THE POLICY PAGE
An Update on State and Federal Action

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WHY TALK OF A CHIP SHORTFALL THIS EARLY?

A Look at the Budget Details

Presumably, it was never the intent of the Legislature to under-fund CHIP. There is every indication that legislators believed they had adequately funded the program in May 2001. When SB 1, the appropriations act for Texas' 2002-2003 budget was adopted, there were no public discussions at all suggesting that freezing or capping CHIP enrollment was anticipated, despite the fact that the program was allocated $14 million state dollars (general revenue: GR) less than had been requested by the Texas Health and Human Services Commission (HHSC). HHSC asked stakeholders in August for input on CHIP cost-cutting approaches, but indicated that the information was for long-term planning rather than any near-term concern. In October 2001, there was statewide press coverage when increased premium rates for CHIP health plans were negotiated. Nowhere in the discussion of these increases by state agency staff or Legislators was there any mention of a threat to cap or freeze CHIP enrollment.

A SHIFT

Then, just four months into the fiscal year, stakeholders were told that due to continued robust enrollment growth coupled with the increased rates for health plans, major changes to cut CHIP costs by limiting enrollment and increasing attrition were under consideration. For a shortfall to be apparent so early in the budget period suggests that lawmakers clearly did not have adequate information to enable them to properly fund CHIP. To a great extent, this is simply the result of timing. The economic recession that had begun nationally in spring 2001 — and which has increased demand and enrollment for CHIP and Medicaid alike — was not recognized until the fall. Robust Texas CHIP enrollment, now topping 500,000, has simply never slowed and flattened, as nearly all observers assumed would occur. And, while lawmakers knew that CHIP premium increases were on the horizon, they did not anticipate or budget enough for what ultimately was needed: a 19.7% average increase.

State leadership and legislators have not yet had a full discussion of how to best respond to CHIP's funding needs. CPPP believes that the first option that elected officials should consider is making the program whole by committing to find the state dollars estimated to be needed for the biennium. Supplemental appropriations will almost certainly be needed for Medicaid in SFY 2003, and state leaders should be prepared to find the necessary funds to preserve the integrity of both Medicaid and CHIP at that time. Tobacco settlement proceeds should be allocated to allow CHIP operations and enrollment to continue.

Provided below is a recap of developments, and a number of facts related to CHIP funding which should be part of a holistic analysis of the issue to guide any decisions.

Recap of Recent Developments

At the December 2001 meeting of the Texas CHIP Coalition, a Health and Human Services Commission representative informed attendees that, as a result of higher-than-budgeted enrollment and rate increases for health insurers, program costs for 2002 and 2003 were anticipated to exceed appropriations by $29 million GR, or close to $100 million when federal funds are taken into account. The agency was considering policy changes that would reduce costs to allow the program to operate within the existing appropriations. Four general policy options were described:

1. Delaying coverage of newly enrolled children for 1 or 2 months from the date of enrollment. To illustrate, a child found eligible early in March would not be covered by insurance until the first of May or June.
2. Dropping to six months continuous eligibility from the current 12 months. This change would reduce total enrollment because a significant percentage of CHIP enrollees leave the rolls at renewal time (about 29% to date). Requiring renewal sooner thus results in moving children out of the program sooner. The speed with which this change would reduce enrollment depends on how it is applied. If applied "prospectively" (only to newly enrolled children and renewing children), the effect would not begin to be seen until 6 months from the date the new policy is applied. If applied immediately to all children currently enrolled, large numbers of children would be required to renew, and

attrition due to parents failing to renew coverage would begin right away. However, HHSC officials have indicated that they would be unlikely to take this latter approach.

3. Impose Closed Enrollment Periods. This complicated proposal would only allow new children to enroll in the earlier of (a) the month of the birthday of the oldest child in the family, or (b) six months from application. This would have the one-time effect of pushing costs of new children into the future and into a new budget period.
4. Capping and/or Freezing Enrollment. With a freeze on enrollment, CHIP would stop enrolling new children and put applicants on a waiting list. Currently enrolled children would be allowed to remain covered, unless their parents failed to renew coverage within the allowed time frames. At some point, attrition due to non-renewal (and from children aging out, moving away, or moving to private or Medicaid coverage) would bring down total enrollment to a number that current appropriations can cover (420,000 has been mentioned, but the exact number will depend on a number of variables). HHSC might then periodically lift the freeze and allow some new children to enroll, as long as enrollment remained below whatever enrollment number is set as a cap.

HHSC has met twice with the Texas CHIP Coalition during January to discuss concerns about these proposals. The agency has not released any estimates of the cost and enrollment reductions associated with these changes, and it has indicated that when estimates are available, they may include combining some of the proposed cut-backs (e.g., freezing and capping enrollment coupled with switching to a six-month eligibility period). HHSC hopes to provides these estimates at the CHIP Coalition's mid-January meeting. In the course of analyzing the estimated costs of program roll-backs, HHSC has revised its initial shortfall estimate downward to $20.4 million GR, and further refinement of the estimate may be possible. In addition, several important Legislative committees with oversight responsibilities for CHIP will be meeting in the weeks to come, and it is likely that no decisions will be made until legislators have been fully informed and allowed to consider all options — including finding the funding to prevent major roll-backs in the program.

TOBACCO SETTLEMENT FUNDS AND CHIP

Section 7 of the Texas CHIP Law (SB 445, 76th Texas Legislature), says, "*the first money becoming available to the state each fiscal year as a result of the Comprehensive Settlement Agreement and Release filed in the case styled The State of Texas v. The American Tobacco Co., et al., No. 5-96CV-91, in the United States District Court, Eastern District of Texas, shall be used to fund the child health plan program established by this state under Title XXI of the Social Security Act (42 U.S.C. Section 1397aa et seq.), as amended.*" This indicates that it was the legislature's intent that adequate Tobacco Settlement funds be made available for CHIP before they are directed to any other use. However, the Legislature stopped short of formally dedicating this revenue source to CHIP or health care spending.

- Typically, only dedicated funds are preserved and carried forward into a new biennium. For example, unspent federal block grant funds must be carried forward into a new two-year budget period and used for their intended program. As a result, CHIP Tobacco Settlement funds unspent at the end of the 2001 budget year were, like most other undedicated state dollars, subject to being "swept" and used to meet other state budget needs. $33.4 million GR in unspent Tobacco Settlement funds were swept out of the CHIP budget at the end of fiscal year 2001. If tobacco funds were truly dedicated to CHIP, the program might have been able to add these funds to its new appropriations, and the program might not be facing this funding shortfall. It is important to point out that the swept funds were used to help cover a Medicaid shortfall in 2001, and that full funding of Medicaid is and will remain an even greater challenge for Texas in the 2002-2003 biennium (more below).
- The state should first analyze anticipated Tobacco Settlement receipts for 2002 and 2003 to ensure that if actual receipts exceed the appropriated allocations, any excess is directed to help fully fund CHIP.
- If none are available, the next step is to reconsider questionable method-of-finance decisions that currently divert Tobacco Settlement funds from CHIP. The first of these is the outdated segregation in the budget of so-called "CHIP Phase I" and "Medicaid spillover" children. These children are indistinguishable from other Medicaid children, and should be consolidated into Medicaid strategies, not charged against the CHIP budget.
    - The coverage of older teens under "CHIP Phase I" would have been completed by 2002 under federal mandate, and should clearly be subsumed under the children's Medicaid strategy.
    - The concept of "spillover" may have made sense in 1999, when the Legislature created CHIP but chose NOT to simplify access to children's Medicaid. Now, with the passage of SB 43 in 2001 the legislature has signaled its clear intent to remove barriers and encourage enrollment of children in Medicaid. Increased enrollment in children's Medicaid can no longer be considered a "side effect" of CHIP. The artificial and arbitrary designation of children whose Medicaid applications originate with CHIP's TexCare Partnership as "spillover" to be charged against CHIP's budget makes no sense now that Texas has adopted a true joint Children's Medicaid-CHIP application, and the great majority of applications are expected to flow in via TexCare Partnership.

- Exacerbating this method of finance approach, the HHSC FY 2002 Operating Budget increased the percentage of CHIP budget funds to "spillover" above the proportion listed in SB 1. This Children's Medicaid "spillover" enrollment consumes $20.3 million in Tobacco Settlement funds for FY 2002 alone. If these child Medicaid enrollees were not being charged against the CHIP Tobacco Settlement fund allocation for 2002 and 2003, there would be no shortfall in the CHIP program.

- According to the state's own statistics, 269,295 of the 500,169 children enrolled in CHIP as of 12/31/01 — more than half — either initiated their application with a DHS worker, or were "deemed back" to CHIP from DHS after being sent to Medicaid by the TexCare partnership. This shows that coordination between the two programs, just as required by federal law and envisioned by the Texas legislature, has actually been successful. If "spillover" logic were applied, the CHIP costs of these children would be charged against the Medicaid budget. Of course, this is not done, because it makes no more sense here than in the opposite situation. We make this observation only to emphasize that the current allocations are arbitrary.

- SB 1 allocates $9.1 million from the CHIP budget for the coverage of legal immigrant children in CHIP. This program was intended to cover children during their first five years in the U.S., a federally imposed bar period. If Texas had implemented its federal option to provide Medicaid to legal immigrant children after that 5-year bar is over, about half the children in this program — who are now being charged against the CHIP budget — would be in Medicaid.

- Of course, redirecting Tobacco Settlement funds from these children's Medicaid line items to CHIP would add to the size of a virtually inevitable supplemental appropriations request for Medicaid in 2003. (In addition to the postponed "24th month" costs and a mandated $205 million GR cut in SB 1, Medicaid caseloads, like CHIP, were already close in December 2001 to the average caseloads assumed for 2003 in SB 1; see table below.) Whether the shortfall is charged against Medicaid or CHIP, the integrity of both programs should be protected through adequate appropriations.

- Allocations for CHIP (including those that are actually children's Medicaid, legal immigrant children, and state employee children) made up just 10% of Tobacco Settlement allocations in the 2000-2001 appropriations act. CHIP allocations in SB 1 for 2002-2003 represent less than half of the total amount allocated. About $1 billion in Tobacco Settlement funds are expected to be available for appropriations in 2004-2005 by the 78th Legislature. There is no question that adequate Tobacco Settlement funds will be available to fully fund CHIP.

	2002 appropriated	**2002 Operating Budget**	**2003 appropriated**
HHSC Goal C Insure Children			
C.1.1. CHIP Phase I (Medicaid)	$7,191,450	$9,353,385	$329,226
tobacco		*$2,602,815*	
Fed CHIP match		*$6,405,009*	
Fed XIX admin match		*$345,561*	
C.1.2. Spillover (Medicaid)	$27,589,037	$50,783,228	$39,267,646
tobacco		*$20,339,937*	
Fed XIX match		*$28,709,794*	
Fed XIX admin match		*$1,733,497*	
C.1.3. CHIP Phase II (CHIP)	$463,297,380	$603,625,338	$478,945,246
premiums cost share		*$15,333,411*	
tobacco		*$164,056,730*	
Fed CHIP match		*$424,235,197*	
C.1.4. Immigrant children (legal)	4,189,621	14,212,581	4,861,289
C.1.5. SKIP (state employee children)	0	2,999,611	0
Total, Goal C	502,267,488	**680,974,143**	523,403,407
	204,211,674		214,942,711
Total, Art. II C.& Art XII A.1.1., CHIP programs	***706,479,162***		738,346,118

	Caseload Budgeted in SB 1		Latest Actual Enrollment December 2001
	2002 (SFY average monthly)	**2003** (SFY average monthly)	
Medicaid caseload	1,904,048	2,011,256	1,959,183 **(HHSC 12/01 avg.)**
CHIP caseload	467,952	492,799	500,169 **(HHSC 12/31/01)**

INADEQUATE CHIP FUNDING UNDERMINES OTHER CHILDREN'S PROGRAMS

A number of important funding and program design decisions were made by the 77th legislature which:

1. were designed to direct more children into CHIP, rather than Medicaid, to access CHIP's higher match rate, or
2. reduced other programs' funds based on the assumption that a fully operational CHIP program would exist to take over some of their historical functions.

If forced to reduce costs by $29 million GR, HHSC may have to roll CHIP enrollment back as low as 420,000 (from current 500,000 level), which would undermine the premise upon which these decisions were based.

- Appropriations for the Children with Special Health Care Needs (CSHCN, formerly CIDC) program have been reduced by $13 million for the biennium based on the assumption that CHIP would assume costs of basic medical care for substantial numbers of eligible children, leaving CSHCN responsible only for funding "wrap-around" support services (e.g., transportation and lodging for children traveling for specialty care.) However, there are indications that CHIP has not reduced CSCHN costs as much as the CSHCN budget reductions assumed. A waiting list has already been established for CSHCN because of budget issues, and even after halting CSHCN enrollment and deferring some program expenses until 2003, the program will be $5.9 million short for FY 2002 alone.[1] If CHIP enrollment is frozen and ultimately rolled back, children with special health care needs in the CHIP income range will not only be wait-listed for CSHCN medical and family support services, but also wait-listed for basic medical care under CHIP.
- Appropriations for Children's mental health services at the Texas Department of Mental Health and Mental Retardation (TDMHMR) have also been reduced by $5.8 million based on the similar assumption that CHIP coverage would replace direct GR funding for certain children's basic health and behavioral services. This cutback precluded the implementation of wraparound services (e.g., respite, mentoring, transportation), a best practice in mental health care for children and their families. If CHIP enrollment is frozen and ultimately rolled back, some children with behavioral health care needs who are assumed in the budget to be served by CHIP, will instead be wait-listed, and TDMHMR will be unable to adequately meet their needs due to budget cuts.
- Both CSHCN and Children' mental health services at TDMHMR are critical to making it possible for children to remain in their family homes. Undermining these programs would force more parents — unable to access the home-based support services and respite they need — to relinquish custody of their children to the state, which costs the state more and is far less beneficial to the child.
- SB 43 was amended to keep the assets test in children's Medicaid precisely because eliminating the assets test would have moved about one-third of the children enrolled in CHIP into Medicaid, at a significantly lower match rate for Texas. If the legislature's intent was to maximize coverage of children, it makes little sense to steer hundreds of thousands of children into CHIP, only to freeze enrollment in that program.

OTHER FUNDING ISSUES

- HHSC plans to implement increased parental cost-sharing in CHIP effective in March. No estimates of resulting savings have been developed yet by HHSC; any resulting savings should be dedicated to full funding of the program.
- HHSC also plans to implement the "carve-out" of the prescription drug benefit in March, rolling those benefits into the Medicaid prescription drug administration. It is projected that this will yield $3-$6 million annually in enhanced rebates for the state. These should be dedicated to keeping the CHIP program intact, which would likely require approval by legislative leadership.
- The state should carefully consider the long-term and global cost impact that could result from some of the policy options HHSC has described. Adverse selection could result in higher per-child costs. For example, while a 6-month eligibility period may produce "desirable" caseload attrition in the short-term, it may also result in higher average costs. Parents whose children have major or urgent health care needs are

[1] Contributing to this shortfall is the allocation to CSHCN of $3 million in 2002 and $10 million in 2003 of the total $205 million reduction in GR spending mandated in Rider #33, Special Provisions relating to all Health and Human Services Agencies (Article II), SB1.

more likely to renew coverage, while parents of healthy children are more likely to let coverage lapse. The resulting "adverse selection" in the CHIP program would increase health insurer's costs, driving up CHIP premiums. Similarly, even health insurers — who generally favor open enrollment periods as a way to discourage parents from waiting until their children are sick — have expressed concern that unless carefully crafted, closed enrollment periods can result in fewer healthy children enrolling, the precise opposite of the goal.

- Changing to a 6-month eligibility period will increase CHIP administrative (TexCare Partnership) costs related to renewal, and will likewise increase the related costs for the CHIP health insurance plans, creating pressure to drive premiums up.
- Any belief that six-month eligibility will save the state money by speeding up the departure of children whose family income has increased may not be supported by the evidence. To date, a higher proportion of children tracked in the renewal process have transferred to Medicaid due to dropping income than have left the program due to higher income or accessing private coverage. Of course, the state spends more per child in Medicaid due to the less favorable match rate. In the current recession, and given the strong up-trend in Texas Medicaid enrollment, transition to Medicaid at renewal is likely to grow in frequency.
- Finally, as always, decisions that the Legislature and state agencies make to reduce services to the uninsured do nothing to eliminate the need for care, and often simply shift the costs of care to local taxpayers and charity care providers, losing the benefit of federal matching funds. The Legislative Budget Board (LBB) has estimated that the state's investment in CHIP will yield a net long term direct economic benefit to Texas of $1.3 billion over 10 years, growing to $4 billion over 20 years; and children's Medicaid simplification will yield net benefits of $4.3 billion over 10 years, and $9.5 billion over 20 years. In addition, LBB projects additional economic multiplier benefits in the form of increased gross state product, personal income, tax receipts, and jobs created.

WHAT CAN YOU DO?

If you want to have an impact on whether or not Texas CHIP is kept whole or is capped, frozen, or rolled back, write or call your local Representative and Senator, as well as the Governor, Lt. Governor, Speaker, and the members of the Senate Committees on Finance and on Health and Human Services, and the House Committees on Appropriations, Public Health, and Human Services. Mailing addresses and FAX and phone numbers for all of these may be found at http://www.capitol.state.tx.us.