

CLASP

CENTER FOR LAW AND SOCIAL POLICY

MEMORANDUM

TO: Interested People

FROM: Paula Roberts

DATE: October 20, 2004

RE: OIG Studies on Possible Recoupment of SCHIP Costs Through the Child Support Program

The U.S. Department of Health and Human Services' (HHS) Office of Inspector General (OIG) recently conducted studies in several states on the potential for recouping some of the states' Medicaid costs for children in single-parent families through contributions from the children's non-custodial parent. (For details, see the CLASP memo titled *OIG Studies on Potential Medicaid Savings Through Cost Contributions from Noncustodial Parents* from March 2004, available at www.clasp.org.) The OIG has now undertaken a second round of studies in those states looking at the potential to recoup State Children's Health Insurance Program (SCHIP) costs through the child support program.

In each state, OIG selected a one-year period and conducted a statistically valid sample of active cases in the state child support enforcement (IV-D) system to determine:

- The number of children without private health insurance, who are SCHIP eligible, and the amount their non-custodial parents could have contributed toward the SCHIP premiums if the children had been enrolled in the SCHIP program.
- The number of children enrolled in SCHIP and the amount their non-custodial parents could have contributed toward SCHIP premiums.

As it did in the Medicaid studies, the OIG calculated potential payments from the non-custodial parent using the state's child support guidelines and applying the federal Consumer Credit Protection Act (CCPA) limit of 50 percent of disposable earnings. If the state did not already have a minimum amount for a self-support reserve for the non-

custodial parent, the OIG set such a reserve at \$700 per month. The OIG also took into account other children of the non-custodial parent. Any amount beyond the amount necessary to meet these obligations was deemed available for SCHIP premiums. *This is a very important point.* In both the Medicaid and SCHIP studies, the OIG is not determining a potential non-custodial parent contribution toward the costs presently born by the custodial parent. Rather, the OIG is determining how much of the **state's cost** could be recouped from the non-custodial parent. It assumes that the non-custodial parent would be required to pay all his/her "excess" income (income above the cash support obligations and a self-support reserve) toward the state's SCHIP costs.

The results of these studies are summarized below.

Connecticut. This was the first look at the IV-D/SCHIP interface the OIG conducted. It was released in 2002, and thus pre-dates the reports discussed below by about two years. In this report, the OIG estimated that 11,600 IV-D children with a non-custodial parent living in Connecticut and 1,500 IV-D children with a non-custodial parent not living in Connecticut could have been enrolled in SCHIP during the study period (March 2000 to February 2001). Of those with non-custodial parents living in Connecticut, an estimated \$10.9 million of the potential \$17.6 million cost of enrollment could have been recouped from those parents. In addition, 83 percent of the cost of serving IV-D children whose non-custodial parents lived outside Connecticut, could have been recouped.

The OIG recommended that Connecticut 1) improve the coordination between the IV-D and the SCHIP agencies, including informing applicants for either program of the services available from the other; 2) enact legislation that allows the IV-D agency to provide the custodial parent's financial information to the SCHIP agency when a non-custodial parent enrolls a child in SCHIP; 3) modify existing state laws to require non-custodial parents to enroll their children in SCHIP when private health insurance is not available at reasonable cost; and 4) modify existing child support guidelines to provide standards for assessing non-custodial parent contributions to the cost of SCHIP coverage.

Connecticut took some of these steps, although not in the way envisioned by the OIG. Connecticut law requires Family Support Magistrates to order a parent to enroll the child in Connecticut's SCHIP program (called HUSKY B) if private coverage is not available to either parent at reasonable cost. Either parent can be ordered to enroll the child in HUSKY B, and, to facilitate this, the SCHIP statute specifically allows a non-custodial parent to apply for his/her children. If the order requires enrollment in HUSKY B, there is a continuation of the case so the parent ordered to apply can do so, and the eligibility determination can be completed. If the custodial parent is the one ordered to enroll the children and does so successfully, the non-custodial parent will be ordered to contribute to the premiums.

Indiana. The OIG estimated that 2,770 IV-D children were enrolled in SCHIP during the study period (June 1, 2001 to May 31, 2002). Of that group, 416 children had a non-custodial parent who combined could have contributed approximately \$163,000 toward

the cost of this coverage. Had it obtained these funds, the state could have recovered 66 percent of the \$247,000 it paid to cover these children.

In addition, 21,264 IV-D children were eligible for, but were not enrolled in the SCHIP program. The non-custodial parents of 10,940 of these children could have contributed \$6.4 million toward the \$10.7 million potential cost of the premiums for covering these children.

The OIG recommended that Indiana take steps to recover SCHIP premiums from non-custodial parents with medical support orders and the ability to pay for the cost of covering their dependent children. The state was not sure that this recommendation was feasible.

Michigan. The OIG estimated that 2,176 IV-D children were enrolled in SCHIP during the study period (May 1, 2001 to April 30, 2002). Of that group, 413 children had a non-custodial parent who could have contributed approximately \$168,000 toward the cost of this coverage. Had it obtained these funds, the state could have recovered 58 percent of the \$289,000 it paid to cover these children.

In addition, 96,948 IV-D children were eligible for, but not enrolled in the SCHIP program. The non-custodial parents of 22,722 of these children could have contributed \$9.8 million toward the \$ 22.5 million potential cost of the premiums for covering these children.

The OIG recommended that Michigan take appropriate steps to recover SCHIP premiums from non-custodial parents with medical support orders and the ability to pay for their dependent children. The state responded by saying it was implementing a new child support system, and it anticipated that, under this system, more children would be enrolled in private coverage. Thus, there would be a reduced need for SCHIP coverage. However, after the new system is in place, the state said it would evaluate the cost-effectiveness of adopting OIG's recommendation.

New Jersey. The OIG estimated that 3,917 children were enrolled in SCHIP during the study period (September 1, 2001 to August 31, 2002). Of that group, 2,203 children had a non-custodial parent who could have contributed approximately \$961,000 toward the cost of this coverage. Had it obtained these funds, the state could have recovered 74 percent of the \$1.3 million it paid to cover these children.

In addition, 63,833 IV-D children were eligible for, but not enrolled in the SCHIP program. The non-custodial parents of 37,194 of these children could have contributed \$17.5 million toward the \$28.2 million potential cost of covering these children.

The OIG recommended that New Jersey take steps to recover SCHIP premiums from non-custodial parents with medical support orders and the ability to pay for their dependent children's coverage. The state noted that, because of the way the state's child support guidelines are structured, the effect of following the OIG's recommendation

would be to substantially lower cash support going to the children. New Jersey also noted that it had conducted two pilot projects in which an in-court facilitator helped parents obtain information about SCHIP. The results were not promising, and this led the state to believe that the OIG's estimate of cost savings was not realistic.

New York. The OIG estimated that 21,120 IV-D children were enrolled in SCHIP during the study period (January 1, 2001 to December 31, 2001). Of that group, 12,347 children had a non-custodial parent who could have contributed approximately \$5.1 million toward the cost of this coverage. Had it obtained these funds, the state could have recovered 55 percent of the \$9.3 million it spent covering these children.

In addition, 71,813 children were eligible for, but not enrolled in the SCHIP program. The non-custodial parents of 36,877 of these children could have contributed \$22.3 million toward the \$40.7 million potential cost of covering these children.

The OIG recommended that New York's Division of Child Support Enforcement coordinate with the Department of Health to broaden the state's authority to recover the SCHIP identified in the report. In response, New York noted that it was in the process of implementing new legislation pursuant to which non-custodial parents could be required to contribute toward SCHIP premium costs when they had the financial means to do so and they could not provide private coverage since it was unavailable or unaffordable. However, that statute sets a limit on the amount of contributions required, which is lower than the OIG methodology. Moreover the non-custodial parent's contribution is paid to the custodial parent. Thus, New York felt that the OIG's cost savings estimates were too high. New York also questioned whether having non-custodial parents who enroll their children pay higher premiums than custodial parents who enroll their children (essentially the policy OIG recommends) was in violation of state civil rights statutes.

North Carolina. The OIG estimated that 8,776 IV-D children were enrolled in SCHIP during the study period (June 1, 2001 to May 31, 2002). Of that group, 3,686 children had a non-custodial parent who could have contributed approximately \$2 million toward the cost of this coverage. Had it obtained these funds, the state could have recovered 55 percent of the \$ 3.6 million it paid in premium costs for these children.

In addition, 30,809 IV-D children were eligible for, but not enrolled in the SCHIP program. The non-custodial parents of 20,637 of these children could have contributed \$16.4 million toward the \$ 24.9 million potential cost of covering these children.

The OIG recommended that North Carolina take steps to recover SCHIP premiums from non-custodial parents with medical support orders and the ability to pay for the cost of covering their dependent children. In response, the state indicated that it was receptive but felt that the projected cost savings were too high, given North Carolina's 61 percent collection rate. The state also raised uncertainty about federal reimbursement of the cost of collecting medical support. Finally, it noted that the current federal reimbursement system provided little incentive to the state to spend additional monies on this effort at a time when state funds are scarce. Nonetheless, they plan to form

a committee to study the issue and make recommendations to the governor and legislature.

Texas. The OIG estimated that 22,793 IV-D children were enrolled in SCHIP during the study period (June 1, 2001 to May 31, 2002). Of that group, 14,288 children had a non-custodial parent who could have contributed approximately \$5 million toward the cost of this coverage. Had it obtained these funds, the state could have recovered 77 percent of the \$ 6.5 million it paid in premium costs for these children.

In addition, 114,708 IV-D children were eligible for, but not enrolled in the SCHIP program. The non-custodial parents of 81,198 of these children could have contributed \$39.7 million toward the \$65 million potential cost of covering these children.

The OIG recommended that Texas take steps to recover SCHIP premiums from non-custodial parents with medical support orders and the ability to pay for the cost of covering their dependent children. In response, Texas noted that it already is active in this area. State law requires that eligible children be enrolled in Medicaid or SCHIP when private insurance is not available or is too costly. Non-custodial parents are required to reimburse custodial parents for the annual fee and any costs related to the children's participation in the program. However, there is no requirement that non-custodial parent's contribute to the state's cost in excess of the amount custodial parents pay.

The state also noted that the OIG's recommendation would require a change in federal law. This is because Texas runs its SCHIP program as a separate program from Medicaid pursuant to Title XXI of the Social Security Act. That law does not require caretakers of participants to assign their support rights to the state. Therefore, there is no assignment pursuant to which Texas could seek reimbursement for its SCHIP costs. OIG notes that when all the reviews are done, it will ask federal officials to "address the need for any legislative change or guidance on treatment of medical support."

Virginia. OIG estimated that 1,116 IV-D children were enrolled in SCHIP during the study period (June 1, 2001 to May 31, 2002). Of that group, 446 children had a non-custodial parent who could have contributed approximately \$193,000 toward the cost of this coverage. Had it obtained these funds, the state could have recovered 64 percent of the \$303,000 it paid in premium costs for these children.

In addition, 14,804 IV-D children were eligible for, but not enrolled in the SCHIP program. The non-custodial parents of 9,929 of these children could have contributed \$5.2 million toward the \$7.3 million potential cost of covering these children.

OIG recommended that Virginia's IV-D agency be used as an enrollment tool for SCHIP and that its authority be broadened to require non-custodial parents with medical support orders to pay part or all of the SCHIP premiums for their dependent children. In response, the state agreed with the concept but noted that implementation of the recommendations would require a costly new automated interface between the IV-D and SCHIP agencies. Virginia also pointed out that new state legislation would be required. Finally, Virginia noted that—in order to increase enrollment—it recently dropped the child support cooperation requirement from its SCHIP program.

As can be seen from the above descriptions, the OIG believes that many non-custodial parents could be required to help defray the state's cost of providing SCHIP coverage. States generally accept the idea that it is reasonable to ask non-custodial parents to contribute, but believe that OIG estimates of cost savings are high. States also raise a number of practical issues related to implementing such a change and point out that changes in both state and federal law may be necessary. It is likely that the OIG's summary report will address these issues in some way and perhaps contain recommendations for changes in federal law and policy as well.