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36TH DISTRICT, CALIFORNIA

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PERSONNEL
RESEARCH AND DEVELOPMENT
PERMANENT SELECT COMMITTEE ON INTELLIGENCE
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Washington, DC 20515–0536

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REP.HARMAN@MAIL.HOUSE.GOV
http://www.house.gov/harman/

FAX

To: Jennifer Klein

Fax #: 456-2878

From: David Flanders

Date: 7/30

Number of Pages: 7, **including cover sheet**

MEMO

TO: Jennifer Klein, Office of the First Lady
From: David Flanders, Office of Rep. Jane Harman
Subject: Loss of vaccination coverage under Children's Health Insurance Program (CHIP)
Date: July 30, 1998

Chris Jennings suggested you might be of assistance in resolving a problem generated by a HCFA interpretation of states' implementation of the State Children's Health Insurance Program (CHIP), enacted last August by the Balanced Budget Act. Rep. Jane Harman and Sen. Dianne Feinstein have proposed legislation to address this problem. I look forward to meeting with you soon to discuss this issue and our proposed fix in further detail.

Background

The Balanced Budget Act created the CHIP program to allow states to provide health insurance to children at, or below, 200 percent of the poverty level by either expanding Medicaid, creating a separate state program using private insurers, or a combination of both. In a May 11 letter (attached), HCFA notified state health officials that states that opt to create a separate state program can no longer immunize those children under a 1993 federal program that provides vaccines to states free of cost for low-income and uninsured kids (the Vaccines for Children program). As a consequence, there are higher costs to states for delivering vaccines to CHIP children, and potentially far fewer children will receive the health benefits Congress intended when it passed the Balanced Budget Act.

HCFA argues that, because the Vaccines for Children program defines eligibility as being uninsured, on Medicaid, or of American Indian or Alaskan heritage, CHIP kids participating in separate state programs are ineligible for the free immunizations because they can no longer be considered "uninsured."

This ruling in effect penalizes states that opt, under the BBA CHIP provision, to create a separate state program, since these same children would continue to be covered under Vaccines for Children if states expanded their Medicaid programs.

Impact on States

Fifteen states are implementing CHIP by developing separate state programs: California, Colorado, Michigan, New York, North Carolina, Oregon, Pennsylvania, Vermont, Arizona, Delaware, Georgia, Kansas, Kentucky, Montana, Nevada, Virginia. Eight more states will rely on a combination of expanded Medicaid and private insurers: Alabama, Connecticut, Florida, Massachusetts, New Jersey, Maine, New Hampshire.

In California, which exercised the option provided by CHIP to offer coverage through a separate State program known as Healthy Families, 580,000 children stand to lose their free immunization benefit if the HCFA ruling is allowed to stand. The costs to California of providing

To: Jennifer Klein
From: Jeanne

Please call any comments into Jennifer Ryan 690-6001. Thanks!

Dear State Health Official:

The Balanced Budget Act of 1997 established the Children's Health Insurance Program (CHIP) under Title XXI of the Social Security Act (the Act). This new Title enables States to expand health insurance coverage for uninsured children through Medicaid, a State ~~grant~~ program, or a combination of the two. Title XXI requires States to submit plans for approval by the Secretary of the Department of Health and Human Services in order to receive funds for providing health care coverage. The Department of Health and Human Services has issued several letters to provide policy and State plan guidance on the implementation of Title XXI.

This letter is intended to provide detailed guidance regarding coverage of immunization under Title XXI and the Vaccines for Children (VFC) program.

States must ensure coverage for childhood vaccinations under CHIP. Section 2102(a)(7) of the Children's Health Insurance Program requires States to "assure the quality and appropriateness of care, particularly with respect to ... immunizations" provided under the State child health plan. The generally accepted standard for appropriate care with respect to childhood immunizations, used in the Medicaid and the Vaccine for Children programs, is the schedule of immunizations recommended by the Federal Advisory Committee on Immunization Practices (ACIP). All State CHIP plans must provide coverage for all ACIP recommended vaccines to enrollees. The Department expects that children will be immunized by their primary care provider as part of an overall preventive health plan.

? This is different than what it says on the next page

The Vaccines For Children (VFC) program was established ~~primarily~~ to serve children defined as "federally vaccine eligible" under section 1928(b)(2). Children seen in federally qualified health centers (FQHC) or rural health centers (RHCs) whose insurance does not cover immunizations are also eligible for VFC.

? which includes "Medicaid" and "uninsured" children as well as

CHIP children who are newly eligible for Medicaid under Title XXI are federally vaccine eligible, as are all other children eligible for Medicaid. However, States which have designed a separate State insurance program under CHIP (S-CHIP) may not treat children enrolled in such a program as federally vaccine eligible. ~~Title XXI enrolled children~~ are neither "Medicaid eligible" nor "uninsured" and therefore, they are not federally vaccine eligible. We do not have clear statutory authority to define children enrolled in ~~an S-CHIP~~ plan as "federally vaccine eligible." States, however, may define these children as "state vaccine eligible" under Section 1928(b)(3).

children enrolled in separate State insurance programs

children enrolled in a separate State insurance program

Ensuring that all children receive appropriate immunizations is a priority for the President, First Lady and Secretary. States are encouraged to work through their State Health Departments and their State Immunization Programs to determine the most effective manner in which to purchase vaccines for S-CHIP children. For example, if a State chooses to define Title XXI enrolled children as "state vaccine eligible," then the State may purchase vaccine at the federal contract price for these children. Expenditures associated with the purchase of vaccines for S-CHIP children that meet the requirements of Section 2103 are not subject to the 10 percent cap on expenditures for administration, outreach, other child health assistance, and health services initiatives as long as the vaccines are sold to the managed care organizations or providers and not provided directly to children by the state. As part of the State's program evaluation strategy, States are strongly encouraged to track the percentage of children in Title XXI who are receiving age appropriate vaccinations and how those vaccinations are being delivered.

I hope this guidance will be helpful. If there are any questions regarding coverage of immunization under Title XXI, please contact your HCFA regional office staff.

Sincerely yours,

Sally K. Richardson
Director
Center for Medicaid and State Operations

2204 Rayburn House Office Building
Washington, DC 20515-0529
(202) 225-3976

District Office:
8436 West 3d Street
Suite 600
Los Angeles, CA 90048-4183
(213) 651-1040

Ranking Mem
Committee on Government
Reform and Oversight

Member
Committee on Commerce
Democratic Steering Committee

Congress of the United States
House of Representatives
Washington, DC 20515-0529

HENRY A. WAXMAN
29th District, California

March 13, 1998

Nancy Ann Min DeParle
Administrator
Health Care Financing Administration
200 Independence Avenue, SW
Washington, D.C. 20201

Dear Nancy Ann:

I understand that HCFA currently has under consideration a request from California to have access to the Vaccines For Children program for those children enrolled in the Healthy Families program.

I strongly support their request, and indeed believe that access to VFC vaccines for children covered through the Children's Health Insurance program is entirely appropriate, whether those children are covered in State programs that have elected to expand Medicaid coverage or to establish a separate State program using private insurers.

Our original intent in enacting the VFC program was to increase the immunization rate among low-income children through the provision of no-cost vaccine. While at the time of enactment, we did decide not to extend coverage to children who were privately insured, obviously we were acting at a time prior to the enactment of the Children's Health Insurance Program.

When CHIP was enacted, it was targeted at low-income uninsured children. While it would have been my personal preference to spend these dollars expanding Medicaid coverage, the legislation that we enacted clearly gave States a choice of expanding traditional Medicaid, establishing a separate State program, or both. And clearly use of private insurance coverage was envisioned as one possible option for coverage.

It would be illogical and counterproductive to establish a program for uninsured children and allow States to buy them into private coverage, but then to say because they were now enrolled with private insurers that they no longer qualified as uninsured for purposes of the VFC. In my view, such an interpretation was clearly not the intent of the Congress.

The goal of the VFC was to assure that low-income children received their vaccines in the most effective way possible. The goal of CHIP was to bring quality health care coverage to low-income children. Certainly coverage under both programs is compatible and desirable.

I urge you to clarify HCFA policy that VFC coverage is indeed available for children enrolled in CHIP, whatever option States have selected to provide that coverage.

With kind regards, I am

Sincerely,

Henry A Waxman

HENRY A. WAXMAN
Member of Congress

HAW:gw

DRAFT

VFC and CHIP

Q:
Are Title XXI beneficiaries eligible for the Vaccines for Children (VFC) program?

A:
The VFC program was established to serve children who are eligible for Medicaid or are uninsured. American Indian/Alaskan Native children and children whose insurance does not cover immunizations are also eligible for VFC. However, children who are under-insured for immunization coverage can only receive immunizations at Federally Qualified Health Centers or rural health centers.

Children who are newly eligible for Medicaid under Title XXI are VFC eligible, as are all other children eligible for Medicaid. However, States who have designed a separate State insurance program under CHIP (S-CHIP) cannot serve Title XXI beneficiaries enrolled in their S- CHIP plan through the VFC program.

States are encouraged to work through their State Health Departments and their State Immunization Programs to determine the most effective manner to purchase vaccines for S-CHIP.

As long as the expenditures associated with purchasing vaccine for State-vaccine-eligible S-CHIP children meet the requirements of section 2103, they are considered to be child health assistance. These expenditures would not be limited by the 10% cap on administration, outreach, other child health assistance, and health services initiatives. Expenditures that do not meet the requirements of section 2103 are subject to the 10% cap.

States should be aware that immunization is a required benefit under Title XXI, regardless of whether a State chooses to expand Medicaid or create an S-CHIP program. When establishing guidelines for immunization in their Title XXI funded programs, States must include coverage of all the immunizations recommended by the Advisory Committee on Immunization Practices in accordance with periodicity schedules prescribed by that body.

1. Administrative Vendor Contract

Our primary concern has been the potential conflict of interest that would result, should the administrative vendor contract be awarded to a health plan participating in the Healthy Families program. Our understanding is that the contractor is not counseling and referring beneficiaries to health plans and sufficient firewalls are in place to separate health plan operations from administrative vendor operations to prevent any conflicts of interest should the contract be awarded to a health plan. Based on this, we would not object to the use of the administrative vendor as long as the above conditions are met.

2. Application Assistance Fee

Under the Title XXI statute, outreach activities include informing families with children likely to be eligible for Title XXI of the availability of the program and assisting them in applying
to such a program. Therefore, the Department approves the State's request to pay persons in non-Medicaid outstation locations (e.g., insurance brokers and insurance agents) the $25 application assistance fee from MRMIB for assisting with applications that result in the enrollment of a child into either Title XIX or Title XXI as a result of the State's joint application process. Furthermore, the Department also approves the State's request to pay persons in Medicaid outstation locations the $25 application assistance fee from DHS for assisting with applications that result in the enrollment of a child into either Title XIX or Title XXI as a result of the State's joint application process.

HHS would like to clarify, however, that the current principles of cost allocation (as described in the Office of Management and Budget's Circular A-87 and other appropriate HHS documents) apply to all non-outreach administrative expenditures for joint Title XIX/Title XXI activities. In addition, as with all Federally funded public programs, the State will need to submit its administrative payment methodologies to HHS as part of the State's cost allocation plan.

Section 4.4.1

3. Resource Disregard

In our last letter, we asked you to consider establishing a threshold amount related to your resource disregard for determining who would be newly eligible for enhanced payments. Based on your reply, we have reexamined the process and have determined that the two additional questions on the Medi-Cal portion of the application are sufficient for identifying children who are newly eligible for the enhanced match as a result of the resource disregard.

4. Income Disregard

Federal law precludes certain income from being counted in determining eligibility under programs supported by Federal matching funds (e.g., Agent Orange payments). Please provide the Department with an assurance that you will not count such income under the Healthy Families program when determining eligibility.

Section 6. Coverage Requirements for Children's Health Insurance

Section 6.1

5. A.I.M. Program

As discussed previously, Title XXI requires that you submit a copy of the actuarial analysis of the benefit package for this program that shows it to be at least actuarially equivalent to your benchmark plan.

Section 8. Cost Sharing and Payment

Section 8.2.1

6. Family Value Package (FVP)

We appreciate your desire to provide additional choice to enrollees in health plan selection. Under your proposal, enrollees would be able to elect a health plan in a Family Value Plan, which meets all cost sharing requirements of Title XXI, or elect another health plan that has the same benefit package but has higher cost sharing. While this may give certain enrollees an additional choice of providers, it violates the cost sharing protections that are included in the Title XXI statute because some children would be liable for cost-sharing in excess of statutory limits. In addition, the Department is concerned that adverse selection could create a two-tiered system, in which the most impoverished, and therefore often most at risk, children would enroll in the lower cost FVP plans. Over time, this could jeopardize the financial health of the family value plans and their ability to deliver required benefits. Therefore, please provide the Department with information regarding how the plan will assure that the cost sharing for all program participants is within the Title XXI allowable limits. In addition, please provide a description of the system that will assure that copayments will not exceed the 5% of family income for all covered services (e.g., dental).

We will be addressing this issue in the next set of Questions and Answers regarding the Children's Health Insurance Program.

7. Copayment Amounts

You have proposed a $5 copayment for managed care visits and have asked for our guidance regarding how this copayment conforms with the guidelines we issued on February 13. The cost sharing guidelines issued on February 13 addressed the allowable inflation adjustments based on fee-for-service rates and did not address the managed care setting.

In managed care settings, the lack of a specific dollar amount associated with a service makes it difficult to use the fee-for-service schedule. Therefore, we are offering the following new guidance for the managed care setting. First, States are strongly encouraged to provide all services to beneficiaries with family incomes at or below 150 percent of the Federal Poverty Level (FPL) without imposing copayments. However, States are permitted to impose up to a $5 copayment, although they should consider imposing lower copayments for services that may cost less than $80. For example, for prescription drugs, States should consider charging less than $5 copayments if the prescriptions are generally low cost to fill. Additionally, there should be one copayment for a bundled set of services, rather than copayments imposed for each service rendered during a physician visit. States may also vary copayments to encourage certain service use (e.g., lower copayments for generic drugs). We will be addressing this issue in the next set of CHIP Questions and Answers as well.

Section 9. Strategic Objectives and Performance Goals for the Plan Administration

Section 9.10

8. Vaccine for Children Program (VFC)

You have asked whether you can use the VFC program to pay for immunizations for children enrolled in Healthy Families. The Department will be issuing further guidance on this issue.

As you know, the VFC program was established, by statute, to serve children who are enrolled in Medicaid or are uninsured. American Indian/Alaskan Native children whose insurance does not cover immunizations are also eligible for VFC. However, children who are under-insured for immunization coverage can only receive immunizations at Federally Qualified Health Centers or rural health clinics.

Children who are newly eligible for Medicaid under Title XXI are VFC eligible, as are all other children eligible for Medicaid. However, States who have designated a separate State insurance program under CHIP (S-CHIP), such as the Healthy Families Program, cannot serve Title XXI beneficiaries enrolled in their S-CHIP plan through the VFC

program. These children are neither "Medicaid eligible" nor "uninsured." Under Title XXI, however, States must cover age appropriate immunizations for all enrolled children including children enrolled in their S-CHIP plan. We interpret this requirement to include coverage of all vaccines recommended by the Advisory Committee on Immunization Practices (ACIP).

States are encouraged to work through their State Health Departments and their State Immunization Programs to determine the most effective manner to purchase vaccines for S-CHIP. States may use Title XXI dollars to purchase vaccine for Title XXI enrolled children at Federal contract price by making these children "State vaccine-eligible."

9. Administrative Costs

Your proposal includes administrative costs of approximately 25 percent. The Title XXI legislation is clear that administrative costs cannot exceed 10 percent of the State's total computable expenditures under Section 2105(a) of the Social Security Act (the Act) and the total computable expenditures for which the enhanced FMAP is available under Section 1905(u)(2) and (u)(3) of the Act. Therefore, the State will have to confirm in its plan that it will not request Federal matching payments on costs that exceed the 10 percent limit. Please be assured, however, that we fully understand your financial needs in establishing a new program and the pressure for increased administrative funds in the early years of a new program. This is an issue that affects not only California, but also several other States. We appreciate the gravity of your concern and are open to possible legislative options that would remedy this issue in the future. Regrettably, this does not address the immediate concern.

The members of the review team would be happy to answer any questions you may have in regard to this letter and to assist your staff in formulating a response. Please send your response, either on disk or electronically, as well as in hard copy to Kathleen Farrell, project officer for California's Title XXI proposal, with a copy to Richard Chambers, Associate Administrator for the HCFA Region IX Division of Medicaid. Ms. Farrell's internet address is KFarrell@HCFA.GOV. Her mailing address is:

Division of Integrated Health Systems
Health Care Financing Administration
Mail Stop C3-18-26
7500 Security Boulevard
Baltimore, Maryland 21244-1850

We appreciate the efforts of your staff and share your goal of providing health care to low-income, uninsured children through Title XXI. If you have questions or concerns regarding the matters raised in this letter, your staff may contact either Ms. Farrell at (410) 786-1236 or Mr. Chambers at (415) 744-3568. They will provide or arrange for any technical assistance you may require in preparing your response. Your cooperation is greatly appreciated. We look forward to continuing to work with you to provide health care coverage to uninsured, low-income children in California.

Sincerely,

Richard Fenton
Deputy Director
Family and Children's Health Programs Group
Center for Medicaid and State Operations

cc: ARA, DSMO, Region IX

FAX TRANSMITTAL

TO:	**Jennifer Klein** Special Assistant to the President for Domestic Policy	
Telephone Number:	Fax Number: 202-456-2878	# of Pages (including cover sheet) 3
FROM:	Stan Dorn Director, Health Division CHILDREN'S DEFENSE FUND	
Telephone Number: (202) 662-3551	Fax Number (202) 662-3560	Date: 3/10/98 Time: 5:30 p.m.

Please call 662-3595 or 662-3551 if you did not receive all of this fax transmission.

THE 100% CAMPAIGN:
Health Insurance for Every California Child
(A coordinated effort of Children Now, the Children's Defense Fund and the Children's Partnership)

March 10, 1998

The Honorable Donna Shalala
Secretary, U.S. Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

Dear Secretary Shalala:

We are writing to convey our strong conviction that children in California's Healthy Families Program and other non-Medicaid programs funded under the State Children's Health Insurance Program (CHIP) must be included in the Vaccines for Children (VFC) program.

During the Clinton Administration, our country has made astonishing strides immunizing young children, due in significant part to VFC. As recently as 1992, only 55% of all two-year-olds were fully immunized. By 1996, that proportion rose to 78%. As you know, in recent years most vaccine-preventable illnesses have dropped to their lowest levels ever recorded. Denying VFC to CHIP children covered by non-Medicaid programs would undermine one of the Administration's key public health goals -- increasing childhood immunization rates.

Today, whenever a vaccine is recommended for universal use by the National Vaccine Advisory Committee of the Centers for Disease Control and Prevention, VFC automatically purchases and disseminates, free of cost to provider, patient and the state, vaccines for children who are uninsured, Native American or covered by Medicaid. Nothing in the CHIP statute requires coverage of all federally recommended vaccines. Without VFC, states would have to spend their own funds purchasing vaccine, often at much higher prices than the federal government obtains through volume discounts. States may have an incentive to save money by delaying coverage of new vaccines coming on line, which are very costly, but which can be lifesaving. Why subject CHIP children to the risk of going without the full range of necessary vaccines?

CHIP children covered by non-Medicaid programs formerly were uninsured and covered by VFC. CHIP's purpose is improving these children's access to essential health care, including immunizations. The CHIP statute should not be construed to reduce their access to immunizations by ending their right to VFC.

Children covered by Medicaid are much more likely to be immunized today than in the past, thanks to VFC. Children covered by non-Medicaid programs for low-income children, like Healthy Families, need VFC just as much. It would be difficult to justify treating the identical group of low-income children differently, based simply on whether they happen to live in a state that has chosen to implement CHIP through Medicaid or through a non-Medicaid program.

In fact, the law extends VFC to CHIP children, even if their state uses a non-Medicaid plan. The VFC statute covers children who are not "entitled to benefits under a health insurance policy or plan...." (emphasis added) The CHIP statute clearly states, "Nothing in this title shall be construed as providing an individual with an entitlement to child health assistance under a State child health plan." (emphasis added). In effect, CHIP children are viewed as uninsured for purposes of VFC.

Your commitment to child health generally, and children's immunizations in particular, has been extraordinary. Please continue to hold true to that commitment in deciding the present issue.

Sincerely,

Patty Freeman
Senior Health Policy Associate
Children Now

Stan Dorn
Health Division Director
Children's Defense Fund

Wendy Lazarus
Director
Children's Partnership

c.c. Chris Jennings
Jeanne Lambrew
Jennifer Klein
Deborah Chang
Earl Fox
Nancy-Ann Min-DeParle
Richard Fenton
Vice President Albert Gore, Jr.

Douglas Porter
Deputy Director
Medical Care Services
714 P Street, Room 1253
Sacramento, California 95814

Dear Mr. Porter:

Thank you for your March 4 response regarding your State Children's Health Insurance Program under Title XXI of the Social Security Act. I wanted to provide you with the Department's decisions concerning several substantive issues in your Title XXI State Plan submission that we have previously discussed. Specifically, these concern the administrative vendor contract, the cost sharing of the Family Value Packages (FVP), amount of copayments, and administrative costs. Additionally, further clarification is necessary regarding some of your responses.

Section 4. Eligibility Standards and Methodology

Section 4.3

1. Administrative Vendor Contract

Our primary concern regarding the administrative vendor contract is the potential conflict of interest that would result should the contract be awarded to a health plan participating in the Healthy Families program. Our understanding is, however, that the contractor is not counseling and enrolling beneficiaries in health plans and there are sufficient firewalls in place to separate health plan operations from administrative vendor operations to prevent any conflicts of interest should the contract be awarded to a health plan. In light of the high of level of concern raised by constituents in the State, we echo their concern and strongly encourage you to be vigilant in monitoring the activities of the contractor to assure that clients are protected from improprieties or subtle practices that might result in steering enrollees to particular health plans. Please be advised, however, that if the administrative vendor is subsequently found to be conducting counseling and enrollment in violation of the Federal fraud and abuse requirements, the contractor would potentially be at risk of criminal penalties and further action by the State may be necessary.

2. Application Assistance Fee

NOTE TO REVIEWERS: THIS ISSUE IS STILL UNDER DISCUSSION AND MAY BE WITHDRAWN.

The funding of this fee must be allocated to the program in which the

beneficiary is enrolled and not according to the type of organization providing the assistance, as described in your response 12.a. Therefore, the assistance fee for children enrolled in Medi-Cal would have to be funded through the Department of Health Services and children enrolled in Healthy Families would have to be funded through MRMIB.

Page 2 - Douglas Porter

Section 4.4.1

3. Resource Disregard

In our last letter we asked you to consider establishing a threshold amount related to your income disregard for determining who would be newly eligible for enhanced payments. Based on your reply, we have relooked at the process and have determined that the two additional questions on the Medi-Cal portion of the application are sufficient for identifying children who are newly eligible for the enhanced match as a result of the income disregard.

On another related matter, Federal law precludes certain income from being counted in determining eligibility under programs supported by Federal matching funds, e.g., Agent Orange payments. Please provide an assurance that you will not count such income under the Healthy Families program when determining eligibility.

Section 6. Coverage Requirements for Children's Health Insurance

Section 6.1

4. A.I.M. Program

As we have previously discussed, we would like a copy of actuarial analysis of the the benefit package for this program that was developed by Leslie Peters of Coopers' and Lybrand.

Section 8. Cost Sharing and Payment

Section 8.2.1

5. Family Value Package (FVP)

We appreciate your desire to provide additional choice to enrollees in health

plan selection. Under your proposal, enrollees would be able elect a health plan in a Family Value Plan, which meets all cost sharing requirements of Title XXI, or elect another health plan that has the same benefit package but has higher cost sharing. However, while this **gives** ~~allows~~ enrollees ~~with~~ additional choice of providers, it violates the cost sharing protections that are included in the Title XXI statute. In addition, the Department is concerned that this could potentially create a two-tiered system, in which the most impoverished **or sick** ~~, and therefore often most at risk,~~ children would enroll in the lower cost FVP plans that could be of lower quality, resulting in adverse selection. Therefore, you will need to address how the plan will assure that the cost sharing for all program

participants is within the Title XXI allowable limits.

6. Copayment Amounts - You have proposed a $5 copayment for managed care visits and have asked for our guidance regarding how this copayment conforms with the guidelines we issued on February 13.

The cost sharing guidelines issued on February 13 addressed the allowable inflation adjustments based on fee-for-service rates and did not address the managed care setting. ~~In managed care settings, we offer the following new guidance. First, states are strongly encouraged to provide all services to beneficiaries with family incomes at or below 150 percent of the Federal Poverty Level (FPL) without imposing copayments. However, States are permitted to impose up to a $5 copayment, although they should consider imposing lower copayments for services that may cost much less than $80. For example, in prescription drugs, States should consider not charging $5 copayments if the prescriptions are generally low cost to fill under fee for service. Additionally, there should be one copayment for a bundled set of services, rather than copayments imposed for each service rendered during a physician visit.~~

REWRITE: **In managed care settings, the lack of a specific dollar amount associated with a service makes it difficult to use the fee-for-service schedule. Thus, States are permitted to impose up to a $5 copayment on any service, although they should consider imposing lower copayments for services that may cost much less than $80. Additionally, there should be one copayment for a bundled set of services, rather than copayments imposed for each service rendered during a physician visit. States also may vary copayments to encourage certain service use (e.g., lower copays for generic drugs).**

Section 9. Strategic Objectives and Performance Goals for the Plan Administration

Section 9.10

7. Vaccine for Children Program (VFC) **TO DISCUSS**

You have asked whether you can use the VFC program to pay for immunizations for children enrolled in Healthy Families. As you know, the

VFC program was established to serve children who were enrolled in Medicaid or were uninsured. American Indian/Alaskan Native children and children seen in Federally qualified health centers whose insurance does not cover immunizations are also eligible for VFC. Children who are enrolled in Title XXI through a State operated CHIP, such as the Healthy Families Program, are considered insured, and as such, are not eligible to be served through this program.

8. Administrative Costs

The Title XXI legislation is clear that administrative costs cannot exceed 10 percent of the State's total computable expenditures under Section 2105(a) of the Social Security Act (the Act) and the total computable expenditures for which the enhanced FMAP is available under Section 1905(u)(2) and (u)(3) of the Act. Therefore, the State will have to state in its plan that it will not request Federal matching payments on costs that exceed this limit. Please be assured, however, that we fully understand your financial needs in establishing a new program and the pressure for increased administrative funds in the early years of a new program and that we **are open to** ~~will work with you to find~~ possible legislative solutions.

Under Section 2106(c) of the Social Security Act, HCFA must either approve, disapprove, or request additional information on a proposed Title XXI State Plan within ninety days. This letter constitutes our notification that specified additional information is needed in order to fully assess your plan. The 90-day review period has been stopped by this request and will resume as soon as a substantive response to all of the enclosed questions is received. Please be advised that because the 90 review period has almost expired, unless your response to this letter substantively addresses all the issues we have included in this letter, we will be required to disapprove your plan.

The members of the review team would be happy to answer any questions you may have in regard to this letter and to assist your staff in formulating a response. Please send your response, either on disk or electronically, as well as in hard copy to Kathleen Farrell, project officer for California's Title XXI proposal, with a copy to Richard Chambers, Associate Administrator for the HCFA Region IX Division of Medicaid. Ms. Farrell's internet address is KFarrell@HCFA.GOV. Her mailing address is:

Division of Integrated Health Systems
Health Care Financing Administration
Mail Stop C3-18-26
7500 Security Boulevard

Baltimore, Maryland 21244-1850

We appreciate the efforts of your staff and share your goal of providing health care to low-income, uninsured children through Title XXI. If you have questions or concerns regarding the matters raised in this letter, your staff may contact either Ms. Farrell at (410) 786-1236 or
Mr. Chambers at (415) 744-3568. They will provide or arrange for any technical assistance you may require in preparing your response. Your cooperation is greatly appreciated.

Sincerely,

Richard Fenton
Deputy Director

please provide a description of the system that will assure that copayments will not exceed the 5% of family income for all covered services.

We will be addressing this issue in the next set of Questions and Answers regarding the Children's Health Insurance Program.

7. Copayment Amounts

You have proposed a $5 copayment for managed care visits and have asked for our guidance regarding how this copayment conforms with the guidelines we issued on February 13. The cost sharing guidelines issued on February 13 addressed the allowable inflation adjustments based on fee-for-service rates and did not address the managed care setting.

In managed care settings, the lack of a specific dollar amount associated with a service makes it difficult to use the fee-for-service schedule. Therefore, we are offering the following new guidance for the managed care setting. First, States are strongly encouraged to provide all services to beneficiaries with family incomes at or below 150 percent of the Federal Poverty Level (FPL) without imposing copayments. However, States are permitted to impose up to a $5 copayment, although they should consider imposing lower copayments for services that may cost less than $80. For example, for prescription drugs, States should consider charging less than $5 copayments if the prescriptions are generally low cost filled under fee-for-service. Additionally, there should be one copayment for a bundled set of services, rather than copayments imposed for each service rendered during a physician visit. States may also vary copayments to encourage certain service use (e.g., lower copays for generic drugs). We will be addressing this issue in the next set of CHIP Questions and Answers as well.

Section 9. Strategic Objectives and Performance Goals for the Plan Administration

Section 9.10

8. Vaccine for Children Program (VFC)

You have asked whether you can use the VFC program to pay for immunizations for children enrolled in Healthy Families. The Department will be issuing further guidance on this issue.

As you know, the VFC program was established, by statute, to serve children who are enrolled in Medicaid or are uninsured. American Indian/Alaskan Native children whose insurance does not cover immunizations are also eligible for VCF. However, children who are under-insured for immunization coverage can only receive immunizations at Federally Qualified Health Centers or rural health ~~centers~~ clinics.

Children who are newly eligible for Medicaid under Title XXI are VFC eligible, as are all other children eligible for Medicaid. However, States who have designated a separate State insurance program under CHIP (S-CHIP), such as the Healthy Families Program, cannot serve Title XXI beneficiaries enrolled in their S-CHIP plan through the VFC program.

However, Under Title XXI, States must cover age appropriate immunizations for all enrolled children. We interpret this requirement to include coverage of all vaccines recommended by the Advisory Committee on Immunization Practices (ACIP).

including children enrolled in their S-CHIP plan

States are encouraged to work through their State Health Departments and their State Immunization Programs to determine the most effective manner to purchase vaccines for S-CHIP. States may use Title XXI dollars to purchase vaccine for Title XXI enrolled children and the public sector price.

9. Administrative Costs

Your proposal includes administrative costs of 25???%. The Title XXI legislation is clear that administrative costs cannot exceed 10 percent of the State's total computable expenditures under Section 2105(a) of the Social Security Act (the Act) and the total computable expenditures for which the enhanced FMAP is available under Section 1905(u)(2) and (u)(3) of the Act. Therefore, the State will have to confirm in its plan that it will not request Federal matching payments on costs that exceed the 10 percent limit. Please be assured, however, that we fully understand your financial needs in establishing a new program and the pressure for increased administrative funds in the early years of a new program . This is an issue that affects not only California, but also several other States. We appreciate the gravity of your concern and are open to possible legislative options that would remedy this issue in the future. Regrettably, this does not address the immediate concern.

Under Section 2106(c) of the Social Security Act, HCFA must either approve, disapprove, or request additional information on a proposed Title XXI State Plan within ninety days. This constitutes our notification that specified additional information is needed in order to fully assess the concerns raised in this letter. The 90-day review period has been stopped by this request and will resume as soon as a substantive response to all of the enclosed questions is received. Please be advised that because the 90-day review period has almost expired, unless your response to this letter substantively addresses all the issues we have included in this letter, we will be forced to disapprove your plan.

The members of the review team would be happy to answer any questions you may have in regard to this letter and to assist your staff in formulating a response. Please send your response, either on disk or electronically, as well as in hard copy to Kathleen Farrell, project officer for California's Title XXI proposal, with a copy to Richard Chambers, Associate Administrator for the HCFA Region IX Division of Medicaid. Ms. Farrell's internet address is KFarrell@HCFA.GOV. Her mailing address is:

Division of Integrated Health Systems
Health Care Financing Administration