

THE Extra Mile GOING THE EXTRA MILE SO YOU DON'T HAVE TO

U.S. DOE Proposes to Modify Medicaid Consent Requirement--

On September 28, 2011, the U.S. Department of Education published proposed amendments to the regulations governing parental consent to bill Medicaid under IDEA.

Currently, school districts are required to obtain prior parental consent "each time" they seek to access a student's Medicaid benefits. As school districts seek to maximize their revenues in a harsh economic climate, Medicaid funding has become increasingly important.

The proposed amendments eliminate

the requirement that school districts obtain parental consent each time and introduces a new written notice requirement.

Note, however, the proposed amendments do *not* eliminate the requirement for the school district to obtain parental consent. Specifically, in order to access funds, the proposed amendment requires the school to:

- (1) obtain parental consent to provide Medicaid with the student's personal information; and
- (2) provide parents with a written

Continued on Page 2

**Joint Conference Coming Up!/
Join HLERK At Our Programs and Activities--**As part of our tradition of service to the Illinois educational community, HLERK is proud to have been invited to be a major part of the IASB/IASA/IASBO Joint Conference in November. Please keep this handy guide to our variety of programs and activities:

Our programming starts on Friday, November 18th at 10:00 a.m. with **Mike Loizzi** presenting at the Illinois Council of School Attorneys on the *Labor Implications of School Reform-SB 7 and PERA* at the Hyatt Regency, West Tower, Crystal Ballroom B.

Attorneys who are members of boards of education are invited to attend the program, as continuing legal education credit is available. **Heather Brickman** and **Stan Eisenhammer** are past Chairs of the ICSA.

Saturday kicks off with **Bob Kohn** joining former IASA Superintendent of the Year and noted author and presenter **Jim Burgett** for, *Considering Consolidation: Financial and Legal Factors* on November 19th at 10:30 a.m. at the Hyatt Hotel, Crystal Ballroom A.

Heather Brickman, **Nancy Krent** and **Ellen Rothenberg** then present a key panel for all school board members and
Continued on Page 2

Offices
Arlington Hts. 847-670-9000
Belleville 618-355-7850
Peoria 309-671-9000

Consumer Price Index

Percent change for the month of **September 2011**, for the urban wage earners & clerical indices as reported by the Bureau of Labor Statistics.

	All Urban (CPI-U)	Workers (CPI-W)
Chicago-Mthly	0.2	0.1
12 Mth	3.1	3.9
St. Louis-6 Mth	2.0	2.4
12 Mth	3.3	3.9
U.S. Mthly	0.2	0.2
12 Mth	3.9	4.4

October CPI figures will be released November 14, 2011. For the most recent CPI, visit our website at: www.hlerk.com.

The Extra Mile is intended solely to provide information to the school community. It is neither legal advice nor a substitute for legal counsel. The Extra Mile is intended as advertising but not as a solicitation of an attorney/client relationship.

Reminders & Notes

- HLERK and IASA have completed this round of administrator academy approved programs on Education Reform. HLERK thanks both IASA's Associate Director **Sara Boucek** and ISBE's general counsel **Darren Reisberg** for their leadership in creating the programs. The conference handbook may be purchased by sending in the attached order form.
- Please join us at our open house in Peoria to celebrate the opening of our office and to welcome **Beth Jensen** to our partnership. Our open house is scheduled for **Tuesday, November 29th** at 4:00 p.m. at our Peoria office at 401 SW Water Street. **Please RSVP to csantucci@hlerk.com by November 23rd.**

Joint Conference Cont.

administrators, *School Law 2011: Top Five Things Boards Need to Know*, on Saturday, November 19th at 1:30 at the Hyatt Hotel, Regency Ballroom D.

Stan Eisenhammer completes our Saturday programming by joining IASA Associate Director **Sara Boucek** in presenting the vitally important program, *The Superintendent's Employment Contract* on November 19th at 3:30 p.m. at the Sheraton Hotel.

Finally, Sunday morning of the Conference begins with **Heather** who has managed to corral a game group of HLERK attorneys for the perennially popular program, *Legally Stumped?* on November 20th at 8:00 a.m. (yes, 8:00) at the Hyatt Hotel in the Columbus E/F Ballroom.

Take your best shot at stumping the HLERK all-star team of select attorneys in all areas of education law.

Finally, we look forward to hosting our clients and friends at a special social event on the Saturday evening of the Joint Conference.

The Joint Conference is a rare opportunity for school board members and administrators to gain access to the best legal minds addressing key issues in a complex time.

We hope you plan on attending, and we look forward to seeing you there. All of us at HLERK enjoy the opportunity to join you in downtown Chicago at the start of the 2011 Holiday Season.

Medicaid Consent Cont.

notice informing them of the following:

(a) that parental consent must be obtained in accordance with FERPA and IDEA before the school can disclose, for billing purposes, their child's personally identifiable information to the State agency responsible for the administration of the State's public benefits or insurance program (e.g., Medicaid);

(b) the no cost provisions in 34 CFR 300.154(d)(2)(i), (ii) and (iii) (basically that the parents are not required to enroll in Medicaid or incur out-of-pocket expenses or use the student's Medicaid benefits if that use would cause a negative impact);

(c) that the parent has the right to withdraw consent under FERPA; and

(d) that withdrawal or refusal of consent does not

relieve the school of its responsibility to ensure that all required services are provided at no cost to the parents.

The proposed amendment goes on to state that the written notification may be provided to parents when it is most appropriate and convenient for the family, but must be provided before the school seeks to use the child's or parent's public benefits or insurance. It may be provided at the initial IEP meeting, for example, when the parent consents to the initial provision of special education services, or at a parent-teacher conference. The DOE is seeking comments on the proposed amendment until December 12, 2011.

Medicaid issues continue to create complications for school districts seeking to access this vital funding source. Contact Barb Erickson with your Medicaid questions.