

January 14, 1998

Dear State Health Official:

The Department of Health and Human Services is writing to provide States with information regarding the existing authority under the new Title XXI of the Social Security Act to meet the health care needs of immigrant children. As you know, the Children's Health Insurance Program (CHIP) represents a historic opportunity to meet the health care needs of uninsured, low-income children. The Department wants to ensure that immigrant children benefit from this new program to the maximum extent possible under the law. Current Population Survey data from 1995 showed that 51.7 percent of poor, foreign born persons were uninsured, compared to 26.4 percent for native born Americans. This letter explains how health care for immigrant children and children born in the U.S. to immigrant parents may be improved through CHIP.

We have determined that Title XXI health insurance coverage meets the definition of a Federal, means-tested public benefit. Therefore, its health insurance coverage cannot be made available to certain immigrant children. States may not segregate their CHIP expenditures to convert a portion of the program into a fully State funded, means-tested program in order to circumvent the restrictions established by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), which banned certain immigrants from receiving Federal means-tested public benefits for their first 5 years in the country.

Nevertheless, you should be aware that several groups of legal immigrant children are eligible for the full range of benefits provided under CHIP. In addition to providing insurance coverage to eligible immigrant children, States may use a limited amount of CHIP funds for expenditures other than health insurance assistance to conduct targeted outreach and health services initiatives in communities that include substantial numbers of immigrant children. Further guidance on these issues is provided below:

Eligible "Immigrant" Children

PRWORA did not change longstanding law providing that any child born in the United States is a citizen. Census data from 1996 found that there are 9.9 million children born in the U.S. to an immigrant parent. These children are U.S. citizens and are subject to the same criteria and procedures to determine eligibility for public programs as any other U.S. citizen.

Additionally, there are certain other categories of immigrant children who may be eligible for both Medicaid and CHIP due to exemptions from the restrictions in PRWORA. They include:

- All legal immigrant children who were in the U.S. before August 22, 1996,
- Refugees, asylees, and certain Cuban, Haitian and Amerasian immigrants,
- Unmarried, dependent children of veterans and active duty service members of the Armed Forces, and
- Legal immigrants arriving on or after August 22, 1996, and in continuous residence for 5 years. (Earliest eligibility for this group is August 22, 2001. Also, their sponsor's income and resources will be taken into account in determining their eligibility for those who have signed legally binding affidavits of support.)

Moreover, although Medicaid is classified as a "designated Federal program" under PRWORA, meaning States may deny benefits to qualified aliens other than those listed above, States may not deny benefits to otherwise qualified and eligible aliens under Title XXI. Accordingly, after the expiration of the 5 year period beginning with the date of the alien's entry to the United States, qualified alien children will be eligible for coverage under a Title XXI CHIP program if they meet the other eligibility requirements for that program.

Outreach

In order to facilitate the enrollment of eligible children, States may choose to target outreach activities toward low-income communities with high concentrations of immigrants. Given the significant numbers of low-income children residing in immigrant communities who are uninsured and qualify for Federal public benefits, targeting outreach to such communities is part of an effective outreach strategy. Funding is authorized in Title XXI for outreach to families of children likely to be eligible for benefits under Title XXI or under other public or private health coverage programs, to inform these families of the availability of the State program, and to assist them in enrolling their children when appropriate. Uninsured, low-income children found to be ineligible for CHIP or Medicaid coverage should be referred to other sources of health benefits coverage such as private, charitable insurance programs and safety net providers in their area, to the extent available.

Health services initiatives

Additionally, at the State's option, low-income, immigrant communities, including the temporary communities of migrant and seasonal farm workers, can be targeted for health services initiatives. Title XXI, authorizes CHIP funds to be used for "expenditures for health services initiatives... for improving the health of children (including targeted low income children and other low income children)."

The legislation further indicates that these initiatives may benefit the health of all low income children, including but not limited to children eligible to receive services under Title XXI. Therefore, health services initiatives such as health education activities, school health programs and direct services (such as newborn hearing screening and lead testing programs), could be targeted to low-income immigrant communities. Both qualified and non-qualified immigrants may benefit from health services initiatives if such initiatives promote child health in a targeted county, community, or school. (It is important to note that except in States granted waivers, expenditures for health services initiatives, together with outreach, administrative costs, and other child health assistance, are subject to a 10 percent limit as set forth in section 2105(c)(2)(A).)

We hope that this information will help your State achieve the goal of providing access to comprehensive health care for all vulnerable children. Thank you for your continued efforts toward achieving this goal. If you have any further questions, please contact Marty Svolos at (410) 786-4582.

Sincerely,

Sally K. Richardson
Director
Center for Medicaid and State Operations
Health Care Financing Administration

Claude Earl Fox, M.D., M.P.H.
Acting Administrator
Health Resources and Service Administration

cc: Governor's Offices All HCFA Regional
Offices All PHS Regional Offices

Ms. Lee Partridge -
Director Health Policy
Unit American Public
Welfare Association

Ms. Jennifer Baxendell - Senior Policy Analyst Human Resources Group -
National Governor's Association

Ms. Joy Wilson -
Director, Health
Committee National
Conference of State
Legislatures

