Center *for* Public Policy Priorities

COMMENTS

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Texas Health and Human Services Commission
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Comments on Proposed Amendments to Rules for the State Children's Health Insurance Program: Asset Limits

The Center for Public Policy Priorities (CPPP) submits the following comments on proposed rules published in the February 20, 2004 Texas Register (29 TexReg 1491-1494). The proposed language would amend TAC Part 15 Texas Health and Human Services Commission Chapter 370 State Children's Health Insurance Program Subchapter A §370.4 and Subchapter B §370.44.

General Comments

The Center opposes the implementation of this or any other asset limit in Texas CHIP at this time. We recognize that sufficient data did not exist during the in 2003 regular Legislative session to allow HHSC or any other entity to accurately project the impact of the multiple CHIP policy changes adopted by the Legislature on enrollment.

Based on the decline trend in CHIP enrollment from September 2003 to February 2004 (dropping from 507,000 to 399,000), it appears that FY 2005 enrollment—without implementing the proposed asset limits—is likely to fall far below the 346,818 average assumed by HHSC and in HB 1. The table on the next page shows HHSC's official CHIP enrollment data for FY 2004 year to date.

There appears to be no way to reconcile the actual enrollment trends of FY 2004 with the official caseload projections. Unless the decline in enrollment seen in the current fiscal year (to date) comes to a halt, enrollment by August 2004 will be far below the budgeted enrollment for the following fiscal year, FY 2005. If the average rate of decline for the FY 2004 year to date (4.67%) continues, August 2004 enrollment would be near 300,000, and if the decline should slow to just 15,000 children per month, August enrollment will be about 309,000. In order for FY 2004 enrollment to reach the 380,603 average assumed in HB 1 and by HHSC, enrollment will have to drop even further, to about 254,000 in August 2004 (see Tables at end of document, titled, "Texas CHIP Enrollment Scenarios for Remainder of FY 2004").

In any of the previous scenarios for FY 2004 year-end CHIP enrollment, the August 2004 figure falls well below the officially-projected and budgeted average enrollment for the following fiscal year 2005, 346,818. Thus, enrollment in FY 2005 would have to be lower than this projected average—unless enrollment begins to climb rapidly in September 2004 (if not sooner).

It therefore appears that enrollment declines resulting from the CHIP policy changes already implemented (6-month recertification period, higher premiums, elimination of income disregards, and 90-day delay in commencement of new coverage) will be more than sufficient to meet budgeted enrollment levels. Because an asset limit was permitted, not required, by HB 2292, the Center strongly recommends that HHSC suspend any planned implementation of a CHIP asset limit

indefinitely. Asset limits should not be imposed unless and until it can be established that appropriations targets for CHIP will not already be met and exceeded through other, already adopted policy changes.

Texas CHIP Actual Enrollment Trends, 2003 and FY 2004 YTD			
	Actual Enrollment, HHSC	Drop from previous month	Percent drop from previous month
Jan-03	505,566		
Feb-03	501,788		
Mar-03	503,344		
Apr-03	508,176		
May-03	513,715		
Jun-03	512,986		
Jul-03	509,182		
Aug-03	506,068		
Sep-03	507,259		
Oct-03	488,690	18,569	3.66%
Nov-03	458,166	30,524	6.25%
Dec-03	438,164	20,002	4.37%
Jan-04	**416,302**	21,862	4.99%
Feb-04	**399,306**	16,996	4.08%
Average, FY 2004 to date			***4.67%***
Note: official HHSC CHIP enrollment projections (12-month average of monthly enrollment for each fiscal year) are as follows: FY 2004 380,603 and FY 2005 346,818.			

In addition, CPPP strongly recommends that any CHIP asset limit policy in the future incorporate substantial changes to the model proposed in these rules. Because HB 2292 defines no specifics for a CHIP asset limit, it is well within HHSC authority to adopt a more sensible model. CPPP notes (as we did in July 2003 when the first CHIP asset test rules were proposed) that the imposition of asset dollar amount limits and policies that mirror Texas Food Stamp policy makes little sense, because it is inappropriate for the targeted income group of families above 150% of the federal poverty income (FPL), and because it will create perverse incentives and inequities within the CHIP program.

Dollar Cap is Too Low for Target Population. The proposed $5,000 total countable CHIP asset limit is borrowed from Texas Food Stamps. The upper limit for Food Stamp participation is 130% FPL, but USDA reports that 90% of Food Stamp recipients are below 100% of poverty. The reason is simple: because the Food Stamp benefit tapers down to near zero at 130% FPL, relatively few families above poverty bother to apply for the smaller benefit. **Thus, HHSC has proposed to impose a**

resource limit designed for below-poverty families on a population above 150% of poverty. A logical prediction is that this policy is likely to disqualify a much higher proportion of current and prospective children than could be predicted based on Food Stamp program history.

Moreover, there is no sound basis for predicting the additional downward impact on enrollment that will result from the proposed asset limit, because no data exist to support such an estimate. The U.S. Census collects little data on the assets of Americans (unlike income), and none at the state level. There is essentially no reliable data base from which to project what levels of assets families above 150% of poverty possess, or by extension how many children will lose CHIP coverage because of this new limit. As noted, the Food Stamp program covers families up to 130% of poverty, but most recipients are below 100% of poverty—and this represents the highest income household for which DHS has historical data. Also, it is generally observed that families with higher income and assets do not apply for Food Stamps because they believe they will not qualify; thus, the sample of cases DHS sees is skewed and does not even represent the actual distribution of assets among families below 130% FPL. Asset information collected by Texas CHIP in the past was not detailed enough to be useful in making predictions. All of these factors exacerbate the concern that the number of children disqualified by the proposed asset limit (1) cannot and has not been accurately predicted, and (2) will likely be far higher than predicted.

Vehicle Policy is Stricter than Children's Medicaid. The Food Stamp policy exempts only $15,000 of the first vehicle, and like children's Medicaid counts value in excess of $4,650 of additional vehicles toward the $5,000 total limit. A vehicle may only be exempted if it is actually used for a parent's job, e.g., a vehicle used to transport the tools of the trade to each job site (just needing the vehicle to get to a job does not qualify for exemption). It is impossible to reconcile this policy with societal goals of building family prosperity and the middle class by building assets. The policy will also increase adverse selection among this income group, as families with significant health care needs will divest themselves of vehicles to meet the limit and retain coverage, thus creating a sicker pool of children and higher average premium costs. **The Center recommends modification of the Food Stamp policy—clearly allowed under the general language of the statute—to exempt one vehicle entirely, and to exempt a second vehicle in two-parent families.**

The Center also submits the following specific comments.

1 TAC §370.4(12)(D)

CPPP recommends deletion of (D). The listed assets (IDAs, IRAs, SEPs and Keogh plans) are all assets which low-income working families should be encouraged to invest in and retain, as a means of building and sustaining long-term self-sufficiency and upward mobility. IDAs are currently exempted by Medicaid for families up to 185% FPL, and CPPP supports extension of that exemption to 200% FPL, with a consistent exemption in CHIP. CPPP also would strongly support exempting the other listed assets for Medicaid as well as CHIP. To use these assets as grounds for disqualifying Texans from potentially life-saving health care benefits suggests that our society would prefer for families to bankrupt themselves before their children can gain access to health care. This is an irrational incentive which runs contrary to goals of encouraging savings and asset development to break cycles of intergenerational poverty.

1 TAC §370.4(15)

The definition of excess vehicle value should be revised to read, "means the lesser of a vehicle's wholesale value or the owner's equity in the vehicle, minus any allowable exemption." It makes little sense to disqualify a family child from CHIP coverage because of a vehicle which is literally a liability, not an asset. The use of equity value, where lower, would also be more consistent and equitable with the proposed exclusion of leased vehicles.

1 TAC §370.44(i)(1)

The Center believes that the proposed $5,000 asset limit is inappropriate for the target population, children in families above 150% FPL. As noted previously, the $5,000 limit proposed was copied from a Food Stamp policy devised for a much lower income population. Setting an asset limit which is inappropriately low for the population will set up perverse and inequitable situations within the CHIP population, particularly given that families at and below 150% FPL will not be subject to an asset limit at all. The proposed limit will punish families for saving for home ownership, retirement, or their children's education. It will create incentives for families to avoid income advancement as a way to protect savings and their children's health care. Moreover, too low a limit may result in much higher than projected numbers of children losing and/or being denied enrollment in CHIP. While CPPP believes an asset test is not a policy which should be imposed in Texas CHIP, **the test would be more appropriate if the countable limit were doubled to reflect the 200% FPL upper income limit of the target population.**

1 TAC §370.44(i)(4)

CPPP recommends that any CHIP asset limit policy should fully exempt one vehicle, just as is the policy for Children's Medicaid. We can think of no sensible rationale for imposing a stricter limit in this regard on children in CHIP's higher-income families. Possession of single sound vehicle is a valid need for low-income working Texas families.

Texas CHIP Enrollment Scenarios for Remainder of FY 2004			
	Enrollment if decline continues at 4.67%	**Enrollment if decline at 15,000 per month**	**Enrollment decline Needed for targeted annual average of 380,000**
Mar-04	380,663	384,306	370,356
Apr-04	362,890	369,306	343,505
May-04	345,947	354,306	318,601
Jun-04	329,795	339,306	295,503
Jul-04	314,397	324,306	274,079
Aug-04	**299,719**	**309,306**	**254,208**
12-month average for FY 2004	*403,644*	*407,292*	*380,345*

Any questions regarding these comments may be directed to Anne Dunkelberg, Senior Policy Analyst, (512) 320-0222 X102, dunkelberg@cppp.org.