Rules May Limit Health Program Aiding Children

By ROBERT PEAR
New York Times, August 21, 2007

The Bush administration, continuing its fight to stop states from expanding the popular Children's Health Insurance Program, has adopted new standards that would make it much more difficult for New York, California and others to extend coverage to children in middle-income families.

Administration officials outlined the new standards in a letter sent to state health officials on Friday evening, in the middle of a monthlong Congressional recess. In interviews, they said the changes were intended to return the Children's Health Insurance Program to its original focus on low-income children and to make sure the program did not become a substitute for private health coverage.

After learning of the new policy, some state officials said yesterday that it could cripple their efforts to cover more children and would impose standards that could not be met.

"We are horrified at the new federal policy," said Ann Clemency Kohler, deputy commissioner of human services in New Jersey. "It will cause havoc with our program and could jeopardize coverage for thousands of children."

Stan Rosenstein, the Medicaid director in California, said the new policy was "highly restrictive, much more restrictive than what we want to do."

The poverty level for a family of four is set by the federal government at $20,650 in annual income. Many states have received federal permission to cover children with family incomes exceeding twice the poverty level — $41,300 for a family of four. In New York, which covers children up to 250 percent of the poverty level, the Legislature has passed a bill that would raise the limit to 400 percent— $82,600 for a family of four — but the change is subject to federal approval.

California wants to increase its income limit to 300 percent of the poverty level, from 250 percent. Pennsylvania recently raised its limit to 300 percent, from 200 percent. New Jersey has had a limit of 350 percent for more than five years.

As with issues like immigration, the White House is taking action on its own to advance policies that have not been embraced by Congress.

In his budget in February, President Bush proposed strict limits on family income for the child health program. Both houses of Congress voted this month to renew the program for five years, but neither chamber accepted that proposal. Legal authority for the program expires on Sept. 30.

The administration's new policy is explained in a letter that was sent about 7:30 p.m. on Friday to state health officials from Dennis G. Smith, the director of the federal Center for Medicaid and State Operations. The policy would continue indefinitely, though Democrats in Congress could try to override it.

The Children's Health Insurance Program has strong support from governors of both parties, including Republicans like Arnold Schwarzenegger of California, Tim Pawlenty of Minnesota and Sonny Perdue of Georgia. When the Senate passed a bill to expand the program this month, 18 Republican senators voted for it, in defiance of a veto threat from Mr. Bush. The House passed a more expansive bill and will try to work out differences with the Senate when Congress reconvenes next month.

In his letter, Mr. Smith set a high standard for states that want to raise eligibility for the child health program above 250 percent of the poverty level.

Before making such a change, Mr. Smith wrote, states must demonstrate that they have “enrolled at least 95 percent of children in the state below 200 percent of the federal poverty level” who are eligible for either Medicaid or the child health program.

Deborah S. Bachrach, a deputy commissioner in the New York State Health Department, said, “No state in the nation has a participation rate of 95 percent.”

And Cindy Mann, a research professor at the Health Policy Institute of Georgetown University, said, “No state would ever achieve that level of participation under the president’s budget proposals.”

The Congressional Budget Office has said that the president’s budget, which seeks $30 billion for the program from 2008 to 2012, is not enough to pay for current levels of enrollment, much less to cover children who are eligible but not enrolled.

When Congress created the Children’s Health Insurance Program in 1997, it said the purpose was to cover “uninsured low-income children.” Under the law, states are supposed to make sure public coverage “does not substitute for coverage under group health plans.”

In an interview yesterday, Mr. Smith said, “The program was always meant for children in lower-income families.” As a state increases its income limits, he said, “it’s more likely to substitute for private coverage.”

To minimize the risk of such substitution, Mr. Smith said in his letter, states should charge co-payments or premiums that approximate the cost of private coverage and should impose “waiting periods” to make sure middle-income children do not go directly from a private health plan to a public program.

If a state wants to set its income limit above 250 percent of the poverty level — $51,625 for a family of four — Mr. Smith said, “the state must establish a minimum of a one-year period of uninsurance for individuals” before they can receive public coverage.

That is considerably stricter than past requirements. In February, for example, the Bush administration allowed Pennsylvania to increase its income limit to 300 percent of the poverty level after the state agreed to a six-month waiting period for children who were 2 and older with family incomes exceeding 200 percent of the poverty level.

As another precaution, Mr. Smith said, states that want to cover children above 250 percent of the poverty level must show that “the number of children in the target population insured through private employers has not decreased by more than two percentage points over the prior five-year period.”

In New Jersey, which has a three-month waiting period, Ms. Kohler said, “we have no evidence of a decline in employer-sponsored coverage resulting from the Children’s Health Insurance Program.”

In the Senate debate this month, several Republicans offered a proposal similar to the new Bush administration policy. They wanted to require states to cover 95 percent of low-income children before allowing states to expand eligibility.

Senator Max Baucus, the Montana Democrat who is chairman of the Finance Committee, argued against the proposal, saying: “No state can meet 95 percent. No state currently meets 95 percent.”

In his letter, Mr. Smith said the new standards would apply to states that previously received federal approval to cover children with family incomes over 250 percent of the poverty level. Such states should amend their state plans to meet federal expectations within 12 months, or the Bush administration “may pursue corrective action,” Mr. Smith said.

Two Republican senators, Charles E. Grassley of Iowa and Pat Roberts of Kansas, urged the Bush administration last week to deny New York’s request to cover children with family incomes up to four times the poverty level. The proposal, they said, violates the original intent of Congress.

But Gov. Eliot Spitzer of New York said that, “contrary to the senators’ objections,” federal law allows states to set higher income limits. “Granting this expansion,” Mr. Spitzer said, “is essential to the health and well-being of New York’s children.”