The California Endowment

California's Local Children's Coverage Efforts and New Federal and State Legislation: Opportunities for Advancing Children's Coverage

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Cover California's Kids

Introduction

This year we have seen an unprecedented confluence of major federal and state legislation that will profoundly affect the movement towards universal children's coverage in California. California's Children's Health Initiatives (CHIs) can play a critical role in ensuring that the opportunities afforded by the federal legislation benefit California children, and that the deleterious effect of the state budget does not hinder the progress that California has made in its efforts to insure all children.

In February 2009, President Obama signed two pieces of major legislation: The American Recovery and Reinvestment Bill of 2009 (ARRA), commonly known as the economic stimulus bill, and the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA). In addition, the California Legislature has passed a state budget plan that attempts to overcome a $42 billion projected deficit over the next 16 months.

The economic stimulus bill and CHIPRA will potentially have very positive impacts in providing additional funds to California for Medi-Cal and Healthy Families, allowing for the potential expansion of Healthy Families to higher income children, funding outreach and enrollment and expanding benefits. However, Congress continued the federal prohibition on funds being used for undocumented children, except in very limited circumstances. On the other hand, the state budget agreement will, subject to voter approval on May 19, 2009, possibly shift Proposition 10 funds that are currently being used for children's coverage to the state's general fund for health and social services. And, despite the billions of dollars provided by the federal stimulus package, the state budget eliminated certain optional benefits that will have an indirect impact on children, and reduced county funds for outreach and administration.

Overall impact of the legislation on Local Children's Coverage Efforts

While CHIPRA stabilizes Healthy Families and gives the state the opportunity to expand eligibility to children in higher income families as well as increase its outreach and enrollment activities, it jeopardizes CHI Healthy Kids programs by leaving them to potentially cover only those children who are ineligible for federal assistance (i.e. undocumented children). Since CHIs have been covering both documented children (between 250% and 300% FPL) as well as undocumented children (0% - 300% FPL) and they have avoided the scrutiny being a program that only supports undocumented children. Without the "cover" of the documented children, the political saliency and fundraising viability of CHIs are threatened.

Also, since the federal stimulus package did not avert the significant state Medi-Cal cuts, it is unlikely that any new programs will be funded while there are still cuts to important health and social programs, not to mention tax increases to fund current programs. As the foundations plan to withdraw their support for premium assistance by the end of 2010, the First 5 Commissions are facing cuts of 50% or greater in revenue if the May ballot initiative passes. Counties are also facing large budget deficits, and the CHIs will be facing formidable challenges to continuing the Healthy Kids programs and their financial viability to fund premiums for children of all ages.

The role Local Children's Coverage Efforts can play in implementing the federal legislation

CHIs can take an active role in ensuring that California maximizes the opportunities afforded by CHIPRA. The critical issues on which CHIs can make concerted efforts include:

- Outreach, enrollment, retention and utilization – as "on-the-ground" locally-based outreach and enrollment entities, CHIs can take the lead in seeking federal OERU grant funding afforded by CHIPRA. CHIs can also pursue aggressive outreach and enrollment to maximize the bonus payments available to California, and advocate for the adoption of OERU programs such as Express Lane Eligibility. In addition, CHIs can advocate for adoption of the simplified citizenship verification processes to ease enrollment.

- Expansion of Healthy Families to 300% of the federal poverty level – CHIs already cover children up to 300% FPL and with the availability of using federal funds for these children, California would continue its efforts towards universal coverage for children. In addition, the new federal and state funding would free up some CHI funds for covering other ineligible children. CHIs need to urge the Legislature and Governor to adopt this expansion.
- Coverage for legal immigrant children – CHIs can advocate for California to draw down matching federal funds for children that are currently being covered with state-only funds. The state savings should be retained for children's coverage or OERU expansion.
- Dental "wrap-around" coverage for children with medical, but no dental, coverage – California children are three times more likely to have no dental coverage than to have no medical coverage. CHIPRA allows the state to provide dental-only coverage to Healthy Families children. CHIs can advocate that the state adopt the CHIPRA option and ensure that Healthy Families coverage meets CHIPRA requirements.
- Continued advocacy for coverage for all children as a proven way to maximize enrollment into programs with federal financial participation, reduce hospitalizations of uninsured children, improve access to care, and have children miss fewer days of school.

Summary of Implications for Local Children's Coverage Efforts

The following is a summary of the implications of CHIPRA, the federal stimulus package, and that state budget on CHIs.

CHIPRA

- A stable and stronger Healthy Families program will assist efforts to enroll children in available health programs.
- Increased availability of funds for outreach/enrollment for states (and possibly CHIs) means increased support for OERU. The performance bonuses available to the state should mean enhanced OERU efforts and implementation of programs such as Express Lane Eligibility.
- The option of expanding Healthy Families eligibility to 300% (or higher) will allow for a federal match for this population. But, the state must expand the program and fund the state share. However, it should be noted that expanded eligibility for federally eligible children would leave undocumented children as the only uncovered population in the locally sponsored Healthy Kids programs.
- Federal funding for newly arrived legal immigrant children who were previously subject to a five-year waiting period will free up an estimated $20 million in state funds annually that had been used to cover those children.
- The option of making dental coverage available to those children with medical coverage would increase access to dental care, but the state would need to fund this option at a potential state cost of $5 to $12 million annually according to Children Now. SB311 (Alquist) would implement this provision.
- Increased Healthy Families reimbursement for community clinics will surely increase their willingness to see these children for medical and dental coverage, but with a budgetary impact on the Healthy Families program.
- The extension of the citizenship verification requirement of the Deficit Reduction Act (DRA) to CHIP might add some additional administrative barriers, but Healthy Families already requires birth certificates and the state will now be able to cross match social security numbers with the federal government.

Federal stimulus package

- New federal funding will stabilize Medi-Cal and reduce the state's matching requirement. The freed up state funds could be used for expansions for children's coverage, but given the size of the general fund budget deficit this is highly unlikely.
- The COBRA premium assistance could divert some of the potential increased demand on CHIs for coverage for children whose parents have been laid off from work.

State budget

- The diversion of First 5 funds, if approved by the voters, could severely affect CHIs which rely on First 5 funds almost entirely for 0-5 premiums, as well as outreach and enrollment. The $40 million in funds received by CHIs in 2008 include those provided by the local commissions as well as the 20% match provided by the state. In addition, the state First 5 commission had committed an additional $20 million to children's coverage and it may not be able to do so. The CHIs estimate that as many as 15,000 children ages 0-5 covered through CHIs could be at risk of losing coverage due to loss of First 5 funding and that tens of thousands of children would remain uninsured or lose coverage in Medi-Cal or Healthy Families due to loss of First 5 funded outreach and enrollment activities.
- The proposed spending cap, subject to voter approval, will have a long term negative impact on any program expansion.

Conclusion

The federal stimulus bill helps to stabilize Medi-Cal, while CHIPRA stabilizes Healthy Families. However, the adopted state budget will result in imminent cuts to Medi-Cal, and if the diversion of Proposition 10 funds is approved by the voters, CHIs could lose a major source of premium funding. In future years, a state budget spending cap, if approved by voters, will make program expansion very difficult.

CHIPRA provides the state with opportunities to use federal funding to expand coverage to higher income levels as well as provide dental coverage to children who are currently without. However, these expansions come at a cost to the state for its share. And if the state increases Healthy Families eligibility to 300% FPL, it leaves CHIs with only undocumented children to cover – a huge political and fundraising challenge.

Nevertheless, CHIs can advocate for the adoption of CHIPRA options as a step towards universal coverage for children. CHIs also have a tremendous opportunity to take the lead on outreach and enrollment to ensure that the state maximizes its performance bonuses and draws down all available federal funds.

Appendix

Key provisions of CHIPRA, ARRA and state budget

CHIPRA

The Children's Health Insurance Program reauthorization ended a two-year battle to renew the popular federal/state program which provides federal funding to states to provide health coverage to lower income children. Known as Healthy Families in California, it builds on the much larger companion program, Medicaid (Medi-Cal in California). Some of the highlights of CHIPRA are:

- Increases federal allotments to states over the next 4.5 years; updates the formula for distributing the funds to target those states that are actually enrolling the children; and allows for recalculating the federal allotments every 2 years. Funding is provided largely by a new $.62 increase in the federal tax on cigarettes.
    - California's projected allotment for the federal fiscal year (FFY) 2009 is $1.5 billion, an 85% increase over the allotment in the prior law.
- Allows states to receive federal matching funds for coverage to higher income children. For children up to 300% of the federal poverty level (FPL) (approximately $52,800 for a family of three) the federal government would provide two-thirds of the funds. For children over 300% FPL, the federal government would provide the federal Medicaid match rate (now 61.6% under ARRA).
    - California could expand coverage to the approximately 50,000 uninsured children between 250% and 300% FPL with a two-thirds federal match, but would need to affirmatively pass legislation and fund the state share. This is a state option which has been estimated to cost the state $20 million in FY2010 and $89.5 million over four years. The state could also expand coverage beyond 300% FPL, but at the Medicaid match rate. SB 311 (Alquist) and AB 1541 (Health Committee) would implement the CHIPRA options.
- Allows states to receive federal matching funds for newly arrived legal immigrant children and pregnant women that were previously subject to a five-year waiting period to be eligible for federal funds. To be eligible for the federal funds, states must require evidence of legal residency status. Undocumented immigrants would still be subject to the prohibition on the use of federal funds except in limited circumstances (e.g. emergency care).
    - California currently covers these enrollees using state-only funds. With a state legislative change and Medicaid state plan amendment, California can draw down approximately $20 million annually in federal funds for these enrollees. These freed up state funds could be used to fund the expansion to 300% of the federal poverty level, or if there was political will, could be used for undocumented children. With a rough average of $1,000 per Healthy Kids enrollee for health, dental, and vision benefits, the $20 million would cover 20,000 uninsured undocumented children.
- Expands opportunities for outreach and enrollment of children into public coverage programs.

- CHIPRA includes a new performance bonus to states to find and enroll more children that are currently eligible for Medicaid and CHIP. The bonus will be paid to states for all enrollments that exceed a target level set for each state. To be eligible for the performance bonus, the states must implement at least five of eight simplifications measures for enrollment and retention (e.g. eliminate asset test, eliminate in-person interviews, use joint applications, use presumptive eligibility, use Express Lane option, etc.). The state will receive a bonus of 15% of its cost for covering Medi-Cal children for all enrollments that are between the target level and 110% of the target level. For enrollments that exceed 110% of the target level, the state will receive a bonus equal to 62.5% of the average state cost per child.
    - California already has already adopted enrollment simplification measures and will most likely meet the requirements for the performance bonus, but will need to meet the target enrollment levels in Medi-Cal to receive the funds. The CHIs play a very valuable role in increasing Medi-Cal and Healthy Families enrollment and the state could restore their funding for outreach and enrollment to increase their outreach and enrollment efforts.
    - The State Department of Health Care Services has estimated that California would receive a performance bonus of $1.3 million per year if current trends in enrollment of children in Medi-Cal (3.09% over baseline annually) held steady. If enrollment increased by 10% over the baseline the state would receive approximately $19 million. If enrollment increased by 15% over baseline, California would receive and estimated $49 million.
- $100 million is provided over the course of four years to grants to support outreach and enrollment activities. $10 million is allocated for national enrollment campaign, and the remaining $90 million will be distributed to state/local governments and other eligible organizations (clinics, hospitals, community-based organizations, children's health programs, etc.) through a process to be determined by the Secretary of HHS.
    - California should receive some of these funds, but there is no process in place to determine allocation or recipients.
- New flexibility and tools are provided to implement Express Lane Eligibility. CHIPRA allows states to use another public program's eligibility findings (e.g. WIC, school lunch, CHDP) to assist in determining eligibility for Medicaid and CHIP. A family's affirmative consent is required to use the other program's data, but can be obtained orally, electronically or in writing.
    - California has a number of Express Lane programs that were approved, but not funded or fully implemented. The new federal flexibility should ease the constraints on their implementation, but they still need to be funded.

- Imposes Medicaid's citizenship verification requirement from the Deficit Reduction Act (DRA) on CHIP. States can meet this requirement by cross-matching social security numbers with the Social Security Administration, with a 90-day window for families to follow-up in case there is an inconsistency. Families receive benefits while awaiting citizenship documentation.
    - California is already implementing the DRA in Medi-Cal and requires a birth certificate for Healthy Families which meets the federal citizenship verification requirement. It can now enroll children in full-scope Medi-Cal and Healthy Families pending citizenship verification.

- Expands opportunities for dental coverage by requiring all states to provide dental coverage to CHIP recipients and offers the opportunity to states to provide dental coverage to children who already have medical coverage.
    - California already has dental coverage as part of Healthy Families, but the rate of children without dental coverage is more than triple that of children without medical coverage. California could adopt a "wrap around" dental benefit for children with the federal match. This might cost the state between $5 and $12 million per year to cover low-income children who have medical insurance, but lack dental coverage according to Children Now. SB 311 (Alquist) would implement this provision. The state might also need to remove the cap on Healthy Families dental services to be compliant with CHIPRA.
- Extends FQHC Prospective Payment System to CHIP. Effective October 1, 2009, states will be required to reimburse federally qualified health centers (FQHC) and rural health clinics based on the prospective payment systems which provide for enhanced per-visit rates.
    - California will need to change its Healthy Families payment methodologies to clinics, which should increase their willingness to see more CHIP children for both medical and dental services. It is unclear who and how this will be paid. It could potentially be very costly to the Healthy Families program.
- Provides for an enhanced federal matching rate for translation and interpretation services for non-English speaking families. The enhanced match is available to states providing these services when an individual enrolls in, renews or utilizes coverage.
    - California will need to review its current program requirements and reimbursements to determine eligibility for the enhanced federal match.
- Provides new state options on premium assistance to fund children whose parents can access coverage through the workplace. CHIPRA reduces the barriers states face when seeking to implement premium assistance programs, as well as to ensure that premium assistance programs are cost-effective and provide children benefits that are equivalent to what they would receive if enrolled directly in a state's CHIP program.
    - California will need to explore the cost-effectiveness of providing for premium assistance to children who might be able to access employer-supplied insurance.

Economic stimulus legislation (ARRA)

- Increases the federal match for Medicaid (FMAP) funding for a 27-month period beginning October 1, 2008 through December 21, 2010 by 6.2%. There is an additional bonus structure that reduces the state's costs based upon the state's unemployment rate making the federal match 61.6%. A state qualifies for this increase if its average unemployment rate for the most recent three-month period for which unemployment data is available exceeds by at least 1.5 percentage points its lowest average monthly unemployment rate for any three-month period after January 1, 2006 (the base period). There is a "maintenance of effort" requirement on eligibility criteria and processes back to July 1, 2008, and a state must ensure that it is promptly paying physicians, hospitals, and nursing homes that provide Medicaid services.

  - California will receive approximately $11.2 billion over three fiscal years through the FMAP increase. The estimated increased federal funding by state fiscal year: SFY 2009: $3.7 billion; SFY 2010: $5.0 billion; SFY 2011: $2.5 billion. It is unknown what the bonus structure for states with high unemployment rates will provide. The implications for California are that the funds can be used to fund projected budget deficits and proposed program cuts in the Medi-Cal program. The state will also need to roll back some eligibility changes (e.g. mid-year status reports) to be eligible for the programs.
- Provides premium subsidies for COBRA continuation coverage for unemployed workers. The bill provides a 65% subsidy for COBRA coverage for up to 9 months for workers (and their families) who have been involuntarily terminated between September 1, 2008 and December 31, 2009.
  - This provision will potentially stop the shift from employer-supplied insurance to Medi-Cal and Healthy Families (and Healthy Kids) for children whose parents have been laid off.

State budget

California faces an estimated $42 billion deficit through the end of June 2010. The recently adopted state budget contains provisions that will affect children's coverage. The package of budget bills and the proposed ballot measures would:

- Cut up to $183.6 million from health care depending upon the size of the state's allotment from the federal economic stimulus package. These cuts include: 10% cut to public hospital reimbursement rates
  - Eliminate "optional" Medi-Cal benefits to adults including dental, vision, podiatry and psychology.
    - The reduction in safety-net funding will affect children's access to services, while the elimination of the adult benefits can impact both the providers' abilities to provide those services to children, as well as the parent's willingness to bring children in for those services. The hospital reimbursement cuts have been temporarily enjoined by the federal court, and efforts are underway to restore some of the optional benefits.
- Divert funds from Proposition 10 (tobacco tax which funds programs of First 5 Commissions) and Proposition 63 (upper-income tax for mental health services) to fund general fund health and social programs.
  - The bills and accompanying ballot referenda would 1) transfer Proposition 10 reserve funds of $340 million in the current year to fill the general fund deficit, 2) divert $340 million in the first year and $268 million annually (50% or more of Proposition 10 revenue) for 5 years to state for health and social programs and 3) redirect approximately $230 million from Proposition 63 funds annually.
    - Proposition 10 funds are a critical source for Children's Health Initiatives which engage in outreach and enrollment and fund Healthy Kids programs for low-income children ages 0-5 who are ineligible for Medi-Cal and Healthy Families. The loss of half or more of anticipated revenue could severely impact the availability of these funds for Healthy Kids. CHIs estimated that they received $40 million from Proposition 10 funding in 2008.
- Suspend the 2009 cost-of-doing-business increase for Medi-Cal administration, thus depriving counties of $24.7 million to process Medi-Cal applications.
  - The reduction in county funding to process Medi-Cal applications will not only affect its current workload, but could also adversely impact the state's ability to receive performance bonuses for enrollment under CHIPRA.

- Place a spending cap on the ballot for voter approval which would limit future spending. It would be tied to extensions of the temporary tax increases. If the cap is approved, the temporary taxes last for five years; if the cap is defeated, the taxes are in place for only two years.
    - A spending cap would limit California's ability to invest in health, education and other vital services, and is projected to force steep cuts every year into the future. This would not only threaten the viability of existing children's health programs but make expansion of programs extremely difficult.

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