



May 5, 1999

No. 86

## House Passes Amended CHIP Bill; CSSB 445 Probably Headed for Conference Committee

On Thursday April 29, House Committee Substitute for CSSB 445 (the CHIP bill) was debated and passed on the floor of the Texas House of Representatives. Floor action included an articulate presentation of the bill by the House sponsor, House Public Health Committee Chair Patricia Gray, energetic debates over proposed amendments to the bill, and bipartisan closing speeches in support of the bill. Twelve amendments were adopted on the House floor, and five others were either rejected by the members, or withdrawn by their authors due to lack of support. While the Senate has the option to accept the House's version of the bill, Senator Mike Moncrief (author of the Senate bill) is expected to call for a conference committee to hammer out a compromise between the two versions. As we go to press, a conference committee on SB 445 has not yet been named.

This *Policy Page* describes the amendments offered on the House floor, and how the adopted amendments may alter the bill as a whole. (See [PP #82](#) for a comparison of the Senate CHIP bill and the House Public Health Committee substitute sent to the House floor.)

**What Will Happen In Conference Committee?** It is not clear what the primary focus of a conference committee will be. The nature of the link between CHIP and the Texas Healthy Kids Corporation (THKC) is likely to be negotiated, as well as details over CHIP benefits. General "clean-up" of the much-amended bill may also be a goal. Advocates will be watching closely and encouraging the committee to retain such provisions as strong outreach, coordination with Medicaid, coverage of legal immigrant children, and fair "crowd-out" policies.

### Amendments Rejected or Withdrawn

**"Net" family Income Definition.** This amendment by Rep. Arlene Wohlgemuth would have eliminated the use of child care and work expense deductions in CHIP that are identical to those used for Medicaid eligibility. The use of the Medicaid policy had been identified by THHSC as a means of simplifying the coordination of Medicaid and CHIP applications mandated by federal CHIP law. The Medicaid work expense deduction is a maximum of \$90 per month per worker, and Medicaid-allowed child care deductions are a maximum of \$200 per month per child for children up to age 2, and \$175 per month per child age 2 or older. Readers familiar with child care costs will recognize that this deduction will cover only 1/3 to 1/2 of the market cost of child care in most parts of the state. *This amendment was defeated.*

**Lower Eligibility Limits: age 0-10 covered to 200% FPL, and ages 11-17 covered to 150% FPL.** This amendment, offered by Rep. Kyle Janek, would have reduced CHIP eligibility to make it more restrictive than the Senate Bill language. In addition to adopting the Senate's lower income cap for older kids, eligibility for CHIP would end when a youth reached the age of 18, rather than ending on the 19<sup>th</sup> birthday as proposed in both the Senate and House bills. *This amendment was defeated.*

**Tie CHIP benefits to State Employee Health Plan.** Rep. Wohlgemuth offered this amendment, which would have required that CHIP benefits be "equivalent to, but not exceeding" the health plan used by the greatest number of state employees. Currently, the House bill refers to a benefits package designed specifically to meet the needs of children, as recommended by Senate and House Interim Committees studying CHIP. *This amendment was defeated.*

**Eliminate Statewide CHIP Advisory Committee.** This amendment by Rep. Wohlgemuth would have eliminated the statewide CHIP advisory committee added to the bill by the House Public Health Committee. *This amendment was withdrawn by the author.*

**Eliminate Coverage of Certain Legal Immigrant Children under CHIP.** The House Public Health Committee added provisions to the CHIP bill to use unmatched state funds to cover a small group of legal immigrant children for whom federal CHIP funds are currently not available. Though **most** legal immigrant children are already eligible for CHIP and Medicaid, legal immigrant children who arrived in the U.S. since August 1996 are subject to a 5-year bar from both programs, after

which they are eligible on the same terms as citizen children. *This amendment was withdrawn by the author.*

## Adopted Amendments

**Medical Savings Account (MSA) Technical "Fix."** The House Public Health Committee added language to the CHIP bill authorizing an MSA option for parents of CHIP-enrolled kids. Because it is not clear whether an MSA option can be designed which would not violate caps on out-of-pocket spending in federal CHIP law, this amendment clarifies that an MSA option will not be offered unless it complies with federal CHIP law. *This amendment was offered by House Public Health Committee Chair Patricia Gray.*

**Procurement Language for Outreach and Health Insurance Plan Selection.** This amendment contains a technical change stating that the Texas Health and Human Services Commission will "procure," rather than "award" contacts with community-based organizations to perform CHIP outreach. It also makes a substantive change, stating that Health Plans to be offered to CHIP enrollees will be selected through a competitive procurement, rather than an "open enrollment" process (under the latter, presumably any health plan that met state standards could sell CHIP coverage). *This amendment was offered by House Public Health Committee Chair Patricia Gray.*

**Statement of CHIP Objective.** Rep. Wohlgemuth offered an amendment stating that the objective of the CHIP program was to provide primary and preventive care to low-income children lacking coverage under other state-assisted health insurance programs. The amendment was adopted with a change by Rep. Patricia Gray to say that the above was the principal (i.e., not the sole) objective of the CHIP program.

**Re-Authorization Required if Tobacco Settlement Funds Dry Up.** This amendment by Rep. Wohlgemuth requires the Legislature to authorize expenditure of other state revenues on CHIP in the event that tobacco settlement funds are no longer available; otherwise, CHIP would be terminated.

**Language Change in CHIP Outreach Provisions.** Rep. Wohlgemuth offered this amendment, which weakens the requirement to coordinate CHIP's outreach campaign with both Medicaid and the Texas Healthy Kids Corporation (THKC). The bill as amended simply requires that outreach and public education be designed to "coordinate enrollment," and only with state-administered child health programs (THKC is not state-administered).

**Timely Enrollment Requirement Loosened.** The House Committee bill required that CHIP applicants be enrolled in a health plan within 30 days of submitting a complete CHIP application. This provision was intended to ensure that the state or THKC would not contract with a CHIP

enrollment broker that lacked the capacity to process enrollments promptly. To address THHSC concerns about delays caused by parents' failure to pick among available CHIP health plans, the language was changed. It now states that a determination of eligibility and all relevant information about plan choices be delivered no later than 30 days from application. A major exception was also added: cases in which the application indicates that the child is Medicaid-eligible will not be subject to the 30-day deadline. **While this language is not inevitably problematic, advocates believe that it is critical that the state do everything possible to minimize the number of CHIP applicants who must go through a Medicaid application interview—a 1<sup>1/2</sup> to 2 hour face-to-face interview with a TDHS eligibility worker.** Otherwise, the CHIP application process may get a reputation for being difficult and time-consuming, and parents will not bother to apply. Making the Medicaid application far more difficult than the CHIP process is unfair (if not downright discriminatory) to the poorer Medicaid-income families. CPPP and other health advocates intend to press the state to drop the assets tests and face-to-face interview requirement for children's Medicaid, as most states have already done.

**Deleting "Preference" Language in Health Plan Procurements.** This amendment by Rep. Gray deleted a directive to give preference in procuring CHIP health plans to plans that already serve either Medicaid Managed Care or THKC enrollees. The following amendment deals with the same topic.

**Mandatory Contracting Provision.** The House Committee bill directed the state to include in metro areas at least one CHIP insurer which is also a Medicaid Managed Care insurer. This was intended to allow families who have young children in Medicaid, and older children who qualify for CHIP, to enroll all their children with the same insurer. (This will occur because Medicaid covers children 0-1 to 185% FPL, and 1-6 up to 133% FPL.) The amendment by Rep. Garnet Coleman changed the bill to require the state to contract with either a Medicaid Managed Care plan or a THKC plan. Advocates hope that this language will be further modified in Conference Committee to restore the original intent, while encouraging the inclusion of THKC participating health plans as well.

**Technical Amendment to "Crowd-Out" Provisions.** Rep. Gray offered this amendment, which corrected drafting errors and oversights in the House Public Health Committee's language on "crowd-out." The committee bill listed a number of situations in which a family would not have to wait 180 days for CHIP enrollment. This amendment clarified that families with very high cost coverage (10% or more of family income) would have to actually drop a child's coverage prior to applying for CHIP in order to qualify for the exception. It also specifically acknowledged that children leaving Medicaid

due to increased parental earnings or "aging out" of a Medicaid category would not be subject to a waiting period. Finally, the amendment clarified that the exceptions to waiting periods would also apply to any closed enrollment periods (i.e., new enrollment allowed only at certain times of the year) that may be used by the state or its contractors in administering CHIP.

**Administrative Spending.** This amendment states that spending on CHIP administration shall "not exceed any limit on those expenditures imposed by federal law." This amendment was offered by Representative Harvey Hilderbran. If this amendment were interpreted as limiting Texas' administrative spending to 10% of total CHIP insurance spending in a given year, it would have a devastating effect on CHIP outreach and public information. Virtually all states plan on spending more than 10% in their first year or two of CHIP, since 10% of a very small number (low start-up level coverage costs) is an even smaller number. Of course, CHIP's start-up years are when the greatest one-time administrative and outreach costs are needed.

**Requirement to Contract with Texas Healthy Kids Corporation.** This amendment by Rep. Kyle Janek mandates that THHSC contract with THKC to obtain health coverage under CHIP. Two exceptions to this requirement are included. First, if the THKC Board of Directors voted not to take on CHIP, THHSC would be free to delegate tasks to state agencies or external contractors. Second, Rep. Gray amended Rep. Janek's language, to direct that THHSC must find, after conducting a readiness review of THKC, that the latter has the capacity to implement CHIP statewide.

**State Coverage of Legal Immigrant Children Not an Entitlement.** This amendment, offered on third reading of the bill on April 30 by Rep. Gray, simply states that the state-funded coverage that would be created for legal immigrant children (during their 5-year bar from federal means-tested public benefits) does not create an entitlement to that coverage. This amendment is consistent with the explicit non-entitlement status of the general Texas CHIP program, and does not change the proposed immigrant coverage program.

You are encouraged to copy and distribute this edition of  
**THE POLICY PAGE**