Georgetown University Health Policy Institute
Center for Children and Families

Memorandum

To:	Interested Parties
From:	Center for Children and Families
Subject:	SCHIP Provisions in the Administration's FY2009 Budget
Date:	February 7, 2008

Over the past year, more and more families have found that they lack affordable, job-based coverage for their children with the result that the number of uninsured children is now growing by nearly 2,000 children a day. With the economic downturn, the situation can be expected to worsen in the year ahead. In response, states have sought to move forward in providing coverage to more uninsured children. Congress has twice passed legislation to strengthen SCHIP and increase enrollment among the very lowest-income uninsured children in SCHIP and Medicaid without shutting down state flexibility to cover more moderate-income children.

Despite these developments, the Administration has again proposed in its fiscal year 2009 budget to cut back on states' longstanding flexibility to use SCHIP funds for uninsured children in more moderate-income families (i.e., those with family income above 200 percent of the federal poverty level, or $34,340 a year for a family of three). The idea gained little traction last year on Capitol Hill, and can be expected to continue to do so, especially because more than half of all states are now covering or planning to cover uninsured children in such families.

However, the Administration already has shown a willingness to pursue its SCHIP agenda through administrative means. Most notably, in a highly controversial August 17, 2007 letter to state officials – now the subject of three different lawsuits – the Administration imposed new requirements on SCHIP that effectively restrict states to covering children below 250 percent of the FPL. Even as the August 17th directive continues to adversely affect SCHIP programs across the country, it is possible that the Administration will go even further in pursuing its SCHIP agenda in the year ahead through administrative action.

Specific Proposals

Based on written materials and briefings of Hill staff, it appears that the Administration is proposing significant changes to the SCHIP program. Although not specified, it is likely that the Administration also is contemplating parallel changes to the Medicaid program for children. As of yet, it remains unclear of the extent to which the Administration believes it needs legislation to implement the changes it is proposing to SCHIP (and, potentially, Medicaid) eligibility rules.

1. Funding Levels.

In its budget proposal, the Administration recommends increasing SCHIP funding by $19.7 billion over the next five years. Although an increase over last year's proposal, the amount falls some $15 billion below the level that Congress twice approved for SCHIP reauthorization in recent months. Due to this gap, the President's budget is estimated to cover 5.6 million children in 2012 and 2013, or some two million fewer children than would be enrolled in SCHIP under the congressional bills vetoed by President Bush.

2. New Restrictions on Eligibility.

In its budget, the Administration is proposing to scale back the flexibility that states long have had in SCHIP to decide which families need help purchasing affordable coverage for their children. The Administration already took a step in this direction in August of 2007 when it issued a letter to state health officials, known as "the August 17th directive." The directive requires states to meet a range of stringent criteria if they want to cover uninsured children above 250 percent of the FPL with SCHIP funds. Most notably, a state must enroll 95 percent of eligible children below 200 percent of the FPL. No state seeking to expand its SCHIP program has yet been able to meet the directive criteria, and it is widely believed that none will be able to do so in the future. As a result, the directive has effectively created a gross income cap on SCHIP eligibility at 250 percent of the FPL.

In its budget, the Administration is proposing to further limit state flexibility to set SCHIP eligibility rules in the following ways:

- **Applying the August 17th directive to coverage above 200 percent of the FPL**. The Administration has proposed lowering the income threshold in the August 17th directive from 250 percent to 200 percent of the FPL. In effect, such a policy would likely mean that few, if any, states can cover children above 200 percent of the FPL. If a state were able to meet the criteria of the August 17th directive, it still would be required to impose waiting periods of 12 months and significant cost sharing on children above 200 percent of the FPL.[1] Such a change would adversely affect at least 26 states that already cover children above 200 percent of the FPL. (An additional 12 states -- or 38 states in all -- would be affected if the Administration were to apply the directive to states with a *net* income SCHIP eligibility threshold set at 200 percent of the FPL.)[2]

- **A "hard" gross income cap at 250 percent of the FPL.** The Administration also is proposing a gross income cap on SCHIP eligibility at 250 percent of the

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[1] In briefings, the Administration has indicated that if a state with approval to cover children above 200 percent of the FPL is later found to no longer meet the 95 percent participation rate requirement, it will face a one to five percentage point reduction in its federal matching rate for children above 200 percent of the FPL.

[2] As in the tax code, most states use a *net* income test, rather than a *gross* income test, when evaluating Medicaid and SCHIP eligibility. Under a *net* income test, states disregard selected expenses (e.g., some child care costs) when evaluating whether a family's income falls below its eligibility threshold).

FPL. In some respects, such a cap is potentially redundant. There is little prospect that states will be able to cover children above 200 percent of the FPL under the Administration's proposed revisions to the August 17th directive. If, however, a state were able to comply with the revised directive, it would be allowed to cover children only up to 250 percent of the FPL.

- **Grandfathering of currently enrolled children**. States required to scale back their coverage initiatives by the proposal would be allowed to continue covering children currently enrolled in the program with income above 200 percent of the FPL.[3] However, this "grandfathering" would delay only modestly the dismantling of coverage for children in the affected income range. In New Hampshire, for example, half of children above 250 percent of the FPL remain on the program for six months or less and three-quarters lose it within a year.[4]

In effect, the Administration is proposing to largely eliminate coverage for uninsured children in families with income above 200 percent of the FPL. The number of children served by SCHIP in this income range remains relatively modest – fewer than one in ten SCHIP children. But, with loss of coverage among families between 200 percent and 400 percent of the FPL driving close to half of the recent growth in uninsured children, states increasingly are seeking to do more – not less – to help moderate-income families purchase affordable coverage for their children.

3. No New Incentives to Enroll Lowest-Income Children. Despite talking about the importance of "putting poor children first," the Administration's budget fails to include one of the most effective tools for doing so. It opted not to provide performance-based assistance to states that succeed in enrolling more of the lowest-income uninsured children. (The Administration's budget only includes a modest amount of funding, $450 million over five years, for outreach grants.) In contrast, Congress included such a proposal in each of the SCHIP reauthorization bills it passed last year. CBO consistently scored it as driving significant enrollment gains among the lowest-income uninsured children with minimal crowd out.

Conclusion

In effect, the Administration's budget proposal would entirely eliminate SCHIP coverage for children above 250 percent of the FPL and make it very difficult, if not impossible, for states to cover uninsured children between 200 percent and 250 percent of the federal poverty level. At a time when the economy is weakening and the number of uninsured children is growing, this proposal moves in the wrong direction for America's families.

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[3] Some reports suggest that states might receive only the regular Medicaid matching rate for the cost of grandfathered children, at least for those with gross income above 250 percent of the FPL.
[4] Testimony of Tricia Brooks, President & CEO, NH Healthy Kids Corporation, Energy and Commerce Subcommittee on Health, January 29th, 2008.

Children's Medicaid/SCHIP Income Eligibility Levels In Place or Planned For 2008

State	Income Threshold <200% FPL	Income Threshold at 200% FPL (gross - no disregards)	Income Threshold at 200% FPL (net - selected disregards)	Income Threshold >200% FPL
Alabama			X	
Alaska	175%			
Arizona		X		
Arkansas			X	
California				250%
Colorado				
Connecticut			X	300%
Delaware			X	
District of Columbia				300%
Florida			X	
Georgia				235%
Hawaii				300%
Idaho	185%			
Illinois*				200% (300%)
Indiana*+				250%
Iowa			X	
Kansas			X	
Kentucky			X	
Louisiana*+				250%
Maine		X		
Maryland				300%
Massachusetts				300%
Michigan			X	
Minnesota				275%
Mississippi			X	
Missouri				300%
Montana	175%			
Nebraska	185%			
Nevada		X		
New Hampshire				300%
New Jersey				350%
New Mexico				235%
New York*				250%
North Carolina*				300%
North Dakota	140%			
Ohio*+				250%
Oklahoma*+				250%
Oregon	185%			
Pennsylvania				300%
Rhode Island				250%
South Carolina*			X	
South Dakota			X	
Tennessee				250%
Texas		X		
Utah		X		
Vermont				300%
Virginia		X		
Washington*				300%
West Virginia*				300%
Wisconsin*+				250% (300%)
Wyoming		X		
TOTAL	**6**	**7**	**12**	**26**

Note: States marked with an asterisk (*) are states that have adopted legislation to expand SCHIP-financed coverage levels, but have not yet done so. Of these states, those marked with a cross (+) have filed or announced plans that are more restrictive than the original expansion legislation, as a result of the August 17, 2007 CMS directive. For Illinois and Wisconsin, eligibility levels in parentheses are currently state-funded. New York has planned to expand coverage to 400% FPL, but it was turned down by CMS. It's governor has proposed a plan to state fund coverage up to 400% FPL, but that plan has not yet been approved by the legislature.

Source: Center for Children and Families based on D. Cohen Ross, A. Horn, & C. Marks, "Health Coverage for Children and Families in Medicaid and SCHIP: State Efforts Face New Hurdles," Kaiser Commission on Medicaid and the Uninsured (January 2008), and reports from individual states.

Updated: February 8, 2008