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SCHIP Bill Increases Illegal Immigrants' Access to Medicaid and Undermines Welfare Reform

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Under current law, illegal immigrants are eligible for emergency medical services funded through the Medicaid program but are not eligible for normal benefits through Medicaid or the State Children's Health Insurance Program (SCHIP). In addition, according to the provisions of the 1996 welfare reform law, legal immigrants are not eligible for normal Medicaid and SCHIP benefits for the first five years they reside in the United States.

The Children's Health Insurance Program Reauthorization Act of 2007 (H.R. 3963), passed in the Senate and the House of Representatives,¹ significantly changes the law with respect to both legal and illegal immigrants. H.R. 3963 affects not only SCHIP but also the far larger general Medicaid program. Specifically, the SCHIP reauthorization bill:

- weakens the evidentiary and document standards governing entry into the Medicaid program, thereby making it easier for illegal immigrants to fraudulently obtain benefits; and
- overturns the limitations on immigrant use of Medicaid enacted in the 1996 welfare reform law by gutting the administrative procedures used to determine immigrant eligibility, thereby readily permitting immigrants to receive benefits for which they remain legally ineligible.

Problems with the Bill.

1. *Increasing Fraud by Illegal Immigrants.* Current law requires individuals who claim to be U.S. citizens to provide documentary evidence of citizenship before enrolling in Medicaid.² H.R. 3963

bypasses this requirement.³ Under H.R. 3963, applicants for Medicaid would be required to provide only a name and Social Security number that correspond to a valid identity on file with the Social Security Administration.⁴ At the present time, a great many illegal immigrants provide the names and Social Security numbers of real U.S. citizens to obtain work in the United States. Under H.R. 3963, a state agency processing a Medicaid application is merely required to ascertain (after benefits are allocated) whether the name and Social Security number on the application correspond to a valid individual on file with the Social Security Administration. In contrast to existing law, under H.R. 3963, the state agency would not be required to take any steps to determine if the applicant is actually the individual he purports to be, or to determine whether the individual is actually a U.S. citizen. Since many illegal immigrants routinely use "borrowed" Social Security numbers to obtain jobs, it seems likely that many would also use those numbers to fraudulently obtain Medicaid benefits.

2. *Undermining Welfare Reform: Legal Immigrants and Medicaid.* The 1996 welfare reform law (the Personal Responsibility and Work Opportunity

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Reconciliation Act of 1996, or PRWORA) restricts eligibility of legal immigrants to Medicaid, SCHIP, and other means-tested welfare programs during their first five years in the United States.⁵ While H.R. 3963 does not explicitly revoke these limitations, it does weaken their administrative enforcement with the probable effect of allowing large numbers of legal immigrants to receive Medicaid benefits prior to the five-year eligibility threshold.

Under current law, a Medicaid applicant who claims that he is a U.S. citizen must provide documentation proving citizenship.⁶ Legal immigrants who are not yet citizens (legal permanent residents) are checked against the Systematic Alien Verification for Entitlement (SAVE) database, which contains information on length of residence and other factors relating to welfare eligibility.⁷ H.R. 3963 does away with the requirement to provide documentation of citizenship. Applicants who claim citizenship and possess a valid Social Security number are deemed eligible if they appear to meet the Medicaid income limits.

The designers of H.R. 3963 appear to believe that all individuals who have Social Security numbers are U.S. citizens and therefore eligible for Medicaid or SCHIP; however, this is not the case. In fact, most lawful non-citizen immigrants

(legal permanent residents) have valid Social Security numbers. Under H.R. 3963, a legal permanent resident who falsely asserts he is a citizen and offers his valid Social Security number may be automatically enrolled in Medicaid. The claim of citizenship need not be checked, and eligibility need not be verified by information from the SAVE system. This change would substantially weaken the limitations on immigrant use of welfare enacted in PRWORA.

3. *The Express Lane Application System: Bypassing the SAVE System.* H.R. 3963 give states the option of operating an Express Lane application system for enrolling children in Medicaid and SCHIP. This option would go even further than the basic Medicaid application procedures established in H.R. 3963 in undermining the current legal limitations on immigrant use of welfare. The Express Lane process entirely bypasses the SAVE system now used to determine immigrant eligibility for means-tested welfare.⁸

With the Express Lane, an immigrant child who does not claim to be a citizen but who possesses a valid Social Security number (as many legal permanent resident children do) may be automatically enrolled in Medicaid or SCHIP without having his application checked by the SAVE system.⁹ Thus, states may provide Medicaid and SCHIP to legal immigrant children without deter-

1. H.R. 3963, October 25, 2007, at http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=110_cong_bills&docid=f:h3963pcs.txt.pdf.
2. Section 1903 (i) (22) and section 1903 (x) of the Social Security Act (42 U.S.C. 1936a) require documentary evidence of citizenship from Medicaid applicants. Regulations concerning documentary evidence of citizenship and the Medicaid program are found in "Medicaid Program: Citizenship Documentation requirements" (CMS 2257-IFC) (71 FR 39214).
3. Section 211 (a) (1) of H.R. 3693 effectively bypasses the current law provisions concerning documentary evidence of citizenship by amending section 1902(a) (46) and section 1903 (i) (22) of current law to make adherence to the evidentiary provisions of section 1903 (x) of current law a state option.
4. See section 211 (a) (1) of H.R.3693.
5. Section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 21996, public law 104-193 (42 U.S.C. 1641).
6. See section 1903 (x) of the Social Security Act.
7. Current law governing Medicaid enrollment requires verification of immigration status by the Immigration and Naturalization Service through the use of the SAVE system. See section 1137 (d) of the Social Security Act (42 U.S.C. 1320 b-7(d)).
8. H.R. 3963 allows states to bypass the Immigration and Naturalization Service and the Systematic Alien Verification for Entitlement (SAVE) system; section 203(a) of H.R. 3963 explicitly states that states may use the Express Lane application process to determine Medicaid eligibility "notwithstanding" section 1137 (d) of existing law, which requires verification of immigrant status by the Immigration and Naturalization Service through the Systematic Alien Verification for Entitlement (SAVE) system.

mining if they are legally entitled to those benefits. H.R. 3963 therefore provides a de facto neutering of the limitations on immigrant use of Medicaid and SCHIP enacted in welfare reform. The Express Lane would allow thousands of legal immigrants to receive Medicaid and SCHIP benefits irrespective of the length of their residence in the United States. H.R. 3963 adds insult to injury by providing that no state may be financially penalized for providing Medicaid or SCHIP benefits to ineligible immigrants through the Express Lane system.¹⁰

Reducing Fraud and Misuse of Taxpayer Funds.

Proper government policy should ensure that individuals receiving benefits under Medicaid, SCHIP, and other means-tested welfare programs are, in fact, legally eligible for assistance. In order to accomplish this, four standards should be maintained in the application process:

1. Applicants claiming citizenship should provide documentation in accordance with section 1903 (x) of current law.
2. Applicants claiming citizenship or legal permanent residence should (where applicable) provide their name, Social Security number, and

date and place of birth; this information should be cross-referenced against the Social Security Administration database.

3. Eligibility of non-citizens should be determined using data from the SAVE system.
4. Income should be verified through the Income and Eligibility Verification System (IEVS).

In general, fraud could be reduced within the welfare system through the expeditious implementation of the REAL ID Act of 2005.

Conclusion. H.R. 3963 fails to adequately prevent abuse of taxpayer funds. It increases opportunities for illegal immigrants to obtain Medicaid benefits and for legal immigrants to enroll in SCHIP or Medicaid before living in the U.S. the requisite five years. As such, the legislation is a significant step backward in efforts to prevent welfare fraud. Members of Congress should go back to the drawing board and craft a reauthorization proposal that includes safeguards to protect taxpayers and to ensure that welfare payments go only to those who are legally eligible.

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9. In the normal Medicaid and SCHIP application process created by H.R. 3963, an immigrant application must claim citizenship in order to bypass the SAVE system. Under the Express Lane system, the Immigration and Naturalization Service and the SAVE system may be bypassed even if the applicant does not claim citizenship.
10. See subparagraph E (i) and (iii) under Express Lane Option of section 203 of H.R. 3963.