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NEW CHILDREN'S HEALTH LEGISLATION WOULD NOT ALLOW UNDOCUMENTED IMMIGRANTS TO ENROLL IN SCHIP OR MEDICAID

By Judith Solomon and Allison Orris

President Bush has said he will veto the second bipartisan compromise bill passed by Congress (H.R. 3963) to reauthorize the State Children's Health Insurance Program (SCHIP). The Administration claims, in part, that the bill "continues to allow SCHIP to cover ineligible individuals," namely undocumented immigrants.¹ Some members of Congress and the Heritage Foundation have made similar charges.

This claim is false. The second bill contains significant changes that close the door on the possibility that undocumented immigrants could be found eligible for Medicaid or SCHIP. It would require clear proof that all children, parents, and pregnant women applying for Medicaid and SCHIP who declare that they are U.S. citizens are indeed citizens: either the state would check the applicant's Social Security record to see that it contains a Social Security Administration-verified indicator of U.S. citizenship, or the applicant would have to provide the state with a document such as a birth certificate. To ignore this fact and incorrectly claim that undocumented immigrants would receive coverage under the bill is not valid justification for vetoing the extension of health coverage to nearly 4 million uninsured children.

KEY FINDINGS

- The Administration is justifying its planned veto of Congress's second children's health bill in part on the claim that the bill would allow undocumented immigrants to obtain health coverage. This claim is false.
- The new bill contains a significant change from the previous bill (which the President vetoed). People claiming to be U.S. citizens would have to prove that fact through their Social Security record – which would have to verify their citizenship as well as their name and Social Security number – or by submitting a birth certificate or similar document.
- The verification procedures in the bill would prevent undocumented immigrants from obtaining health benefits while also reducing the barriers created by the current rules, which are denying coverage to thousands of eligible U.S. citizen children.

¹ "Just the Facts: Top Five Reasons the Democrats' 'New' SCHIP Bill Is Actually More of the Same," White House Office of the Press Secretary, October 25, 2007. Some in Congress have repeated this claim, such as Representative Marsha Blackburn (R-TN), who stated that the bill "would provide free taxpayer-funded health care to illegal immigrants." Robert Pear, "8 Democrats Pose Hurdle for Children's Health Bill," *New York Times*, November 15, 2007.

Background: The Citizenship Documentation Requirement

Undocumented immigrants have never been eligible for SCHIP or Medicaid (other than for some emergency medical care). Legal immigrants applying for Medicaid have always had to submit documents proving that they meet the federal eligibility requirements that apply to legal immigrants. In addition, states have always been able to require individuals whose claim to U.S. citizenship appears questionable to submit documents proving their citizenship. In 2005, Dr. Mark McClellan, then-administrator of the Centers for Medicare and Medicaid Services, wrote that this policy “allows states to enroll eligible individuals while preserving program integrity.”²

Nevertheless, in the Deficit Reduction Act passed in 2006, Congress enacted a new requirement that every U.S. citizen child, parent, and pregnant woman applying for (or receiving) Medicaid prove his or her citizenship by providing an original birth certificate, passport, or similar document. States have reported that the new rule has kept thousands of children who are U.S. citizens from receiving the coverage for which they would otherwise qualify, because their parents lacked ready access to a birth certificate or passport.

Supporters of the citizenship documentation requirement claim that it is intended to keep undocumented immigrants from fraudulently enrolling in Medicaid. Thus far, however, virtually no undocumented immigrants have been identified under the rule. (See box on page 5.) Instead, as Congressional Budget Office (CBO) Director Peter Orszag recently stated, the available evidence “suggests that virtually all of those who have been unable to provide the required documentation are U.S. citizens.”³ Director Orszag has also said, “even before the Deficit Reduction Act, we did not believe there was any significant problem with unauthorized immigrants in either [SCHIP or Medicaid.]”⁴

New Bill Would Further Tighten Citizenship Rules While Improving Verification Procedures

The second children’s health bill passed by Congress is tougher than current law: it retains the citizenship documentation requirement in Medicaid and extends it to SCHIP. At the same time, it gives states a new way to *meet* the requirement that would cause far less disruption and harm for eligible U.S. citizens.

The first children’s health bill (H.R. 976) would have permitted states to allow Medicaid and SCHIP applicants and beneficiaries to meet the documentation requirement by having the state match their name and Social Security number (SSN) with information in the Social Security Administration (SSA) database. Opponents argued that this would not show whether an individual is a U.S. citizen and that the bill would therefore allow undocumented immigrants to enroll in the

² Memorandum from Mark B. McClellan to Daniel R. Levinson, Acting Inspector General, April 8, 2005, printed as Appendix D in Office of Inspector General, U.S. Department of Health and Human Services, “Self-declaration of U.S. Citizenship for Medicaid,” June 2005.

³ Letter from Congressional Budget Office Director Peter Orszag to the Honorable Nancy Pelosi, October 25, 2007, “Additional Information on CBO’s Estimate of the Budgetary Impact of Section 211 of H.R. 3963, the Children’s Health Insurance Program Reauthorization Act of 2007.”

⁴ Manu Raju and Jonathan E. Kaplan, “Reid Looks to Buy Time on SCHIP,” *The Hill*, October 31, 2007.

program. In particular, they relied on a letter from SSA commissioner Michael Astrue to Congressman Jim McCrery stating that matching an individual's name and SSN with SSA would not verify whether an individual is a citizen.⁵

The new bill addresses this problem by significantly modifying the proposed state option in the earlier bill:

- Any state adopting the option would be required to use the SSA database to determine not only whether an individual's name and Social Security number match (as in the earlier bill), but also whether the applicant is a citizen. SSA records for individuals who have received SSNs since 1981 contain an indicator showing whether the individual is a U.S. citizen. Since 1978, any individual applying for an SSN has been required to provide evidence of age, identity, and immigration status, so this citizenship indicator is based on evidence of citizenship and identity that was verified by SSA.⁶

By relying on the citizenship indicator, SSA can easily verify citizenship for Medicaid and SCHIP applicants who received their SSN after 1981. Most of the people subject to the documentation requirement will have received their SSNs after 1981 and thus can have their citizenship verified in this manner.⁷

- If SSA cannot verify an individual's citizenship by checking its records, or if there are unresolved discrepancies between the information provided by the individual and the information in the SSA database, the individual must provide the state with an original document, such as a birth certificate or passport, to prove his or her citizenship.

By allowing states to verify citizenship in a way that will be less costly and burdensome, the new children's health bill responds to the appeal by governors of both parties for increased flexibility in this area. (California Governor Arnold Schwarzenegger, for example, has stated that the current rules have "created a situation where U.S. citizens actually have fewer rights than non-citizens when applying for Medicaid benefits.") The bill would not allow undocumented immigrants to enroll in either Medicaid or SCHIP.

Provision Would Allow More Eligible People to Get Health Care and Cut Administrative Costs

CBO estimates that the citizenship provision in the new bill would enable an additional 500,000 people who are eligible for Medicaid or SCHIP to enroll in the program in 2008; another 200,000 eligible people would enroll in subsequent years, because most states would use the new SSA matching option to verify citizenship. The new enrollees would all be U.S. citizens or qualified legal immigrants.

⁵ Letter from Social Security Commissioner Michael Astrue to Congressman Jim McCrery, September 24, 2007.

⁶ Office of the Inspector General, Social Security Administration, Congressional Response Report A-08-06-26100, December 2006 at <http://www.ssa.gov/oig/ADOBEPDF/audittxt/A-08-06-26100.htm>.

⁷ For some applicants who obtained their SSNs *before* 1981, citizenship could be verified through information in the SSA database showing that they were born in the United States. When this is not possible, the legislation would require these applicants to provide documents such as a birth certificate or passport to prove their citizenship.

Heritage Foundation Attack Ignores Changes Made in Second SCHIP Bill and is Not Accurate

On December 3, the Heritage Foundation issued a “web memo,” which was featured in a *Washington Times* article on the same day. The memo charges that the bipartisan SCHIP compromise would allow undocumented immigrants to enroll in Medicaid and also open the program to legal immigrants who are ineligible because they have been in the United States for less than five years. Heritage claims that state Medicaid agencies would only have to check whether applicants have a valid Social Security number and would not be required to determine whether an individual applying for Medicaid is a citizen. Thus, according to Heritage, undocumented immigrants with false Social Security numbers *and* legal immigrants who actually have valid Social Security numbers could misrepresent their status and enroll in Medicaid or SCHIP.

In making these claims, Heritage ignores the changes that were made in the second bill; the author of the memo, Robert Rector, seems unaware such changes were made. Under the second bill, states electing to use the Social Security database to determine citizenship would have to require individuals applying for Medicaid to provide their Social Security numbers and date of birth, and the Social Security database would then be used to determine if these individuals are citizens. In any case where the Social Security database did not confirm citizenship, the individual would have to provide documentary evidence of citizenship, as under current law. As a result, neither undocumented immigrants nor legal immigrants who do not meet federal Medicaid rules could enroll in Medicaid or SCHIP, because applicants would have to prove they are citizens either through information in the Social Security database or by presenting a birth certificate or other documentary evidence to the state Medicaid agency.

The improved verification procedures also would reduce federal and state administrative costs, by allowing states to use more cost-efficient methods to ensure that undocumented immigrants do not receive Medicaid. States report that the current documentation requirement is imposing millions of dollars in increased administrative costs, particularly by increasing the need for staffing.⁸

In sum, the new children’s health bill contains strong new safeguards to prevent undocumented immigrants from obtaining health benefits while also reducing the barriers that are denying coverage to thousands of eligible U.S. citizen children. The claim that the bill would enable undocumented immigrants to obtain health care — like the claim or implication that it represents no change from the first, vetoed bill — is inaccurate.

⁸ Donna Cohen Ross, “New Medicaid Citizenship Documentation Requirement Is Taking a Toll,” Center on Budget and Policy Priorities, revised March 13, 2007, at <http://www.cbpp.org/2-2-07health.htm>.

Citizenship Documentation Requirement Has Kept Thousands of U.S. Citizens From Receiving Health Coverage

Numerous states have reported that U.S. citizen children have been removed from, or denied entry into, Medicaid because of the 2006 citizenship documentation requirement. The Government Accountability Office, the House Oversight and Government Reform Committee, and the Center on Budget and Policy Priorities have reported these results based on data that the states have collected.¹

The six states that have examined this issue in greatest detail found they had spent \$17 million so far to administer the burdensome requirement, had denied health insurance to tens of thousands of needy children and parents as a result, and had identified a grand total of *eight* undocumented individuals (some or all of whom they may have caught under their previous procedures).² For example, the number of low-income children insured through Medicaid dropped by 11,000 in Virginia and 14,000 in Kansas due to the new requirements; each state identified *one* applicant who incorrectly claimed to be a citizen.³

The three states that collected data by racial/ethnic group found that the children losing coverage due to the requirement are overwhelmingly non-Hispanic whites and non-Hispanic blacks. Hispanic children have been affected far less. In Virginia, for example, enrollment has fallen significantly among white and black children since the requirement took effect, while it has climbed among Hispanic children. This would not be occurring if the provision were actually affecting undocumented immigrants, since an estimated 78 percent of undocumented immigrants are from Mexico, Central America, or South America, according to the respected Pew Hispanic Center.⁴

A recent study by the Kaiser Commission on Medicaid and the Uninsured confirms that Medicaid application processing delays under the new citizenship documentation requirements are the main reason why Medicaid enrollment dropped in 2007 for the first time in a decade. According to Kaiser, 37 states reported that the new documentation requirements had a negative impact on enrollment, and 45 states reported that the new requirements increased administrative costs.⁵

¹ Government Accountability Office, "States Reported That Citizenship Documentation Requirement Resulted in Enrollment Declines for Eligible Citizens and Posed Administrative Burdens," June 2007; "Medicaid Citizenship Documentation Requirements Deny Coverage to Citizens And Cost Taxpayers Millions," Majority Staff, Committee on Oversight and Government Reform, July 24, 2007; Donna Cohen Ross, "Medicaid Requirement Disproportionately Harms Non-Hispanics, State Data Show," Center on Budget and Policy Priorities, July 10, 2007, at <http://www.cbpp.org/7-10-07health.htm>; and Donna Cohen Ross, "New Medicaid Citizenship Documentation Requirement Is Taking A Toll," Center on Budget and Policy Priorities, revised March 13, 2007, at <http://www.cbpp.org/2-2-07health.htm>.

² Committee on Oversight and Government Reform, *op. cit.*

³ Donna Cohen Ross, "Medicaid Requirement Disproportionately Harms Non-Hispanics, State Data Show," *op. cit.*

⁴ An estimated 13 percent are from Asia, and 9 percent are from Europe, Africa, and other areas. Jeff Passel, "The Size and Characteristics of the Unauthorized Migrant Population in the United States," Pew Hispanic Center, March 2006.

⁵ Vernon Smith *et al.*, "As Tough Times Wane, States Act to Improve Medicaid Coverage and Quality: Results from a 50-State Medicaid Budget Survey for State Fiscal Years 2007 and 2008," Kaiser Commission on Medicaid and the Uninsured, October 2007, at <http://www.kff.org/medicaid/upload/7699.pdf>.