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CMS denials of state Medicaid expansions fuel confusion

Medical society officials are disappointed in the agency's decisions in Oklahoma and Ohio.

By [Doug Trapp](#), *AMNews* staff. Jan. 28, 2008.

Washington -- Recent Bush administration denials of Medicaid expansion requests have injected uncertainty into state efforts to cover more uninsured people.

Traditionally, states have had a lot of flexibility to set income eligibility limits in Medicaid and the State Children's Health Insurance Program.

But on Aug. 17, 2007, the Centers for Medicare & Medicaid Services wrote a letter to state Medicaid directors indicating that it would not approve requests to expand SCHIP eligibility beyond 250% of the federal poverty level unless states implemented several safeguards to prevent applicants from dropping private health insurance in favor of SCHIP. This effect is known as crowd-out.

The new stipulations include covering 95% of eligible children in families earning 200% of poverty or less. The CMS letter sparked two lawsuits from a total of five states attempting to block the policy.

The agency is applying that policy to Medicaid programs that rely on SCHIP funding, as well as stand-alone children's health programs, said CMS spokeswoman Mary Kahn.

Since the policy was made public, 10 states have been unable to get full federal matching funds to expand their SCHIP or Medicaid programs' eligibility above 250% of poverty. This is possibly because of the August 2007 changes, according to a December analysis by the Georgetown Health Policy Institute's Center for Children

and Families. Most recently, CMS, for varying reasons, denied requests by Ohio and Oklahoma to cover more uninsured adults, as well as children earning up to 300% of poverty.

The number of uninsured children increased by 1 million, to 8.7 million in 2006.

CMS' denial of Oklahoma's request surprised Michael Fogarty, CEO of the Oklahoma Health Care Authority, the state's Medicaid agency. The state was trying to help an additional 42,000 to 45,000 children get private insurance by increasing eligibility for the state's premium assistance program from 185% to 300% of poverty. Oklahoma officials also asked CMS to increase eligibility for a similar program for small-business employees from 185% to 250% of poverty.

"Based on the comments that the [Bush] administration has made about our adult premium assistance program, we really felt that this was something that would be enthusiastically supported by the administration," Fogarty said. He said Health and Human Services Secretary Mike Leavitt expressed his support during a visit to Oklahoma in early 2007.

Instead, CMS officials told Fogarty and his staff in a conference call earlier this month that CMS would not consider covering adults who earn more than 200% of poverty. They also said Oklahoma would have to use gross income, instead of allowing income deductions, to determine eligibility for children in families earning more than 250% of poverty. "Obviously that's going to hold us back even more," Fogarty said.

The CMS denial also came as a shock to Ken King, executive director of the Oklahoma State Medical Assn., which supported the expansions. "It appears to me that the administration has done an about-face on the [Oklahoma] program," King said.

In Ohio, lawmakers voted to increase children's Medicaid eligibility from 200% of poverty to 300% last year but were turned down by CMS in December 2007 because state officials asked for the federal Medicaid matching fund rate instead of the higher SCHIP matching rate. The children's health insurance program law requires states expanding Medicaid to ask for the enhanced SCHIP rate, said CMS' Kahn. She declined to speculate if CMS would have denied Ohio's request for enhanced SCHIP matching funds for children up to 300% of poverty because of the August 2007 policy.

Ohio Medicaid Director John Corlett said he didn't anticipate CMS' decision. Although he wasn't aware of the agency approving or denying other requests similar to Ohio's, he said the decision led him to wonder where the administration is taking Medicaid policy.

Ohio State Medical Assn. spokeswoman Lisa Hackley said it's not surprising that CMS denied the request, considering the conservative stance on expanding SCHIP the Bush administration expressed in the August 2007 letter. But the OSMA, which supported the Medicaid expansion, is still disappointed in the decision, she said.

CMS' Kahn said the Bush administration is not applying the August 2007 SCHIP policy to Medicaid because of the lawsuits in progress against it. "The decision was made that we're not going to move in one direction or another about expanding the policy to Medicaid until that suit has been settled," Kahn said.

But she said state Medicaid programs that combine SCHIP and Medicaid funding -- which Oklahoma's premium assistance program for kids would have done -- are subject to the policy. "There's some confusion here between SCHIP expansions and Medicaid expansions," she said.

There's also confusion on the measurements to be used in the August 2007 policy, said Barbara Edwards, interim director of the National Assn. of State Medicaid Directors. For example, how does a state calculate whether 95% of eligible children in families earning up to 200% of poverty are enrolled in SCHIP? How big does the sample size need to be? How often does a state have to measure it?

"This is sort of a policy dropped from the sky that is -- the polite word is -- frustrating," Edwards said. "People don't understand what's going on and how far-reaching this policy is going to be."

The American Medical Association urges CMS to rescind the August 2007 SCHIP policy, wrote AMA Executive Vice President and CEO Michael D. Maves, MD, MBA, in a Sept. 21, 2007, letter to CMS Acting Administrator Kerry Weems.

Bush administration concerns about crowd-out are likely overblown, but worries about the growing number of uninsured children are not, Dr. Maves said. Census Bureau data indicate that the number of uninsured children increased by 1 million, to 8.7 million, 48% of whom are in families earning more than 200% of poverty.