



DEPARTMENT OF HEALTH & HUMAN SERVICES
Health Care Financing Administration

Center for Medicaid and State Operations
7500 Security Boulevard
Baltimore, MD 21244-1850

October 10, 1997

Dear State Medicaid Director:

The purpose of this letter is to provide initial policy and State plan guidance on implementing the new health coverage provisions for children in the Balanced Budget Act of 1997 (P.L. 105-33, BBA 97) that apply under Medicaid.

The new law creates a new Children's Health Insurance Program (CHIP) in title XXI of the Social Security Act and permits the expansion of Medicaid eligibility for children. These changes allow a State to expand coverage for uninsured, low-income children through the Medicaid program, through a new or expanded separate child health insurance program, or through a combination of the Medicaid program and a separate child health insurance program. To allow States to cover these children under Medicaid, section 4911 of the BBA 97 establishes a new optional group of targeted low income children.

The new law also added three other options for States to expand coverage of children under Medicaid. Section 4912 amends title XIX to add an option for States to provide presumptive Medicaid eligibility to children for a limited period of time. Section 4731 amends title XIX to give States the option to provide continuous eligibility to children for up to a year. This section also gives States the option to accelerate the phase-in Medicaid coverage of children under the eligibility group for children under age 19 in families with income up to 100% of the Federal poverty level.

In order to expand coverage for children through the Medicaid program under these options, you must amend your Medicaid State plan. Attached are draft preprint (PDF 76KB) pages for amending a Medicaid State plan to adopt any of the Medicaid options mentioned above. These draft pages, or other preprint pages which reflect the requirements of the law, can be used pending publication by HCFA of final State plan preprint pages for these options. These should be treated as standard State plan amendments, which you should submit to your HCFA regional office in accordance with the usual procedures for submitting State plan amendments. State plan amendments can be effective no earlier than the first day of the quarter in which they are submitted to the regional office.

States choosing to implement the Children's Health Insurance Program through Medicaid may receive an enhanced federal match for expenditures on optional targeted low-income and accelerated poverty level children. To receive an enhanced match for targeted low-income children, States must submit and have approved a State child health plan under title XXI. (An abbreviated title XXI child health plan can be submitted in such cases.) To facilitate the review and approval process, we encourage you to submit both the Medicaid State plan amendment and the title XXI State child health plan to the regional office at the same time. Your regional office is prepared to provide any assistance that you may need in preparing your State child health plan or Medicaid State plan amendments to implement the Medicaid options discussed in this letter.

We are working closely with the joint Federal/State Eligibility Technical Advisory Group to resolve policy issues identified during the implementation process. That process is continuing and will culminate in the publication of new State Medicaid Manual guidelines in the near future. In the meantime, we have attached initial guidance on some of the issues related to these provisions. The guidance includes the funding source for each option, the availability of an enhanced match rate, and an explanation of when title XIX payments will reduce the title XXI allotment. The attached guidance will be included in a broader series of questions and answers addressing issues related to implementation of CHIP in general. The broader series is available on the Internet at "www.hcfa.gov." (If you wish, your HCFA regional office will also provide you with a copy of all questions and answers as they are placed on the Internet.)

We will keep you informed as new policy guidance becomes available. In the meantime, if there are any questions, please contact your HCFA regional office staff.

Sincerely,

/s/

Sally K. Richardson
Director
Center for Medicaid and State Operations

Attachments

cc: All HRSA/HCFA Regional Administrators

OPTIONAL TARGETED LOW-INCOME CHILDREN (4911)

Question 33. The CHIP Medicaid option (section 1905(u)(2)(C)) requires that an optional targeted low-income child be ineligible for medical assistance under the title XIX State plan. If a State chooses the CHIP Medicaid option, can a child who is eligible or potentially eligible for Medicaid as medically needy be covered as an optional targeted low-income child?

If a child is medically needy, without a spenddown, the child is otherwise Medicaid eligible and cannot be an optional targeted low-income child. Section 1905(u)(2)(C) of the Social Security Act refers to the definition of "targeted low-income child" under section 2110(b)(1) of the Act. This section provides that a targeted low-income child cannot be eligible for medical assistance under title XIX regardless of how they are eligible. Moreover, section 1905(u)(2)(C) contains maintenance of effort language which precludes States from covering as a targeted low-income child a child who would qualify for medical assistance under a State plan in effect on April 15, 1997. Thus, if the child would have qualified for Medicaid as medically needy without a spenddown under the State's April 15 State plan rules, even if not eligible under current rules, the child could not be covered as a targeted low-income child.

It should be noted that, if a State determines that the child is not yet medically needy because he/she has not yet met the spenddown, then the child is not otherwise Medicaid eligible. Accordingly, these children could be covered as targeted low-income children.

Question 34. Do the exclusions in the Title XXI definition of a targeted low-income child apply under the Medicaid optional targeted low income children group? (The exclusion includes children who are inmates of public institutions, patients in institutions or mental diseases, or children who are members of families that are eligible for health benefits coverage under a State health benefits plan).

No. These exclusions only apply for purposes of establishing a separate child health option under title

XXI. However, the existing Medicaid restrictions on Federal financial participation (FFP) for services provided to inmates of a public institution and patients in institutions for mental diseases would apply to optional targeted low income children under Medicaid. (Note that FFP is available under Medicaid for inpatient psychiatric services for children under age 21.)

Question 35. Are States that go the traditional Medicaid route required to provide the full Medicaid benefit package, including EPSDT, to children covered under the Medicaid option?

Yes. The State must provide the Medicaid benefits package, including EPSDT, to all children covered under Medicaid, including optional targeted low-income children.

Question 36. Do the immigration restrictions adopted under welfare reform (as amended by the Balanced Budget Act) apply to optional targeted low income children under Medicaid?

Yes. The Children's Health Insurance Program is considered a "means-tested benefit" according to the interpretation published in the Federal Register on August 26, 1997.

Question 37. Can a State limit the children covered under the Medicaid optional targeted low-income children group to certain children or must they cover all children who meet the definition of targeted low-income child?

A State may choose to cover any reasonable group or groups of children as optional targeted low-income children. However, other applicable requirements of the Medicaid law must be met. For example, States must make groups eligible on a Statewide basis and must furnish equivalent coverage to all children within each eligible group.

Question 38. If a State has expanded coverage of children under its Medicaid State plan prior to October 1, 1997, can the State claim enhanced match for the expansion children as optional targeted low income children?

Children covered under a Medicaid State plan expansion as qualified or poverty-level children cannot be included as optional targeted low-income children under the statute. This is because the statute provides that a child who is in a mandatory eligibility group, such as the qualified or the poverty level children, cannot be included as an optional group such as the optional targeted low-income children. (See section 1902(a)(10)(A)(ii).) However, if a State expanded the eligibility of children under Medicaid after April 15, 1997, the State has the option to amend its State plan to include the expansion group as an optional group of targeted low-income children, for which there is an enhanced match.

Question 39. Must a State submit a title XXI plan if it decides to use title XXI funds to expand Medicaid?

Yes, but only certain sections of the title XXI plan have to be submitted. Information on specific sections and the recently released draft template and instructions are available through your regional office.

Question 40. In a state which chooses the Medicaid route, what happens when the title XXI allotment has all been spent?

Unless the State plan is amended to drop the optional targeted low-income children, it is obligated to continue providing services to eligible children. The State can claim regular Medicaid matching funds for such children. This is similar to discontinuing coverage for any other Medicaid group, a State must submit and have approved a State plan amendment in order to do so.

Question 41. What is the source of funding for this Medicaid group of optional targeted low-income children?

Federal payments for expenditures for children covered under a Medicaid CHIP option should come out of the title XIX appropriation and are applied against the State's title XXI allotment until that allotment is exhausted. After the title XXI allotment has been spent, expenditures for children covered under a Medicaid CHIP option are matched at the regular Medicaid rate, except that, for any children included in the group who were born before 10/1/83 (described in section 1905(u)(3) -- with family incomes less than 100% of the FPL), the FMAP remains at the enhanced rate even after the title XXI allotment is exhausted.

MEDICAID PRESUMPTIVE ELIGIBILITY FOR LOW-INCOME CHILDREN (4912)

Question 42. Is a State which elects the State plan option to provide presumptive eligibility for children required to provide all Medicaid services to presumptively eligible children?

Yes. A State is required to provide all services covered under the State plan to presumptively eligible children, including all EPSDT services as provided for under current law.

Question 43. Is a child limited to one period of presumptive eligibility?

No. However, we do not believe that it is reasonable to allow an unlimited number of periods of presumptive eligibility within a short time frame, as this could result in almost continuous eligibility for an individual who is actually ineligible. We will work with the Eligibility Technical Advisory Group (ETAG) to develop additional guidance on this issue.

Question 44. Must a State use a single income test?

No. Unlike presumptive eligibility for pregnant women, States are not required to have a single income standard for an eligibility group for all children. States must use the highest income standard under which a child is potentially eligible. For example, the standards for presumptive eligibility might be 133 percent of the FPL for children under 6 and 100 percent for children under age 19, if these were the highest standards applicable to children of the specified age under a State's Medicaid plan.

Question 45. Can entities other than those listed in the law make determinations of presumptive eligibility (e.g., welfare workers, home visitors, advocacy groups, volunteers)?

No. Only "qualified" entities listed in the law under presumptive eligibility (1920A.(b)(2)) may make determinations of presumptive eligibility. These are entities that provide health care items and services covered under the State plan and are eligible for payments under the State plans, and entities authorized to determine eligibility for the Head Start program, child care funded under the Child Care and Development Block Grant, or WIC. Therefore, States could certify a cash assistance worker as a qualified entity only if that worker were also authorized by the State to determine eligibility for Head Start or child care as outlined above.

Question 46. The law requires that the qualified entity making the determination of presumptive eligibility inform the parent or custodian of the child that an application for Medicaid must be filed by the end of the following month. Can this person be any interested adult who has the child in his/her care at the moment or must it be the parent or legal guardian?

The State may allow the qualified entity to inform the adult who is caring for the child at the time that the determination of presumptive eligibility is made. We will defer to States on the determination of whether this adult is considered custodian' of the child for these purposes.

Question 47. If a State chooses to provide presumptive eligibility, must it be made available Statewide?

Yes. Presumptive eligibility is part of the State plan and 1902(a)(1) requires that the plan must be in effect in all political subdivisions of the State.

Question 48. What is the source of funding for presumptive eligibility for children provided under Medicaid? What about a State that does not have a title XXI plan, but wants to use this option?

Payments made on behalf of a child who is ONLY presumptively eligible (not subsequently determined to be eligible for Medicaid or title XXI), come out of the title XIX appropriation and are applied against the title XXI allotment, if any (a State only has an allotment if it has an approved title XXI plan). The FMAP is at the regular Medicaid rate.

Payments made on behalf of a child who is subsequently determined Medicaid eligible for the period in question should be made under the applicable policy for the Medicaid group under which they have been determined to be eligible rather than under presumptive eligibility. (The FMAP would be at the regular or enhanced rate, as appropriate for the child's age and eligibility group.) Medicaid eligibility (other than presumptive eligibility) is effective the month of application and potentially for up to three months prior to application. Therefore, the only payments which should be made under presumptive eligibility are those made on behalf of children who fail to file an application for regular Medicaid or who are determined to be ineligible for Medicaid for some or all of the presumptive eligibility period.

Question 49. Can presumptive eligibility be made available only to certain subgroups of children?

No

CONTINUOUS ELIGIBILITY FOR CHILDREN (4731)

Question 50. Can a State choose to provide continuous eligibility only to certain groups of children?

A State may place an age limit on the children eligible for continuous eligibility. However, the State must cover all children within the chosen age limit who the State determines are eligible under the State plan.

Question 51. What is the source of funding for continuous eligibility?

Payment for continuous Medicaid eligibility under title XIX comes out of the title XIX appropriation, and is made at the appropriate FMAP rate based on the child's eligibility status (the enhanced rate may be available for optional targeted low-income children, for example). Payments would not be applied against the title XXI allotment, except when those payments are made at the enhanced FMAP rate.