



## ECONOMIC RECOVERY PACKAGE AND SCHIP REAUTHORIZATION IN CONGRESS: WHAT'S AT STAKE FOR TEXAS HEALTH CARE COVERAGE

As reported in our alert dated January 13, 2009, Congress is moving quickly on federal legislation to address the deepening economic downturn, and in separate legislation to reauthorize the funding for the state children's health insurance program, known in Texas as CHIP. Taken together, these bills include provisions that will make large amounts of additional federal funding available for Texas Medicaid and CHIP. Some of this funding will come to our state without any new action by the Texas Legislature, but substantial proposed health care funds will only be gained if our state passes new laws. This alert describes the major funding proposals, estimated funding benefits to Texas where available, new options requiring state action, and the expected legislative schedules for consideration of the legislation.

- **The economic recession causes increased demand on states' Medicaid and Children's Health Insurance Program (CHIP) systems.**
- **Federal economic recovery and SCHIP reauthorization proposals include funds to support growing enrollment in these programs.**
- **Large shares of these funds will only come to our state if Texas policymakers make wise investments in Medicaid and CHIP.**

### Why Health Care Relief? Unemployment and the Uninsured

Recent studies estimate that for every 1 percent increase in U.S. unemployment, 1.1 million Americans lose health insurance and more than a million enroll in Medicaid and CHIP. While Texas' 6 percent December unemployment rate remains better than the national average of 7.2 percent, the state rate is up from just 4.2 percent in December 2007. Widespread job losses continue, and leading economists predict that absent dramatic government action, the national unemployment rate could reach 10 percent by 2010. Many states already experience much higher Medicaid enrollment than projected due to job loss and lower incomes, and would be unable to support the higher demand without this relief.

For all these reasons, the economic recovery bill includes significant aid to states to (1) ensure they can meet increased demand for Medicaid and (2) prevent states from cutting the program just when Americans need it the most.

### Economic Recovery Package Health Highlights

The total recovery package the U.S. House committees are "marking up" is estimated at \$825 billion.

#### Temporary FMAP Increase

The House Energy & Commerce Committee reported bill language including \$87 billion in increased Medicaid funding for states over 2 ¼ years (October 2008 thru December 2010). The formula contains three kinds of state fiscal aid:

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1. No state will have a drop in Medicaid match rate from 2008 to 2009, 2010 or 2011 (some states would have had a lower 2009 rate for example, based on the usual formula).
  2. Every state will get 4.9 percentage points added to their federal match rate (“base increase”).
  3. Every state will be eligible for additional match increases based on their unemployment rate; and these increases will be re-calculated and updated every three months so that they reflect deepening unemployment.
    - Under this formula, each state’s three-month average unemployment rate will be compared to the state’s lowest average unemployment rate for any quarter since January 2006. If unemployment in the current quarter is 1.5 percent-2.5 percent worse than in that earlier low quarter, the state will get an 8 percent reduction in its state share (thereby increasing the federal share); for 2.5-3.5 percent a 12 percent cut, and for 3.5 percent or more a 14 percent cut.<sup>1</sup> Once a state qualifies for this increase, it will retain the higher match rate until unemployment rates declines, but no state would lose the enhanced match rate before July 2010.
    - Experts believe that unemployment rates will deepen so much in the next year that “a large majority” of states will qualify for the additional relief.
- Although Texas’ current unemployment rate is below the national average, **our rate of increase is above average.** Texas’ lowest average unemployment rate in any quarter since January 2006 is about 4.2 percent. If measured right now, Texas’ rolling 3-month average would be 5.8 percent, which would qualify Texas for the first category (8 percent reduction in state share).
  - In their latest projection, Texas Workforce Commission has forecasted a 6.9 percent unemployment rate through the end of fiscal 2009. If this plays out, Texas might be eligible for the middle tier (12 percent reduction) by late 2009 or early 2010. And, because it is commonly accepted among economists and labor market experts that unemployment rates don’t peak until two years after a recession ends, it is also possible that Texas unemployment may reach and exceed 7.7 percent for a sustained period, which would make our Medicaid program eligible for the highest state share reduction (14 percent).

These increased match rates would apply to Medicaid health care benefits and Title IV-E foster care and adoption assistance, but not to Medicaid administrative costs or CHIP.

**Maintenance of Effort Required.** To qualify for these funds, both House and Senate bills say states cannot have reduced eligibility standards or made enrollment procedures more restrictive after July 2008. (Texas appears to be in compliance with this

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standard; states that are not in compliance can qualify for increased match as soon as their more restrictive policies are reversed.)

**Senate Version:** The Senate Finance Committee’s FMAP increase provision, also funded at \$87 billion, is similar but not identical to the House’s. Like the House version, it prevents any state’s match rate from dropping from its 2008 level (“hold harmless” provision). The Senate language would add 5.6 percentage points (compared to House’s 4.9 points) to each state’s federal Medicaid matching share. The Senate includes an unemployment-triggered increase but uses a different formula, as well as different provisions for increasing or reducing the unemployment based factors in response to changing unemployment rates.<sup>2</sup> The Senate also includes a provision to limit states’ ability to increase their Medicaid coverage to obtain the temporary enhanced match.

**Texas Impact of FMAP Increase.** While we cannot predict exactly how much any state will receive in additional federal funds due to uncertainties of both Medicaid enrollment and costs in every state, a preliminary estimate by the Center on Budget and Policy Priorities projects that **Texas would gain just over \$5.1 billion through the end of 2011** under this House-proposed formula, and **\$5.0 billion** under the Senate-proposed formula.

**Action needed?** Texas will not need to take any special action to receive these federal funds, which come in the form of additional cents out of every dollar of Medicaid health care. However, the Legislature will have to decide whether to invest a portion of these funds in removing the barriers that now prevent eligible Texans from gaining and keeping Medicaid coverage. By eliminating the delays, backlogs, and losses of coverage that plague Texas Medicaid enrollment and renewal today, Texas would not only improve health outcomes for

children, the elderly, disabled adults, and pregnant women and their newborns, but also increase the flow of Medicaid relief funds to our state during this difficult economic period.

### Temporary Medicaid Option for Unemployed Families

The House bill includes \$8.7 billion total to finance—at no expense to state budgets—coverage of uninsured, unemployed workers (and spouses and children, if uninsured). States could cover:

1. Persons receiving unemployment insurance (U.I.) as well as those who have used up their U.I. benefits;
2. Food Stamp recipients who are not already Medicaid-eligible;
3. Other unemployed workers below 200 percent FPL.

In order to qualify, the worker must have received or used up U.I. benefits between September 1, 2008 and December 31, 2010, or have had an involuntary job loss during that period. Federal funds would pay for 100 percent of coverage and administration of this program through the end of calendar year 2010.

**Senate Version:** It does not appear that Senate committees have included this provision in their package.

**Texas Impact of Medicaid Option:** No estimates are available of how these funds may be spent across the states. Texas is fortunate not to yet be experiencing unemployment as high as in some other states. However, most economists predict that our economy is not immune to the national trend and will before long begin to reflect deepening unemployment. Already, TWC extended deadlines for filing claims because its telephone lines cannot handle the flood of calls.

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Even with lower unemployment rates than some states, sheer numbers of Texans and the already-low likelihood that Texans will get insurance from their jobs mean that there will be many low-income workers who need assistance to get basic health care. But, Texas Medicaid as currently designed is almost useless as a tool to protect families in time of unemployment. Income caps for parents are so extremely low (e.g., \$308/month for a mother of two—not updated by the Legislature since 1985) that benefits are lost long before workers achieve enough hours of employment or income to either qualify for health benefits at work, or to afford to pay for health services or insurance.

**Action Needed?** Temporary Medicaid for recently-unemployed Texas workers will only come to Texas if authorized by the Texas legislature, or if the Governor and Legislative Budget Board take action to exercise this option.

### COBRA Assistance

Also included in the House bill is \$30.3 billion in funding to help more unemployed workers afford and keep “COBRA” health benefits. Because workers must pay the full employer’s cost of continuing their health coverage (plus an administration fee), many workers are unable to afford the premiums with lowered incomes or on U.I.. Also, COBRA coverage is currently time-limited. Under the House’s package, COBRA assistance would come in the form of:

- **Premium Assistance:** A 65 percent subsidy for the cost of COBRA premiums for up to 12 months, for workers who lost their jobs involuntarily between September 1, 2008 and December 31, 2009; and

- **Extension of COBRA eligibility** without time limits to workers 55 and older, or workers with 10 or more years with the same employer, until they reach Medicare eligibility at 65 or gain coverage through another job.

**Senate Version.** Summaries of the Senate Finance Committee bill language include the same temporary premium assistance program, but do not include the provision for extended COBRA eligibility for over-55 and tenured workers.

**Texas Impact of COBRA Assistance.** There are no estimates yet available of how spending on this assistance will be distributed across the states.

**Action Needed?** It does not appear that the proposed COBRA assistance would depend on the Texas Legislature taking a particular action.

### Other Medicaid

**Extension of Medicare & Medicaid Rules Moratoria.** Both House and Senate packages would extend existing moratoria and create new moratoria to prevent implementation of federal rules that would have had serious impact on state health care finances (extension dates differ between bill versions). In Texas, these rules were projected by HHSC to cost Texas \$3.4 billion over five years, and would have put care for some of Medicaid’s most vulnerable clients in jeopardy.

In other provisions, Transitional Medicaid benefits for workers leaving TANF or Medicaid due to increased earnings would be extended (Senate version), and states could offer family planning coverage to low-income women without having to go through a waiver application process. Expiring federal assistance for low-income seniors and adults with disabilities with their Medicare Part B premiums (known as QI program) would be extended through the end of 2010.

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## Other Health Care

The House and Senate Recovery packages include an extensive list of additional provisions related to health care. A partial list includes major funding for Health Information Technology; chronic disease prevention; health care effectiveness research; Community Health Centers; Primary care provider training and loan forgiveness; and Indian Health service upgrades. Summaries describing these elements can be found at :

- <http://finance.senate.gov/sitepages/baucus.htm>;
- <http://appropriations.senate.gov/>; and
- <http://energycommerce.house.gov/images/stories/Documents/PDF/Newsroom/stimulus%20provisions%20with%20hit%20summary%201%2016%2009.pdf> .

## Economic Recovery Legislative Timeline

Congress and the Obama Administration say that they expect to complete work on the economic recovery package by Presidents' Day (February 16).

The House Appropriations, Ways and Means, and Energy and Commerce Committees have "marked up" their sections of the House package. Consideration by the full House is expected to occur this week, possibly Wednesday, January 28. Amendments are not likely to be allowed on the floor.

The Senate Appropriations and Finance Committees will begin their "mark ups" on the economic recovery package this week, probably Tuesday, January 27. Senate Floor action is projected to occur during the first week in February.

## SCHIP Reauthorization Update SCHIP Reauthorization Legislative Timeline

The U.S. House passed the SCHIP reauthorization bill on Wednesday January 14, 2009, by a strong

bipartisan margin (289 to 139). The House version is very similar to the first vetoed bill from 2007 (CHIPRA1) with the addition of optional coverage for legal immigrant children and pregnant women, deleting the current ban on federal CHIP funds for Legal immigrant children in their first five years in the U.S.

The full Senate has taken up SCHIP reauthorization legislation, with debate underway as this alert is drafted (Monday, January 26). The Senate Finance Committee adopted the same provision to allow optional coverage of legal immigrant children and pregnant women in its bill, which is a point of contention in the Senate debate.<sup>3</sup>

**Texas Impact of SCHIP Reauthorization.** Texas children stand to benefit considerably from this legislation. Key facts:

- Texas' 2009 allocation under the bill would increase from \$549.6 million to \$945.6 million, a 72 percent increase, based on Texas' November 2008 reports to CMS. If Texas projects even higher CHIP needs in its February 2009 report to CMS, then our 2009 allocation could be higher than this.<sup>4</sup>
- Texas would have adequate funding for growth in our traditional CHIP program.
- Texas would also be able to draw federal SCHIP match for creating a CHIP "discount buy-in" program for children in families between 200-300 percent FPL.

- Texas would be eligible for an **additional \$23 million per year in federal CHIP dollars** due to the federal funds for legal immigrant kids in their first five years in the U.S. (states are already required to cover legal immigrant children after they have been in the U.S. for five years).
- Texas could qualify for additional **performance bonus payments** designed to reward and offset costs for states that significantly improve enrollment of eligible uninsured children in Medicaid. To qualify, states will have to adopt certain eligibility streamlining policies for children, and successfully enrolled targeted numbers of children.

Because Texas is home to an estimated 700,000 to 800,000 uninsured children who qualify for Medicaid or CHIP (2/3 to 3/4 are estimated to be Medicaid-eligible), we stand to benefit enormously from enrolling more of these children. We can benefit as a state from:

- healthier children,
- a larger share of enhanced federal matching funds from the economic relief package,
- lower local uncompensated care costs for children and reduced cost-shift to Texans' health insurance premiums, and
- potential performance bonuses from this SCHIP reauthorization provision.

**Action Needed?** Texas will benefit from adequate available federal funding for our traditional CHIP program, and from new federal funds for legal immigrant children's coverage, with out any special Legislative action in Austin. Beyond that, Texas will have to pass new state laws in order to create affordable buy-in options for children in families 200-300 percent FPL. Texas would also need to take legislative action to earn the performance bonuses for enrolling eligible uninsured kids in Medicaid, such as 12-month children's Medicaid coverage and other streamlining policies.

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<sup>1</sup> Unlike the 4.9 percentage points added to every state's federal share in the House formula, these additional increases are calculated by reducing the state's share by a percentage factor.

<sup>2</sup> Excellent explanations of these formulas can be found at <http://www.cbpp.org/1-23-09bud.pdf> and <http://www.cbpp.org/1-22-09sfp.htm>

<sup>3</sup> For a helpful detailed side-by side comparing the House and Senate bills thus far, see [http://ccf.georgetown.edu/index/cms-file-system-action?file=policy/2009\\_percent20schip\\_percent20reauth/schip\\_percent20summary\\_percent20sidebyside\\_percent201.23.pdf](http://ccf.georgetown.edu/index/cms-file-system-action?file=policy/2009_percent20schip_percent20reauth/schip_percent20summary_percent20sidebyside_percent201.23.pdf) .

<sup>4</sup> Of course, a lower projected need report from HHSC could reduce Texas' block grant share for 2009.