



Children's Health Fund

Policy Brief

Preserving Health Care Reform Law Benefits for Kids: Maintenance of Effort Provisions

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Medicaid and the Children's Health Insurance Program (CHIP) together provide about 35 million children with health insurance coverage, including access to preventive and primary care services that are key to children's health and development.¹ These programs provide comprehensive, continuous, and child-appropriate coverage to kids who would otherwise not be insured. Health insurance coverage plays an important role in ensuring access to healthcare services and Medicaid and CHIP function as the essential pieces of our public health safety net for kids. To guarantee that children get the care they need, it is critical that these programs receive sufficient support to meet program eligibility and benefits mandates.

Maintenance of Effort Provisions as Part of Health Care Reform

The Patient Protection and Affordable Care Act (ACA) was signed into law on March 23, 2010 in part due to growing concerns that the health system was failing to adequately meet the health needs of children. Provisions of the ACA begin the process of breaking down barriers to care and establishing mechanism to ensure that all kids eventually gain access to healthcare. CHF estimates that over 5 million children will be newly covered as a result of the ACA.²

An important element of the ACA that helps solidify gains in improving access is the "maintenance of effort" (MOE) provisions. These provisions secure what has been achieved for children in public health safety net programs until all the main aspects of the new health law take effect. MOE provisions hold that in order for states to receive federal funding, they must maintain, through 2014, their Medicaid eligibility standards, methodologies, and procedures as they were in place prior to passage of the ACA. At that point, new, increased Medicaid eligibility standards will take effect, and it is anticipated that state-based health insurance exchanges and financial subsidies to purchase coverage will be operational. These MOE provisions further extend the requirement for children, directing states to maintain their pediatric Medicaid and CHIP programs until October 1, 2019.

In periods of economic recession, states have often sought to reduce Medicaid and CHIP spending. Typically, this is also when the need for public health insurance is usually highest, as parents lose jobs and employer-based coverage resulting in their becoming

eligible for Medicaid and CHIP. Faced with the prospect of debilitating budget shortfalls, states look for savings through program cuts. MOE provisions act as a bulwark against rash decision-making on budget cuts to safety net healthcare programs. States that do not adhere to MOE provisions place themselves at risk of losing billions in federal funds.

Base on precedence, it is clear that without MOE provisions, millions of children and families would lose health insurance coverage. During the recession of the early 2000s, some 34 states reduced Medicaid and CHIP eligibility - causing 1.2 million to 1.6 million low-income adults and children to lose coverage. Congress took action to prevent states from making further eligibility cuts, by establishing maintenance of eligibility as a condition for receiving federal fiscal assistance. As state budget shortfalls are substantially larger today than in those years (states face estimated shortfalls of about \$125 billion for state fiscal year 2012), the risk of governors and state legislatures cutting Medicaid and CHIP is much greater.³

Importance of Medicaid and CHIP for Kids

Medicaid, enacted over 45 years ago, is the largest source of health care coverage for children and the backbone of the nation's healthcare safety net. Currently, nearly 30 million children, accounting for half of enrollees, receive coverage through Medicaid.

Under federal guidelines, Medicaid is required to cover children under age six with family incomes up to 133 percent of the federal poverty level and children ages 6-19 with family incomes up to 100 percent of poverty. States have the option, and often choose, to cover kids with family incomes beyond this minimum. State efforts to insure additional children have resulted in a patchwork of Medicaid policies with 32 states exceeding the minimum threshold while 18 states adhere to the federal guidelines.⁴

Beginning January 1st, 2014, provisions of the ACA will take effect, raising the maximum income threshold for coverage. New guidelines will require that all children in families with incomes up to 133 percent of the federal poverty level be deemed Medicaid eligible. For a family of four, 133 percent of the federal poverty level is \$29,725 in annual income.⁵

Benefits under the Medicaid program include physician, hospital and health center services. They may also include dental care, mental health care, eye glasses and vision care, and coverage for prescription drugs. Medicaid's low-to-no co-pays and cost-sharing increases affordability, thereby broadening access to care. Research shows that high out-of-pocket costs can greatly limit access to healthcare, preventing children from getting their health needs met.⁶ Eliminating the cost barrier, particularly for preventive services, avoids more costly emergency visits.

Medicaid's coverage for children is even more comprehensive than adult coverage. It includes the critical Early and Periodic Screening Diagnostic and Treatment (EPSDT) benefit, the purpose of which is to detect problems early in childhood and provide timely treatment. The EPSDT benefit ensures infants and young children coverage for developmental assessments, well-child visits, vision, dental, and hearing services. States are required to inform children and their families of the availability of EPSDT services, their benefits, and where and how to obtain them. They are also required to provide transportation and scheduling assistance to ensure that the children receive necessary services.⁷

The State Children's Health Insurance Program (CHIP), which builds on Medicaid, was enacted in 1997 to provide health coverage for children whose families did not qualify for Medicaid but could not obtain private health insurance, either because it was unavailable or unaffordable. Currently about 6 million children rely on CHIP for coverage.⁸ A study recently found that on average children in CHIP plans face lower costs than those in private plans.⁹

Health insurance is the critical foundation on which health access is built. Children with health insurance are more likely to have a usual source of health care, to have seen a doctor in the previous year, and to have their health care needs met than children who are uninsured.¹⁰

Over the past decade, Medicaid and CHIP have reduced the uninsured rate for low-income children dramatically. During the most recent recession, these programs provided a safety net for children in families that lost jobs and employer-sponsored coverage. For every one percent increase in the unemployment rate, an additional 600,000 children became eligible for Medicaid and CHIP.¹¹

The State Flexibility Act

In response to some states calling for more options to reducing their Medicaid roles, the State Flexibility Act was introduced by Congress in May. This legislation would repeal the MOE requirements for Medicaid and CHIP that are included in the ACA.

Currently 14.1 million children are covered as optional (meaning beyond the federal required level) in either Medicaid or through a separate CHIP program. Enactment of the State Flexibility Act would allow states to reduce coverage to mandatory federal minimum levels in Medicaid and scale back or eliminate their CHIP programs, putting millions of children at risk of not having access to health care services. The Congressional Budget Office's analysis of the State Flexibility Act found that without MOE protections:

- Up to 400,000 people a year would lose Medicaid or CHIP coverage, due in large part to new administrative barriers to enrollment.
- Two out of three—264,000—would be children.
- By 2016, half of the states will have eliminated their CHIP programs completely, and others will have minimized the program.
- By 2016, 1.7 million children will have lost insurance provided by CHIP. While some would get coverage under the new exchanges, 300,000 would remain uninsured.¹²

Recommendations

It is imperative that the health care safety net for children be kept intact. Health insurance coverage plays a key role in ensuring kids have access to care and Medicaid and CHIP provide comprehensive, continuous, and child-appropriate coverage to children who would otherwise not be insured. It is critical that MOE provisions contained in the health reform law remain intact and efforts to pass The State Flexibility Act be opposed.

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- ¹ Kaiser Commission on Medicaid and the Uninsured, “Health Coverage of Children: The Role of Medicaid and CHIP” (February 2011). <http://www.kff.org/uninsured/upload/7698-05.pdf>
- ² Children’s Health Fund Special Report. “Children Under Siege: Safeguarding Provisions for Children in the New Health Law”. (March 2011)
- ³ Center on Budget and Policy Priorities. “Repealing Health Reform’s Maintenance of Effort Provision Could Cause Millions of Children, Parents, Seniors, and People With Disabilities to Lose Coverage”. (February 2011). <http://www.cbpp.org/cms/index.cfm?fa=view&id=3397>
- ⁴ Kaiser Commission on Medicaid and the Uninsured, “Holding Steady, Looking Ahead: Annual Findings of a 50-State Survey of Eligibility Rules, Enrollment and Renewal Procedures, And Cost Sharing Practices in Medicaid and CHIP, 2010-2011” (January 2011), <http://www.kff.org/medicaid/upload/8130.pdf>
- ⁵ U.S. Department of Health and Human Services, Annual Update of the HHS Poverty Guidelines, Federal Register: January 20, 2011 (Volume 76, Number 13). <http://aspe.hhs.gov/poverty/11fedreg.shtml>
- ⁶ Coverage Matters: Insurance and Health Care, Institute of Medicine (2001).
- ⁷ Kaiser Family Foundation. Medicaid Benefits Online Database. Benefits by Service: Early and Periodic Screening, Diagnosis and Treatment. (2008)
[http://medicaidbenefits.kff.org/service_foot.jsp?yr=4&cat=\[12, 6, 5, 4, 11, 3, 7\]&nt=on&sv=43&so=0&tg=0](http://medicaidbenefits.kff.org/service_foot.jsp?yr=4&cat=[12,6,5,4,11,3,7]&nt=on&sv=43&so=0&tg=0)
- ⁸ Kaiser Commission on Medicaid and the Uninsured, “Health Coverage of Children: The Role of Medicaid and CHIP” (February 2011). <http://www.kff.org/uninsured/upload/7698-05.pdf>
- ⁹ First Focus and Watson Wyatt Worldwide Report. Children Currently Enrolled In Chip Will Face Higher Costs If Moved Into Exchange Plans. (October 2009).
http://www.firstfocus.net/sites/default/files/f.2009_watsonsummary.pdf
- ¹⁰ Kaiser Commission on Medicaid and the Uninsured, “Health Coverage of Children: The Role of Medicaid and CHIP” (February 2011). <http://www.kff.org/uninsured/upload/7698-05.pdf>
- ¹¹ S. Dorn, B. Garrett, J. Holahan, A. Williams, “Medicaid, SCHIP and Economic Downturn: Policy Challenges and Policy Responses,” Kaiser Commission on Medicaid and the Uninsured (April 2008).
- ¹² Congressional Budget Office Cost Estimate. HR1683 State Flexibility Act. (May, 11, 2011).