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On November 8, 1999, the Health Care Financing Administration (HCFA) released for public comment proposed new rules for the Children's Health Insurance Program (CHIP). *64 Fed. Reg. 60,882 (1999) (to be codified at 42 CFR Parts 431, 433, 435, and 457).*

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] The CHIP program, established two years ago under Title XXI of the Social Security Act, provides federal funding to states to provide child health insurance to low-income children who are not eligible for any other health insurance program. A state can either expand its existing Medicaid program, create a separate child health insurance program, or combine the two approaches. Within broad federal guidelines, a state has considerable flexibility to design the CHIP benefit package, establish eligibility criteria and implement administrative requirements.

The new proposed rules largely adhere to Congress' statutory scheme and impose few mandates. However, in keeping with the recommendations of the President's Advisory Commission on Consumer Protections and Health Quality, HCFA is proposing that basic consumer protections be incorporated into separate State CHIP programs. For example:

### **Enrollment and Application**

HCFA would require states to afford every child the opportunity to apply for child health assistance without delay. This means that every child must be given the opportunity to complete the application process and must be offered assistance to understand and complete forms and obtain required documentation. States must also provide each applicant with a written notice of the eligibility decision, and if eligibility is denied or terminated, the specific reasons for the action. States also must make eligibility decisions within 45 days of when the application was filed.

### **Information and Informed Consent**

HCFA proposes requiring states to provide timely, accurate, easily understood information to families of CHIP eligible children so that they can make informed health care decisions about their health plans, professionals and facilities. States would be required to provide information about the type, amount, duration and scope of benefits available, as well as the names and locations of current participating providers. Information about cost sharing, including a public schedule of charges, the cumulative maximums, and what happens if a payment is missed, must be provided either individually or through public notice. States also would be prohibited from imposing gag rules and must establish principles for disclosure of physician financial arrangements that could affect treatment decisions.

States must also insure that when a child is found ineligible for coverage under a separate CHIP program, a decision by a family not to apply for Medicaid or not to complete the Medicaid application process represents an informed decision. HCFA therefore proposes that states be required to give the family full and complete information in writing about the state's Medicaid program, including benefits covered, restrictions on cost sharing and the effect of eligibility for CHIP of neither applying for Medicaid nor completing the Medicaid application process.

### **Disenrollment protections**

States would be required to give families reasonable notice of an opportunity to pay past due premiums, copayments and other similar fees prior to being disenrolled.

### **Access to emergency services**

States would be required to give assurances that an enrollee will not be held liable for additional costs, beyond allowable copayments, that are associated with emergency services provided by a facility that is not a participating provider in the enrollee's managed care network.

### **Right to file grievances and to appeal**

HCFA would require states and participating providers to give applicants and enrollees written notice of their right to file grievances and appeals in cases where the State or its contractors take action to deny, suspend or terminate eligibility, disenroll for failure to pay cost-sharing; or reduce or deny services provided for in the benefit package. HCFA gives states the option to use existing Medicaid rules for fair hearings or the state grievance and appeal requirements currently in effect for health insurance issuers in the State.

States and some members of Congress may attack the inclusion of basic consumer protections in the CHIP program as beyond HCFA's authority. Yet, without these basic rights, many children may never receive the actual benefits of CHIP coverage. Child health and consumer advocates will need to register strong support for inclusion of basic consumer protections in CHIP during the comment period, which ends on January 7, 2000.

A more in-depth analysis of the proposed CHIP rules will be posted on this website in early December. NHeLP also will be preparing a model set of proposed comments. Please continue to check this website for more details.