation by TEA
 - Due Process Hearing – administrative hearing through TEA

Policy Advocacy

- Advocates and stakeholders are considering a range of options to respond to the SHARS funding crisis at a policy level
 - Parents have a role to offer their concerns about safeguarding IEP services
- Possible legislative response
 - In 2024, the Texas House of Representatives is expected to hold an interim hearing on the issue of SHARS funding
 - In 2025, the Texas Legislature might consider allocating state funds to replace lost Medicaid reimbursements to LEAs
- Possible state agency response
 - In 2024, HHSC is expected to update its SHARS Manual

Q & A (as time permits)

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