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ADMINISTRATION MOVES TO EVISCERATE EFFORTS TO ENROLL UNINSURED LOW-INCOME CHILDREN IN HEALTH COVERAGE THROUGH THE SCHOOLS

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While deep disagreements emerged between Congress and the Bush Administration last year in the debate over reauthorizing the State Children's Health Insurance Program (SCHIP), all sides agreed that states should do all they can to enroll low-income children who are currently eligible for Medicaid and SCHIP. And while the Administration issued a directive to states that effectively bars states from covering children with moderate incomes (incomes above 250 percent of the poverty line), the Administration has sought to justify the directive partly by arguing that states have not done enough to enroll lower-income children.¹

Yet despite its purported interest in having states do more to enroll low-income children, the Administration has issued regulations that would significantly curtail states' ability to do just that. For some time, policymakers and administrators at all levels of government have recognized that the bulk of the eligible-but-uninsured low-income children attend school — and consequently, that one of the best ways to reach and enroll them in health care coverage is through the schools they attend. Nevertheless, on December 28, 2007, the Administration (through the Centers for Medicare and Medicaid Services at the Department of Health and Human Services) issued far-reaching regulations that would reverse longstanding Medicaid policy and entirely *eliminate* federal Medicaid matching funds for Medicaid outreach and enrollment activities undertaken by school personnel.²

On December 29, 2007, the day after these rules became final, the President signed the Medicare, Medicaid, and SCHIP Extension Act of 2007, which placed a moratorium on implementation of these rules. The moratorium will expire on June 30, 2008.

¹ The Administration's directive is a reversal of longstanding policy that provides states with flexibility in setting income eligibility levels for SCHIP. It would affect as many as 23 states that provide coverage to children in families with income above 250 percent of the poverty line or are planning to raise their income eligibility limits. Cindy Mann and Michael Odeh, "Moving Backward: New Federally Imposed Limits on States' Ability to Cover Children," Georgetown Center for Children and Families, August 30, 2007.

² 72 Fed. Reg. 73635-73651 (Dec. 28, 2007).

In 2000, three federal agencies — the Department of Health and Human Services, the Department of Agriculture, and the Department of Education — published a guide to school-based health care outreach that began with a reference to Willy Sutton’s famous statement that he robbed banks because “that’s where the money is.” The guide pointed out that schools are where the children are and represent “the single best link” for identifying and enrolling eligible low-income children in health coverage. The federal guide encouraged state Medicaid agencies to enter into agreements with schools to provide the schools with financial support for activities to find and enroll eligible children.

The Bush Administration’s final rule would essentially gut those efforts. It would force many states to curtail successful school-based initiatives to identify and enroll low-income children.

The final rule also would eliminate federal matching funds for activities that states are required to carry out as part of Medicaid’s Early and Periodic Screening, Diagnostic and Treatment (EPSDT) program to ensure that children actually obtain health care services once they are enrolled in Medicaid. Under EPSDT, states are supposed to ensure that all children enrolled in Medicaid receive regular check-ups, including vision, dental, and hearing exams, as well as necessary immunizations and laboratory tests and follow-up testing and treatment. States are obligated to inform families about the availability of EPSDT services and to help them access health care services for their children. Some states have contracted with school systems so that school nurses can inform families about EPSDT and help families arrange care. In many states, school staff also help coordinate the care of those children enrolled in special education who have special health care needs.

Under the final rule, federal matching funds would no longer be available to help support any of these activities — unless they were carried out by the Medicaid agency’s own employees, a private corporation, or employees of some other public agency.³ This highly bureaucratic restriction would greatly hamper states in meeting their responsibilities under EPSDT.

School Systems Have Developed Successful Programs to Find and Enroll Eligible Children and Help them Access Health Care Services

As just explained, the final rule would endanger the survival of successful school-based outreach and enrollment programs across the country. The following are three examples of effective school-based programs that the rule would essentially defund.

- **The Albuquerque Public Schools** employ two full-time and one part-time outreach workers and a resource nurse to help families secure Medicaid coverage for their eligible children. These staff are trained and certified as “Presumptive Eligibility/Medicaid On-Site Application Assistors” by the state Medicaid agency. They conduct “presumptive eligibility” determinations, which enable low-income children who appear to be eligible for Medicaid to be enrolled for a temporary period while their parents complete the Medicaid application process. This allows the children to get attention for their health care needs while their families complete the application process.

³ The rule would also reverse current policy that allows federal matching funds for transportation provided to children with special health care needs who receive health care services while they are at school.

In the 2006/2007 school year, school system personnel enrolled more than 1,500 children through this process. According to a school district official, if the school district's ability to receive Medicaid matching funds is eliminated, the program's survival will be in jeopardy. "Albuquerque is New Mexico's largest school district, serving one-third of all students in our state," she said. "As a result, the need for outreach and enrollment assistance is tremendous. By having APS staff dedicated to outreach, we have the opportunity to enroll a much larger percentage of school-aged children and their pre-school siblings, as well as children in the larger community."⁴

- **The Chicago Public Schools** established a Children and Family Benefits Unit (CFBU) to improve access to the state's children's health coverage program, which includes Medicaid. Supported by Medicaid matching funds, the CFBU employs 11 liaisons, each of whom serves about 60 schools, as well as one worker who staffs a benefits hotline. Between September 2006 and August 2007, CBFU staff helped more than 4,200 families complete applications for their children. The approval rate for the Medicaid applications was 90 percent.

As part of this effort, more than 1,500 Chicago Public Schools personnel, including case managers, nurses, counselors, social workers, homeless liaisons and others are trained to identify potentially eligible children and refer them to the CFBU workers. According to school district officials, "Our workers are well trained, so they do a better job completing applications than families can do on their own." This school-based approach also removes various barriers that can prevent low-income children from enrolling; for example, CBFU staff provide assistance in languages other than English, are available at convenient hours, and help families complete applications over the phone.

- **The Granite School District**, which includes Salt Lake City, reaches out to children in the district to identify and assist those who qualify for Medicaid or SCHIP. Medicaid administrative funds support two full-time and two part-time school outreach workers who provide hands-on assistance with the application process. The school district has a consistent record of success: Each year, the district submits about 1,000 Medicaid applications for children, and about 77 percent of these applicants are enrolled (compared to 47 percent of child applicants statewide). A school district official attributes this achievement to the fact that school outreach workers carefully screen children for eligibility and help families secure the documentation needed to complete the enrollment process. "Without the Medicaid administrative funds, outreach just isn't going to happen," she stated. "The biggest hit will be on the poorest families who would have the hardest time going through the process themselves."⁵

The Final Rule Would Eliminate Federal Support for Outreach and Coordination of Health Care Services by School Personnel

Federal Medicaid law calls for the provision of federal matching funds for administrative activities that the Secretary of Health and Human Services finds "necessary ... for the proper and efficient

⁴ Interview with Pat Laws, Albuquerque Public Schools, September 12, 2007;

⁵ Interview with Lynne Larsen-Miller, Granite School District, September 11, 2007.

administration of the State [Medicaid] plan.” State Medicaid agencies are reimbursed for their own activities in administering the Medicaid program; they can contract with other state or local agencies; and they can contract with private companies for activities like claims processing. All states receive federal matching funds at a 50 percent rate (i.e., the federal funds cover 50 percent of the costs that states incur) for these administrative activities.

When a state contracts with a local school district to perform administrative activities on behalf of the Medicaid program, it enters into an interagency agreement with the school district. The interagency agreement sets out the activities that school employees will perform and how they will track their time to make sure the school system claims reimbursement only for activities that are properly billed to Medicaid.

Following some reports of inappropriate billing by schools, CMS issued new guidance in 2003 that provides a detailed blueprint for states submitting claims for federal matching funds for outreach, enrollment assistance and other activities performed by school-system personnel. The guide describes how school systems should track the time of school personnel and provides strict definitions of the activities that can be billed to the Medicaid program.

The final rule does not question that outreach, enrollment, and coordination of health care services are appropriate administrative activities. Instead, it declares that the Secretary of HHS has found that these activities are not "necessary. . .for the proper and efficient administration of the State [Medicaid] plan" *if they are performed by school employees*. Federal matching funds could continue to be provided for the same activities if they were performed by employees of the state Medicaid agency, another state or local agency, or a private corporation.

This ruling makes little sense. Because schools are such an effective location for outreach, many state Medicaid programs have entered into interagency agreements with local school systems. As shown in the school district examples above, these agreements cover a range of activities including outreach, helping families through the Medicaid application process, and providing assistance to arrange necessary health care services for children.

School-based outreach and enrollment activities are successful precisely *because* they use school staff who are trusted by families and are already in the schools and in contact with children and families. State Medicaid agencies are unlikely to send their own employees into the schools, and if they did, it often would be an inefficient approach. The impact of the final rule would be to shut down effective programs like those described above.

The guidance that CMS issued in 2003 was designed to tighten the claiming process and make sure that federal funds go only for legitimate activities performed by school staff in support of the Medicaid program. The rules that CMS has now issued would reverse course and prohibit federal matching funds for outreach and enrollment assistance performed by school-system personnel. In attempting to justify the new rule (in the preamble to the rule when it was proposed), CMS unpersuasively cited reports of abusive billing that took place well *before* states were required to implement the 2003 guidance.

The current moratorium prevents the Administration from taking action to eliminate federal support for outreach and other activities conducted by school system staff until July 1, 2008. Congress needs to extend the moratorium to keep the funding cut-off from taking effect on that

date. Congress may also need to refine the language of the statute to explicitly authorize the continuation of what has been a longstanding bipartisan policy under which states may contract with school systems so more low-income children can be enrolled in Medicaid and obtain health insurance. States and school systems need to be able to continue to work together to enroll uninsured low-income children and to enable these children to obtain health care services that they need.