

DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF DIRECTOR

ACTION REFERRAL

TO <i>Jacobs</i>	DATE <i>5-18-09</i>
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DIRECTOR'S USE ONLY	ACTION REQUESTED
1. LOG NUMBER <i>100649</i>	<input type="checkbox"/> Prepare reply for the Director's signature DATE DUE _____
2. DATE SIGNED BY DIRECTOR <i>cc: Ms. Forlener Depo, CMS file</i>	<input type="checkbox"/> Prepare reply for appropriate signature DATE DUE _____
	<input type="checkbox"/> FOIA DATE DUE _____
	<input checked="" type="checkbox"/> Necessary Action

APPROVALS (Only when prepared for director's signature)	APPROVE	* DISAPPROVE (Note reason for disapproval and return to preparer.)	COMMENT
1.			
2.			
3.			
4.			

RECEIVED

MAY 18 2009

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop C2-21-15
Baltimore, Maryland 21244-1850

Department of Health & Human Services
OFFICE OF THE DIRECTOR
CMS
CENTERS for MEDICARE & MEDICAID SERVICES

Center for Medicaid and State Operations

MAY 11 2009

SHO # 09-006
CHIPRA #2

Dear State Health Official:

The Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA), Public Law 111-3, ensures that States are able to provide necessary health coverage for low-income uninsured children eligible under the Children's Health Insurance Program (CHIP). Section 111 of CHIPRA adds a new section 2112 to the Social Security Act (the Act) which gives States the option to provide necessary prenatal, delivery, and postpartum care to low-income uninsured pregnant women through an amendment to its State child health plan (CHIP plan) (as described in section 2112). This letter provides general information concerning the new option and guidance on amending your CHIP plan to reflect the coverage of pregnant women, should your State wish to take advantage of this option.

Background

Prior to CHIPRA, States could provide services to pregnant women either through a Section 1115 demonstration program or under the CHIP State plan by covering unborn children. CHIPRA allows States to continue providing coverage through these two options or through a new option of covering pregnant women under the CHIP plan. This letter outlines the differences between options to assist States in adopting coverage for pregnant women.

Continuation of Existing Section 1115 Pregnant Women Demonstrations

The CHIPRA allows States to continue existing section 1115 demonstrations that provide coverage for pregnant women with title XXI funds. These States may continue demonstrations or modify their CHIP plans to include pregnant women as described below.

Continuation of Coverage for Unborn Children Under the CHIP Plan

States will continue to have the option of considering an unborn child to be a targeted low-income child and therefore eligible for coverage under CHIP, if other applicable eligibility criteria are met. This permits States to provide health care services to promote healthy pregnancies, regardless of the mother's eligibility status. States may continue to pay for pregnancy and delivery services through a bundled payment or global fee method, under which a single payment is made for prenatal care, labor, delivery, and postpartum care.

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New Option to Cover Targeted Low-Income Pregnant Women Under the CHIP Plan

The CHIPRA also allows States the option of providing health care coverage for uninsured, low-income pregnant women under the CHIP plan. Under this option, the pregnant woman is eligible for coverage, rather than the unborn child.

States that choose to cover pregnant women under the CHIP plan are eligible to receive enhanced Federal Medical Assistance Payments (FMAP) for such expenditures and have the option of providing presumptive eligibility to pregnant women.

As established in CHIPRA (Section 111), in order to cover pregnant women through the State plan option under CHIP, States must meet the following criteria:

- States may only provide coverage under the CHIP plan for pregnant women who were not eligible under the Medicaid State plan as of July 1, 2008;
- States must cover pregnant women under Medicaid up to the minimum income level of 185 percent of the Federal poverty level (FPL). Any State that currently does not provide Medicaid coverage for pregnant women up to this income level, can only claim regular FMAP for pregnant women covered under a Medicaid expansion whose family income is at or below 185 percent of the FPL;
- States may not establish a higher income eligibility level for pregnant women than the State's eligibility level for targeted low-income children;
- States must cover children under 19 years of age under Medicaid or CHIP, up to a minimum income level of 200 percent of the FPL;
- States must not apply an effective income level for pregnant women under CHIP that is lower than the Medicaid effective income level and cannot cover higher income pregnant women without covering lower income pregnant women;
- States must not apply any preexisting condition exclusion or waiting period for CHIP coverage of pregnant women;
- States must not impose any cap or limitation on the enrollment of targeted low-income children, and must not have any waiting list or any procedures designed to delay applications for enrollment; and
- States may not require enrollee cost sharing for preventive or pregnancy-related services.

Benefits

States have the flexibility to offer coverage that meets the requirements of section 2103 of the CHIP statute under the new CHIP option for pregnant women, including in most cases, benefits during a 60-day postpartum period.

Coverage of Both the Unborn Child and Pregnant Women

States may opt to cover both the unborn child and pregnant women under the CHIP plan. If States elect both options, we want to emphasize that States will need to uniquely identify

enrollees so that there is no duplication of payment for services. Eligibility under either category is subject to screening for Medicaid eligibility, and payment is not available under CHIP for services that would be covered under Medicaid.

Submitting a CHIP Plan Amendment

States wishing to adopt any of the options described above and be eligible for funds under title XXI, must submit a CHIP plan amendment, which must be approved by the Secretary. States adopting such an expansion will be able to amend their CHIP plan by submitting the enclosed addendum to the CHIP plan and budget form. The addendum sections correspond to the relevant sections in your current State Child Health Plan Template.

States that have implemented CHIP through a Medicaid expansion program, but wish to extend coverage to unborn children and/or pregnant women under a separate child health program, may do so by submitting the same CHIP plan amendment above. Such States would then continue to cover children from birth through age 18 under Medicaid expansion programs, and would operate separate CHIP programs only for pregnant women and/or unborn children.

To incorporate either of these provisions into the CHIP plan, the State, through the appropriate State official, should submit these pages electronically to both the Centers for Medicare & Medicaid Services (CMS) Central and Regional Offices. Once approved, these pages will be added to the current State Child Health Plan as an addendum describing coverage for pregnant women. Before submitting such an amendment, please review the current approved CHIP plan to determine if it is necessary to amend additional sections simultaneously (e.g., if a new benefit package is being adopted, if cost sharing is being modified just for this eligibility group, if different service delivery type is being used, if different enrollee protections apply, or if the State has not previously implemented a separate child health program). Note that if a State does not choose to use the same benefit type and package of services for pregnant women or unborn children, the State needs to submit a revised section 6 of the State plan with its amendment. Questions or assistance may be provided by your Central Office or Regional Office project officer.

In addition to offering the option of covering targeted low-income pregnant women under the CHIP plan, CHIPRA requires that children born to a woman receiving pregnancy-related assistance shall be deemed on the date of the child's birth to have applied for coverage under CHIP or Medicaid, and shall be found eligible for the appropriate program, and until the child reaches age one (as described in section 2112(e) of the Act). During this deemed eligibility period, the new law stipulates that the child health or medical assistance eligibility identification number of the mother shall also serve as the identification of the child. Additionally, during this period, all claims shall be submitted and paid for the child under the mother's identification number (unless the State issues a separate identification number for the child before the child reaches age one).

Draft State plan template pages to implement these options are enclosed. CMS is in the process of obtaining the required Office of Management and Budget (OMB) clearance under the Paperwork Reduction Act for the State plan amendment (SPA) templates. Given that States may need considerable time to complete these templates, CMS is sharing in draft the SPA template at

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this time. Until such time when this SPA template is assigned an OMB clearance number, States are not obligated to respond.

It is well established that access to prenatal services and care throughout a mother's pregnancy improves health outcomes for both the mother and child. Therefore, we encourage States to consider these options to establish eligibility for this vulnerable population.

Sincerely,

A handwritten signature in dark ink, appearing to read "Jackie Garner". The signature is fluid and cursive, with a large initial "J" and a long, sweeping underline.

Jackie Garner
Acting Director
Center for Medicaid and State Operations

Enclosure

cc:

CMS Regional Administrators

CMS Associate Regional Administrators
Division of Medicaid and Children's Health

Ann C. Kohler
NASMD Executive Director
American Public Human Services Association

Joy Wilson
Director, Health Committee
National Conference of State Legislatures

Matt Salo
Director of Health Legislation
National Governors Association

Debra Miller
Director for Health Policy
Council of State Governments

Barbara Levine
Director of Policy and Programs
Association of State and Territorial Health Officials

Alan R. Weil, J.D., M.P.P.
Executive Director
National Academy for State Health Policy

Addendum to State Child Health Plan Describing Coverage of Pregnant Women

Section 1. General Description and Purpose of the State Child Health Plans and State Child Health Plan Requirements. (Section 2101)

1.1 The State will use funds provided under Title XXI primarily for (Check appropriate box) (42 CFR 457.70):

1.1.1 ☐ Obtaining coverage that meets the requirements for a separate child health program (Section 2103); or

1.1.2. ☐ Providing expanded benefits under the State's Medicaid plan (Title XIX); or

1.1.3. ☐ A combination of both of the above.

1.2 ☐ Please provide an assurance that expenditures for child health assistance will not be claimed prior to the time that the State has legislative authority to operate the State plan or plan amendment as approved by CMS. (42 CFR 457.40(d))

1.3 ☐ Please provide an assurance that the State complies with all applicable civil rights requirements, including title VI of the Civil Rights Act of 1964, title II of the Americans with Disabilities Act of 1990, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, 45 CFR Part 80, Part 84, and Part 91, and 28 CFR Part 35. (42 CFR 457.130)

1.4 ☐ Please provide the effective (date costs begin to be incurred) and implementation (date services begin to be provided) dates for this plan or plan amendment (42 CFR 457.65):

Effective date:

Implementation date:

Section 2. General Background and Description of State Approach to Child Health Coverage and Coordination. (Section 2102 (a)(1)-(3) and Section 2105)(c)(7)(A)-(B))

Please note: This form has not been approved by OMB pursuant to the PRA and States are not obligated to use it.

4.2.2. ☐ Within a defined group of covered targeted low-income children, these standards do not cover children of higher income families without covering children with a lower family income. *Please confirm that this applies to pregnant women as well as targeted low-income children.*

4.2.3. ☐ These standards do not deny eligibility based on a child having a pre-existing medical condition. *Please confirm that this applies to pregnant women as well as targeted low-income children.*

4.3. Describe the methods of establishing eligibility and continuing enrollment. (Section 2102(b)(2) and 42 CFR 457.350)

4.3.1 Describe the State's policies governing enrollment caps and waiting lists (if any). (Section 2106(b)(7) and 42 CFR 457.305(b))

☐ Check here if this section does not apply to your State.

Please note that this box should be checked as related to children because States may not have an enrollment cap or waiting list for children and cover pregnant women.

4.4. Describe the procedures that assure that:

4.4.1. Through the screening procedures used at intake and follow-up eligibility determination, including any periodic redetermination, that only targeted low-income children who are ineligible for Medicaid or not covered under a group health plan or health insurance coverage (including access to a State health benefits plan) are furnished child health assistance under the State child health plan. (Sections 2102(b)(3)(A), 2110(b)(2)(B), 42 CFR 457.310(b), 42 CFR 457.350(a)(1), and 457.80(c)(3))

Please confirm that the State does not apply a waiting period for pregnant women.

Section 8. Cost Sharing and Payment. (Section 2103(e))

8.1. Is cost-sharing imposed on any of the children covered under the plan? (42 CFR 457.505) *Please indicate if this applies for pregnant women also.*

8.1.1. ☐ YES

8.1.2. ☐ NO, skip to question 8.8.

8.2. Describe the amount of cost-sharing, any sliding scale based on income, the group or groups of enrollees that may be subject to the charge, and the service for which the charge is imposed or time period for the charge, as appropriate.
(Section 2103(e)(1)(A), 42 CFR 457.505(a), 457.510(b) and (c), and 457.515(a) and (c))

8.2.1. Premiums:

8.2.2. Deductibles:

8.2.3. Coinsurance or copayments:

8.2.4. Other:

Please include a statement that no cost sharing will be charged for pregnancy-related services.

9.9. Describe the process used by the State to accomplish involvement of the public in the design and implementation of the plan and the method for ensuring ongoing public involvement. (Section 2107(c) and 42 CFR 457.120(a) and (b))

9.9.1 Describe the process used by the State to ensure interaction with Indian Tribes and organizations in the State on the development and implementation of the procedures required at 42 CFR section 457.125. (Section 2107(c) and 42 CFR 457.120(c))

States should provide notice and consultation with Tribes on proposed pregnant women expansions.

9.10. Provide a 1-year projected budget. (Section 2107(d) and 42 CFR 457.140)

The budget must describe:

- Planned use of funds, including:
- Projected amount to be spent on health services;
- Projected amount to be spent on administrative costs, such as outreach, child health initiatives, and evaluation; and
- Assumptions on which the budget is based, including cost per child and expected enrollment.
- Projected sources of non-Federal plan expenditures, including any requirements for cost-sharing by enrollees.

Please include a separate budget line to indicate the cost of providing coverage to pregnant women.