

MEMORANDUM

TO: Interested People

FROM: Paula Roberts

DATE: May 21, 2001

RE: Recent Clarification of the Child Support Assignment and Cooperation Obligations of Parents and Children Applying for or Receiving Medicaid

The Medicaid statute imposes certain child support assignment and cooperation obligations on Medicaid applicants and recipients. 42 USC§1396k(a)(1). The child support statute requires the state child support (IVD) program to provide medical support services to families receiving Medicaid. 42 USC §654(4)(A)(i)(III). How these two statutes fit together has never been completely clear.¹ This lack of clarity has affected the ability of low income parents to obtain Medicaid and State Children's Health Insurance Program (SCHIP) coverage for their children.² Some states have also identified it as a stumbling block in their Medicaid/SCHIP outreach efforts.

On December 19, 2000, the Director of the Health Care Financing Agency (HCFA) sent a letter to state Medicaid Directors, which deals with this problem. This letter was transmitted to all state child support (IV-D) Directors by the federal Office of Child Support Enforcement (OCSE) on December 22, 2000 through Dear Colleague Letter (DCL) 00-122. A copy of this letter may be found on the OCSE web site at www.acf.dhhs.gov/programs/cse/poldoc.htm.

The guidance explains a critical distinction between the child support assignment and cooperation requirements applicable to child-only Medicaid households and those applicable to households in which both children and adults seek Medicaid coverage. It also allows state Medicaid agencies to greatly simplify the child support information gathered at the time of application/re-certification for Medicaid. In brief, the HCFA letter says:

¹ See, Paula Roberts, *Cooperation in the Pursuit of Medical Support as an Eligibility Condition for AFDC and Medicaid*, 17 CLEARINGHOUSE REV. 295-301 (July 1992) for a more detailed discussion. The issues became even more complex when the AFDC program was abolished and replaced with Temporary Assistance to Needy Families (TANF). This change was accompanied by a de-linking of Medicaid and cash assistance.

² States can implement SCHIP as a separate program, an expansion of Medicaid, or a hybrid of the two. If a state chooses to use Medicaid as a base for some or all of its SCHIP program, participants are subject to the Medicaid assignment and cooperation requirements.

1. Under federal law, an applicant's cooperation in establishing paternity, assigning medical support rights to the state, and providing information about potentially liable third parties (e.g., health insurers) cannot be required as a condition of a *child's* eligibility for Medicaid. This means:
 - A state **does not have to inquire** about paternity or seek cooperation in pursuing medical support as part of the Medicaid application/ re-determination process if a parent³ seeks child-only coverage.
 - In a child-only case, if a state does ask about paternity or seeks cooperation in the pursuit of medical support, it **must inform** the parent that paternity information and medical support cooperation are not necessary in order for the child to be enrolled or to continue enrollment.
 - However, the state **must ask** the parent whether the child has other health insurance coverage so that potentially liable third parties can be identified. This question must be asked at application and at periodic re-determination. If a parent indicates that the child does have private health care coverage, the Medicaid agency may seek reimbursement from the insurer.⁴
2. As a condition of *their own eligibility*, parents who apply for Medicaid on behalf of themselves and their children, must assign to the state any medical support rights they or their children have, and cooperate with the state in establishing paternity and pursuing medical support. They must also inform the state about any existing health insurance coverage they or their children have. There are exceptions to the cooperation (but not the assignment obligation) for:
 - Most pregnant women;
 - Those receiving time-limited Transitional Medicaid (TMA); and
 - Parents who can establish good cause for refusing to cooperate.⁵
3. If a parent applies for Medicaid coverage, is subject to the cooperation requirement, and fails to cooperate, the parent is ineligible for Medicaid. The children are eligible, however, and the parent must be told this. In

³ As used in this memo, the word "parent" includes a biological parent and any other adult who applies for Medicaid coverage for him/her self and a child (e.g., a grandparent who has custody of the child).

⁴ Federal law requires states to have laws that automatically assign to the state a Medicaid recipient's right to payment from any liable third-party whether or not the individual actually executes an assignment document. The state will seek reimbursement from the insurer under this legal assignment.

⁵ See 42 CFR §433.147(c).

addition, the family size and need standard that are used to determine the child's Medicaid eligibility cannot be reduced if the parent fails to cooperate.

4. Although establishment of paternity is a requirement for some adults seeking Medicaid, the Medicaid agency does not have to solicit information from these parents during the application process. A simple statement on the application that the parent agrees to cooperate will do. The parent can then be referred to the child support agency for follow up. Alternatively, the parent can be contacted by the child support or Medicaid agency for information once the application process is complete.
5. There are no federal child support cooperation requirements for SCHIP. If a state chooses to implement SCHIP through a Medicaid expansion, however, then the Medicaid assignment and cooperation rules apply.
6. Medicaid agencies should inform parents about the services available from the child support program, and refer interested parents to that program. In that way, parents who are not subject to a cooperation requirement but would like to pursue child support will know that services are available to them at little or no cost.
7. Child support agencies can be a useful source of information about Medicaid and SCHIP for the parents of uninsured children. Effective coordination with the IVD agency can help states meet their child health coverage enrollment goals.