



## FEDERAL RULES WOULD REDUCE ACCESS TO HEALTH CARE SERVICES, CUT \$10 BILLION IN HEALTH CARE FUNDS TO CALIFORNIA

**T**he Bush Administration has issued a number of regulations and one informal directive during the past year that would restrict federal support for needed health services. These changes would restrict California's use of federal dollars in the Healthy Families Program, which provides low-cost health coverage to children with incomes up to 250 percent of the poverty line, and would cut up to \$10.8 billion in federal funds for Medi-Cal – California's Medicaid program – during the next five years. These rules would worsen California's budget crisis and also could disrupt health care services for vulnerable Californians and endanger the financial stability of California's hospitals. However, Congress could act to keep these changes to longstanding health care policy from going into effect.

### How Will the SCHIP Directive Affect California?

On August 17, 2007 the federal Centers for Medicare & Medicaid Services (CMS) issued a letter – often referred to as a “directive” – that could prevent California from using federal dollars to cover tens of thousands of uninsured children.<sup>1</sup> The directive restricts the use of federal State Children's Health Insurance Program (SCHIP) dollars, which California uses to provide health coverage through the Healthy Families Program. The new directive – while vague on many points – would require states to satisfy eight new requirements in order to use federal SCHIP dollars to cover children with total family income above 250 percent of the poverty line; these requirements change the rules under which California has operated its program – with federal approval – for many years. California has until August 2008 to meet the letter's requirements.

Some of the new requirements would be virtually impossible to meet or would contradict the goal of providing affordable coverage to uninsured children. For example, states must:

- **Ensure that job-based coverage for children has not declined by more than 2 percentage points over the**

**prior five years.** However, states have little control over whether private companies offer health coverage to their workers. California and other states are unlikely to meet this requirement since job-based coverage has declined and the cost of coverage has increased in recent years.

- **Enroll nearly all low-income eligible children in public health coverage.** Specifically, states must enroll at least 95 percent of children with incomes below 200 percent of the poverty line who are eligible for coverage in their Medicaid or SCHIP programs. One analysis indicates that no state meets this high threshold.<sup>2</sup>
- **Substantially raise SCHIP premiums and out-of-pocket costs.** States must increase families' premiums and out-of-pocket costs to 5 percent of family income – unless they can demonstrate that cost sharing in their SCHIP program is nearly as high as that in the private market. California has kept family contributions for the Healthy Families Program at less than 2.5 percent of a family's income in order to make coverage affordable.

- **Require children to be uninsured for an entire year before they enroll in SCHIP coverage.** The directive does not allow any exceptions, such as for children who become uninsured due to a parent’s job loss or death. California allows children to enroll after a three-month waiting period, but has exceptions for unusual circumstances such as a parent’s death or job loss.

Approximately 34,000 California children who are currently enrolled in Healthy Families would not have qualified for coverage if the changes needed to comply with the CMS directive had been in place when they applied for coverage.<sup>3</sup> These children qualify for Healthy Families coverage even though their total family income exceeds 250 percent of the poverty line because the state’s definition of income excludes certain income and expenses – such as child support and amounts paid for child care. For example, the Healthy Families income limit is \$44,000 for a family of three. However, children in a family of three with total income of \$46,000 would be eligible for Healthy Families if \$600 of the family’s income was from child support and the family had \$2,000 in child care costs. This family’s income for purposes of determining eligibility would be \$43,400 (\$46,000 less \$600 less \$2,000), which is below the Healthy Families limit.<sup>4</sup>

States would have to meet the directive’s eight requirements before covering children with total family income above 250 percent of the poverty line. As a result, California likely would be unable to use SCHIP funds to cover children with total family income slightly more than 250 percent of the poverty line, even if the family’s income after deductions is less than 250 percent of the poverty line.

States would be required to apply the 250 percent of poverty line income limit to children enrolling in the program – including children who left the program temporarily for whatever reason – but not to children who are currently enrolled.<sup>5</sup> However, allowing currently enrolled children to remain in Healthy Families would delay – but not eliminate – the directive’s impact since more than one in five children (22 percent) leave the program each year and new children enter the program every day.<sup>6</sup> In fact, the directive would have an immediate impact and within two years could prevent California from using federal funds to cover more than 10,000 children who are currently eligible for Healthy Families.

## How Will the New Medicaid Rules Affect California?

In addition to the SCHIP directive, the Bush Administration has released new regulations that cut federal Medicaid funds that support needed health care services. Congress has delayed implementation of four of these regulations, but another took effect March 3. Recent estimates by California’s Department of Health Care Services (DHCS), as reported to the House Committee

on Oversight and Government Reform, document how these rules would reduce federal funding to California and affect those who rely on Medi-Cal for medical care (Table 1).<sup>7</sup> The regulations change longstanding federal policy in a variety of areas, from school-based outreach and enrollment, to case management services, to payments to public hospitals and other providers.

**School-based services.** One of the new rules eliminates federal support for school staff who enroll children in Medicaid and coordinate their health care services. The new rule also eliminates federal support for transporting children with special health needs to and from school. This rule will endanger school-based efforts to enroll children in Medi-Cal, since the DHCS estimates that California will lose \$130.0 million in federal funds in FFY 2009 and \$650.0 million over five years from this change.

Regulation	Loss of Funds, FFYs 2009 to 2013	Status
School-Based Services	\$650.0 million	Implementation delayed until 6/30/08
Case Management	\$119.0 million	Effective 3/3/08
Rehabilitation Services	*	Implementation delayed until 6/30/08
Payments to Public Providers	\$4.7 billion	Implementation delayed until 5/25/08
Graduate Medical Education	\$1.2 billion	Implementation delayed until 5/25/08
Payments to Outpatient Hospitals and Clinics	\$1.3 billion	Final rule expected in early 2008
Health Care Provider Taxes	\$2.7 billion	Effective 4/22/08
<b>Total</b>	<b>\$10.8 billion</b>	

\* Unknown.

Note: Amounts do not sum to total due to rounding.

Source: House Committee on Oversight and Government Reform and Center on Budget and Policy Priorities

**Case management.** Another rule limits federal support for case management services that help Medicaid beneficiaries receive needed medical, social, and educational services. This limitation would affect services for individuals with disabilities or chronic conditions, and the DHCS’ assessment indicates that the “one-size-fits-all” case management approach required by the rule could threaten the successful transition of individuals from hospitals to their communities. The DHCS estimates that California will lose \$24.0 million in FFY 2009 and \$119.0 million over five years as a result of these changes, which took effect March 3.

**Rehabilitation services.** Another rule eliminates federal support for certain rehabilitative services for children and adults, including those with mental illness or developmental disabilities. The DHCS' analysis of the rule indicates that federal funding that supports rehabilitation services – such as certain prenatal, drug and alcohol treatment, mental health, and dialysis services – is at risk.<sup>8</sup>

**Payments to public providers.** One of the new federal rules limits payments to public hospitals and other public providers and redefines which providers are considered public. For example, the DHCS estimates that federal payments to public hospitals in Alameda County and the University of California (UC) are at risk because CMS may not consider the entities overseeing these hospitals to be “units of government.”<sup>9</sup> The DHCS estimates that California will lose \$943.6 million in FFY 2009 and \$4.7 billion over five years.

**Graduate Medical Education.** Another rule eliminates all federal Medicaid funding for Graduate Medical Education, which supports physician training at teaching hospitals. Teaching hospitals – many of which are public hospitals – typically serve vulnerable populations and incur additional costs related to training physicians. The DHCS expects this change to “place critical care in jeopardy, create shortages of medical professionals, and reduce access to care.” The DHCS estimates California will lose \$248.2 million in FFY 2009 and \$1.2 billion over five years.

**Payments to outpatient hospitals and clinics.** One of the new federal rules restricts payments for hospital-based physician services, vaccinations, and other services to patients who are not admitted to the hospital. The DHCS believes these changes would lead to “further instability” in California’s emergency rooms and a potential reduction in payments to clinics. The DHCS estimates California will lose \$266.4 million in FFY 2009 and \$1.3 billion over five years.

**Health care provider taxes.** A new federal rule limits states’ ability to use provider taxes as a match for federal Medicaid dollars. California levies fees on managed care organizations, facilities for the developmentally disabled, and certain nursing facilities to match federal dollars that support Medi-Cal. The DHCS indicates the new rule puts all of these fees at risk, which would result in a loss of \$540.0 million in FFY 2009 and \$2.7 billion over five years.

## Conclusion

The Bush Administration has made fundamental changes to the funding structure that supports health services to vulnerable Californians – without the approval or participation of Congress. These changes would worsen California’s budget crisis and would have a substantial impact on children, adults, and hospitals. However, Congress can act to prevent these changes to longstanding federal health care policy from going into effect.

*David Carroll prepared this Budget Brief. The California Budget Project (CBP) was founded in 1994 to provide Californians with a source of timely, objective, and accessible expertise on state fiscal and economic policy issues. The CBP engages in independent fiscal and policy analysis and public education with the goal of improving public policies affecting the economic and social well-being of low- and middle-income Californians. General operating support for the CBP is provided by foundation grants, individual donations, and subscriptions. Please visit the CBP's website at [www.cbp.org](http://www.cbp.org).*

## ENDNOTES

- <sup>1</sup> Dennis G. Smith, director of the Centers for Medicare & Medicaid Services, Center for Medicaid and State Operations, letter to state health officials (August 17, 2007).
- <sup>2</sup> Urban Institute analysis of US Census Bureau, Current Population Survey data, as cited in Cindy Mann and Michael Odeh, *Moving Backward: Status Report on the Impact of the August 17 SCHIP Directive To Impose New Limits on States' Ability to Cover Uninsured Children* (Georgetown University Health Policy Institute Center for Children and Families: December 2007).
- <sup>3</sup> Harbage Consulting, *Assessing California's Ability to Comply with New Federal SCHIP Rules* (California HealthCare Foundation: October 5, 2007).
- <sup>4</sup> California deducts up to \$50 of child support income per month and up to \$200 per child per month for child care expenses, depending on the age of the child.
- <sup>5</sup> Dennis G. Smith, director of the Centers for Medicare & Medicaid Services, Center for Medicaid and State Operations, letter to the Honorable Joe Barton, US House of Representatives (January 22, 2008).
- <sup>6</sup> Managed Risk Medical Insurance Board, *2005 HFP Retention Report* (no date).
- <sup>7</sup> Dollar estimates and program impacts of the Medicaid regulations on California draw heavily from US House of Representatives Committee on Oversight and Government Reform Majority Staff, *The Administration's Medicaid Regulations: State-by-State Impacts* (March 2008), which relies on estimates by the DHCS. The totals of the estimates for individual states are substantially higher than those calculated by the Congressional Budget Office and the Office on Management and Budget. In addition, each state developed its own methodology to prepare the fiscal estimates.
- <sup>8</sup> The report by the House Committee on Oversight and Government Reform did not include an estimate of the amount of federal funds that California would lose as a result of this rule.
- <sup>9</sup> The rule defines a unit of government, in part, as having taxing authority or direct access to tax revenues. However, the Alameda County Medical Center is governed by a hospital authority, which is a public agency that is distinct from the Alameda County Board of Supervisors, and the hospital authority has no direct taxing authority of its own. Most public hospitals are managed directly by the counties in which they are located. In addition, the rule considers a “university teaching hospital with direct appropriations from the State treasury” to be a unit of government, but it is not clear that UC hospitals meet this definition.