

## Lead Report

### **SCHIP** Senators Introduce Resolution to Stop Controversial SCHIP Eligibility Directive

A mostly Democratic group of senators July 17 introduced a joint resolution (S.J. Res. 44) that would prevent implementation of a Bush administration directive the lawmakers say limits states' ability to provide health insurance to children.

The resolution authored by Senate Finance Committee Chairman Max Baucus (D-Mont.) and Health Subcommittee Chairman John D. Rockefeller IV (D-W.Va.) would nullify what has come to be known as the "August 17 directive," a policy that sets new guidelines for enrollment in the State Children's Health Insurance Program.

"This drastic policy jeopardizes coverage for tens of thousands of children in low-income, working families. This resolution is a way to tell low-income American families that they matter and that Congress is willing to fight for them," Baucus said in a statement.

The Centers for Medicare & Medicaid Services directive requires that if a state wants to enroll children from families earning more than 250 percent of the federal poverty level in its SCHIP program, then it must first prove that 95 percent of children in families earning less than 200 percent of the federal poverty level are covered (161 HCDR, 8/21/07).

A bipartisan group of 43 senators, including Baucus and Rockefeller, sponsored the bill, which was referred to the Finance Committee.

### **Congressional Review Act Violation**

The Government Accountability Office and the Congressional Research Service said in opinions released April 18 that the SCHIP directive is a rule under the Congressional Review Act (CRA) (76 HCDR, 4/21/08 ).

According to the resolution, CMS therefore issued the rule in violation of the CRA because it has not been submitted to Congress.

When the directive was issued on Aug. 17, 2007, as a letter to state health officials, states were given one year to meet the new standards. Steven Broderick, a spokesman for Rockefeller, said the senators hope to move the bill forward before Congress's August recess.

"We're working with everyone to try to make that happen," he said.

The Center for Children and Families at Georgetown University's Health Policy Institute July 18 applauded the resolution.

"Unpaid medical bills piling up on the kitchen table are not as obvious signals of trouble as foreclosure signs cropping up in yards, but the pain they can inflict is just as harmful," Cindy Mann, executive director of CCF, said in a statement. "If this policy had been proposed through the legal regulatory process, the Administration may have learned ahead of time how out of touch it is with the economic reality faced by families and the states that are trying to help them."

### **CMS Response**

Peter Ashkenaz, a spokesman for CMS, said the agency disagrees with GAO's findings.

"We continue to believe the guidance to the state health officials was issued properly," Ashkenaz told BNA July 18.

When CMS issued the directive, it said the policy was designed to prevent crowd-out, in which new SCHIP enrollees with higher family incomes are drawn from the ranks of children with private insurance coverage.

*More information is available at*  
<http://www.senate.gov/~finance/sitepages/baucus.htm>.