

PROTECTING CHILDREN'S HEALTH COVERAGE ACT OF 2008
INTRODUCED BY
CHAIRMAN FRANK PALLONE, JR. (D-NJ) AND REP. CAROL SHEA-PORTER (D-NH)

Last year, as Congress debated legislation to strengthen and reauthorize the State Children's Health Insurance Program (SCHIP) to cover an additional 10 million children, the Bush Administration issued a letter to State Medicaid and SCHIP directors outlining unprecedented new restrictions on State efforts to reduce the number of uninsured children through SCHIP.

The Administration's letter, issued on August 17, 2007, commonly referred to as the "August 17th directive," requires States to meet certain conditions in order to cover children in families with annual incomes above \$44,000 for a family of three (250 percent of the Federal poverty level for a family of three). Some of the requirements, such as barring presently uninsured children from SCHIP coverage for a full 12 months, raise serious concerns about how children's health will be affected. And as the economy weakens, restricting the ability of States to cover uninsured children in moderate-income families will strain both States and families who have no other affordable coverage options available.

The "**Protecting Children's Health Coverage Act of 2008**" would nullify the August 17th directive and subsequent guidance based on that letter. It would also ensure that States that had planned to expand coverage and whose applications were denied or scaled back as a result of the August 17th directive could now obtain a new, expedited determination on their initiative from CMS within 30 days of the enactment of the Act.

Both the Government Accountability Office (GAO) and the Congressional Research Service (CRS) have issued legal opinions noting that the August 17th directive violates the Congressional Review Act (CRA). The intent of CRA is to keep Congress informed about the rulemaking activities of Federal agencies and to allow Congressional review of such rules.

Since the August 17th directive was issued, several States, including Indiana, Louisiana, Ohio, Oklahoma, and New York, that had planned to provide affordable coverage options to tens of thousands of presently uninsured children through SCHIP or Medicaid, have delayed or scaled back their initiatives. In all, by August 2008 another 14 States that currently cover moderate-income children will be forced to comply with the August 17th directive, bringing the total number of States with children affected by the directive to 23.

In nullifying the August 17th directive, the "**Protecting Children's Health Coverage Act of 2008**", will ensure States can continue to cover uninsured children under their current programs as well as enable those States who want to make additional headway against the rising tide of the uninsured to do so.