
February 26, 2015

Hatch-Upton CHIP Proposal Moves Backward on Children's Health Coverage

By Edwin Park

Senate Finance Committee Chairman Orrin Hatch and House Energy and Commerce Committee Chairman Fred Upton have unveiled draft legislation¹ to extend federal funding for the Children's Health Insurance Program (CHIP), which otherwise has no federal funding for state CHIP programs starting next year. Congress needs to provide such funding for states early this year because state legislatures are now in session and drafting state budgets for their next fiscal year, which begins on July 1 in most states, and need to know what to expect.

Unlike legislation from Senator Sherrod Brown (S. 522) and Representative Gene Green (H.R. 919), however, which would provide federal CHIP funding for the next four years and largely continue existing policies, the Hatch-Upton draft proposes a series of major changes to CHIP that would likely cause substantial numbers of low- and moderate-income children on CHIP today to become uninsured or to lose access to needed care.²

The proposal would:

- **Likely cause some children on CHIP to become uninsured or face higher out-of-pocket costs.** Due largely to CHIP and Medicaid, the share of children without health insurance has fallen by more than half since 1998, and the number of uninsured children is at a historical low. While extending federal CHIP funding and maintaining current CHIP policies would sustain these coverage gains, the Hatch-Upton proposal would move in the opposite direction in several key respects. Starting in October, it would eliminate or reduce federal CHIP funding for certain CHIP children (see below). It also would allow states to further cut back children's eligibility in Medicaid and CHIP, or make it harder for eligible children to enroll, by repealing the requirement of current law that states maintain their existing Medicaid and CHIP children's eligibility levels through 2019 and not make their enrollment procedures for children more

¹ House Committee on Energy and Commerce, "Discussion Draft: Extending Funding for the State Children's Health Insurance Program," February 24, 2015, <http://energycommerce.house.gov/sites/republicans.energycommerce.house.gov/files/114/Analysis/SCHIPSectionbySection.pdf>.

² At this time, the draft bill does not specify the number of years or the annual amounts of additional CHIP funding that would be provided. The Brown and Green bills would provide additional CHIP funding for four years (2016-2019).

restrictive. A number of states would likely respond by cutting their CHIP programs and reducing state CHIP funding accordingly, which would place a number of children now on CHIP at risk of becoming uninsured. To be sure, some children losing their CHIP coverage could become eligible for subsidies to purchase coverage in the health insurance marketplaces established under the Affordable Care Act. But some families may not be able to afford the higher premiums and other out-of-pocket costs they generally would face in marketplace plans as compared to CHIP. Moreover, unlike marketplace plans, CHIP benefits are specifically designed for a pediatric population. As a result, children could end up uninsured or forgoing needed care.

Of particular concern, a substantial number of children now on CHIP *would not be eligible* for marketplace subsidies at all due to the so-called “family glitch” — under which the children and spouse of an employee who has access to employer-based coverage are *ineligible* for marketplace subsidies, even if the cost of coverage offered through the employer is affordable *only* for coverage that’s limited to the employee and *not* for coverage of other family members.³ This component of the Hatch-Upton plan could thus cause substantial numbers of children to end up uninsured.

- **Shift significant costs to states by restricting federal CHIP funding.** The proposal would prohibit states from using any federal CHIP funds to cover children in families with incomes above 300 percent of the poverty line; 18 states and the District of Columbia now provide CHIP coverage above that level.⁴ It also would reduce federal CHIP funding for children in families with incomes between 250 percent and 300 percent of the poverty line. (States would receive only the regular Medicaid matching rate — 57 percent, on average — rather than the current average CHIP matching rate of 70 percent for such children.) This would affect the 27 states and the District of Columbia that now provide CHIP coverage to children in this income range.⁵ The proposal also would eliminate a 23 percentage point increase in each state’s federal CHIP matching rate that’s scheduled to take effect in 2016 and remain in place through 2019.

Under these provisions, states would have to bear a greater share of the cost of their CHIP programs compared to current law. States would either have to contribute more of their own funds — for example, to maintain coverage for children above 250 percent of the poverty line — or, as is more likely, scale back their CHIP programs.

- **Eliminate tools and federal financial support that help states enroll more eligible children.** States now have an option, known as Express Lane Eligibility (ELE), to use eligibility information they have already collected and verified to establish eligibility in other programs (e.g., SNAP) to streamline the enrollment of eligible children into Medicaid and

³ See Medicaid and CHIP Payment and Access Commission, “Report to Congress on Medicaid and CHIP,” June 2014.

⁴ The states are AL, CT, DC, HI, IL, IA, MD, MA, MO, NH, NJ, NM, NY, OR, PA, VT, WA, WV and WI. See Tricia Brooks et al., “Modern Era Medicaid: Findings from a 50-State Survey, Eligibility, Enrollment, Renewal and Cost-Sharing Policies in Medicaid and CHIP as of January 2015,” Kaiser Family Foundation, January 2015, <http://ccf.georgetown.edu/wp-content/uploads/2015/01/Modern-Era-Medicaid-January-2015.pdf>

⁵ The additional states are CA, CO, GA, IN, LA, MN, MT, RI and TN. See Brooks et al., *op cit*.

CHIP.⁶ This option, enacted as part of the 2009 CHIP reauthorization law and adopted by 13 states, can boost enrollment and reduce administrative costs, as both a federal evaluation and the Government Accountability Office have found.⁷ The option expires at the end of September; the Hatch-Upton proposal would not extend it. Their proposal also repeals a provision in the 2009 CHIP law that gives states the option of receiving an enhanced federal matching rate for translation and interpretation services furnished to Medicaid and CHIP beneficiaries so that states have additional resources to ensure that language barriers do not prevent eligible children from enrolling.⁸

- **Make CHIP more complicated and harder to enroll in.** Before the Affordable Care Act, some states covered younger near-poor children under age 6 in Medicaid, with older children in families above the poverty line covered through separate state CHIP programs. This meant that some families had children of different ages being covered through two separate programs; it also required many families to transition their child's health care from one set of health-care providers to another after the child's sixth birthday. To simplify coverage for children, the ACA required states to provide Medicaid coverage to *all* children in families with incomes below 138 percent of the poverty line, with states continuing to receive the higher CHIP matching rate for children previously covered in separate state CHIP programs.⁹ The near-poor children who now receive CHIP-funded Medicaid coverage as a result also are likely to receive more comprehensive health benefits and face lower out-of-pocket charges than they likely would have faced in separate state CHIP programs. However, the Hatch-Upton proposal would repeal this requirement and let states move these older near-poor children back to separate state CHIP programs.

The ACA also prohibited states from imposing waiting periods of more than 90-days before children can enroll in CHIP coverage.¹⁰ While 32 states and the District of Columbia have ended waiting periods entirely, the Hatch-Upton proposal would allow states to require families to wait *as long as one year* before eligible children could enroll.

In a state taking this option, a child otherwise eligible for CHIP would first have to enroll for up to one year in subsidized marketplace coverage (assuming the child wasn't affected by the family glitch) before transferring to CHIP. The proposal would make eligibility and enrollment

⁶ See Edwin Park and Judith Solomon, "Expiring Medicaid and CHIP Provisions Should Be Extended in End-of-Year Legislation," Center on Budget and Policy Priorities, Center on Budget and Policy Priorities, revised January 8, 2014, <http://www.cbpp.org/cms/index.cfm?fa=view&id=4056>.

⁷ See Government Accountability Office, "Medicaid and CHIP: Considerations for Express Lane Eligibility," GAO-13-178R, December 5, 2012, <http://gao.gov/assets/660/650529.pdf> and Mathematica Policy Research, "CHIPRA Mandated Evaluation of Express Lane Eligibility: Final Findings," December 2013, <http://aspe.hhs.gov/health/reports/2013/ELE/ELE%20Final%20Report%20to%20ASPE%2012%2011%2013.pdf>.

⁸ In Medicaid, under this option, the federal matching rate for translation and interpretation services is 75 percent (rather than the regular administrative matching rate of 50 percent) and in CHIP, the higher of 75 percent or five points above the state's CHIP matching rate.

⁹ See Wesley Prater and Joan Alker, "Aligning Eligibility for Children: Moving the Stairstep Kids to Medicaid," Kaiser Family Foundation, August 2013, <http://ccf.georgetown.edu/wp-content/uploads/2013/08/stair-step.pdf>.

¹⁰ See Tricia Brooks, "Making Kids Wait for Coverage Makes No Sense in a Reformed Health System," Center for Children and Families, Georgetown University Health Policy Institute, February 2015, <http://ccf.georgetown.edu/wp-content/uploads/2013/12/Making-Kids-Wait-for-Coverage-Makes-No-Sense-in-a-Reformed-Health-System1.pdf>.

for CHIP more complicated and harder to navigate for eligible families; it also could disrupt the provision of care, since a child would likely need to change health providers when being moved from marketplace coverage to CHIP.

- **Place states at greater risk of federal funding shortfalls under CHIP.** The Hatch-Upton proposal does not specify how much federal CHIP funding would go to states or for how many years. But the proposal apparently does *not* extend the CHIP contingency fund beyond 2015. Established by the 2009 CHIP law, that fund gives states additional federal funding if children's enrollment rises faster than anticipated and states face higher-than-expected costs that would leave them with insufficient federal funding. Without the contingency fund as a backup, it raises the risk of some states having inadequate federal CHIP funds to sustain their programs.