

December 19, 2000

Dear State Medicaid Director:

Over the past year, questions have arisen about Medicaid policy regarding establishing paternity and obtaining and pursuing medical support and payments. The Child Support Enforcement (CSE) program can provide valuable assistance to families seeking health care, as well as financial support, for their children. However, many States and organizations doing outreach and enrollment have identified paternity and medical support questions on Medicaid applications as a barrier to enrollment of eligible children. This letter explains the Federal Medicaid requirements and options pertaining to paternity and medical support and briefly describes the child support enforcement services available to families receiving Medicaid.

Under Federal law, a parent's cooperation in establishing paternity, assigning rights to medical support and payments, and providing information about liable third parties cannot be required as a condition of a child's eligibility for Medicaid. Therefore, States are not required to ask about paternity or to seek cooperation in pursuing medical support and third party payments when an application for Medicaid is filed, or a redetermination is performed, only on behalf of a child. If a State does ask about paternity or otherwise pursues medical support in the context of an application on behalf of a child, it must advise the parent or other individual completing the application on behalf of the child that such information and cooperation is not required in order for the child to be enrolled in Medicaid. Cooperation is, however, a condition of eligibility for a parent, unless the parent meets one of the exceptions described below. And for all applications, States must comply with the third party information collection and rights assignment provisions under Section 1902(a)(25) of the Act.

Background

Several provisions in Federal Medicaid law pertain to paternity establishment, medical support, and third party liability for medical services. Section 9142 of the Omnibus Budget Reconciliation Act (OBRA) of 1987, as reiterated by Section 301 of the Personal Responsibility and Work Opportunity Reconciliation

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Act of 1996 (PRWORA), requires State CSE agencies to provide child support services, where appropriate, to families who receive Medicaid. These services include establishing paternity, locating noncustodial parents, and establishing and enforcing child support and medical support obligations. These services are available to all families receiving Medicaid whether or not the parent is obligated to cooperate with the CSE agency as a condition of eligibility for Medicaid. Paternity may be established voluntarily without CSE referral if done at the hospital, through the State vital records office, or in other social service settings.

Paternity establishment is the necessary first step in the support enforcement process. In addition to child support and medical support, paternity establishment may result in other financial benefits for a child, including Social Security dependents benefits, pension benefits, veterans benefits, and

possible rights of inheritance. Furthermore, paternity establishment may give a child social and psychological advantages and a sense of family heritage, be a first step in creating a psychological and social bond between father and child, and provide important medical history information.

Cooperation with CSE is a requirement for some individuals' Medicaid eligibility. Section 1912(a)(1) of the Act requires individuals applying for Medicaid who have the legal capacity to execute assignments to assign the State their right to support and payment for medical care from a third party. Also, to the extent that they have the legal authority to do so, Section 1912 requires these individuals, with respect to any other Medicaid eligible individual, to assign the State their rights to support and payment for medical care by any third party. Finally, these individuals, except as described below, are required as a condition of eligibility to cooperate with the State in establishing paternity, obtaining medical support and payments, and in identifying and providing information to assist the State in pursuing third parties who may be liable for payment.

A related provision of the law, Section 1902(a)(25) of the Act, requires States to take reasonable measures to determine whether a third party may be liable for the medical care and services provided to a Medicaid beneficiary and to collect third party information at the time of any determination or redetermination of Medicaid eligibility. It also requires States to adopt laws, which automatically assign to the State the individual's rights to payment for medical care by third parties, whether or not the individual has executed an assignment of rights under Section 1912(a)(1).

Applications On Behalf of Parents and Other Adults

If parents or other adults apply for Medicaid on behalf of themselves and their children, they must assign medical support and payment rights to the State and cooperate in establishing paternity, obtaining medical support and payments, and providing information about liable third parties as a condition of their own eligibility, unless they are exempt. Pregnant women eligible under Section 1902(l)(1)(A) of the Act (poverty level pregnant women) are exempt from the requirements to cooperate in establishing paternity of a child born out of wedlock, and in obtaining medical support and payments for themselves and the child born out of wedlock. (These women must, however, assign the rights to medical support and payments). In addition, individuals with good cause, as described by Federal regulation 42 CFR

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433.147(c), are exempt from cooperating in establishing paternity, obtaining medical support and payment, and pursuing third party liability. Applicants must be effectively informed of these exemptions and told that the decision whether or not to cooperate will not affect their child's eligibility for Medicaid.

Although the establishment of paternity is a requirement for some parents seeking Medicaid, the Medicaid agency does not have to solicit information about paternity during the Medicaid application process; a simple statement on the application that the parent agrees to cooperate is sufficient to meet this requirement. Parents can be given information on how to follow up with

the CSE agency, or the Medicaid agency or CSE can request further information once the application process is complete. Parents who are not exempt from the requirement have an ongoing obligation to cooperate in order to maintain their eligibility for Medicaid, except during a period of Transitional Medicaid (TMA); parents are not required to establish paternity or pursue medical support if they are receiving time-limited TMA coverage.

Child-Only Applications

If a parent or caretaker files an application for Medicaid on behalf of a child only, the requirements under Section 1912 do not apply to the parent or caretaker. It is not a condition of the child's eligibility that the parent or caretaker assign the child's rights to support and payment and cooperate in establishing paternity and pursuing medical support and payment. As a result, States are not required by Federal law to ask for cooperation by the parent or caretaker in a child-only application. If a State does seek cooperation, the parent or caretaker must be effectively informed that the child's eligibility for Medicaid will not be affected if the parent or caretaker chooses not to cooperate in establishing paternity and pursuing support at this time. Also, the family size (number of individuals in the household) and need standard that are used to determine the child's Medicaid eligibility cannot be reduced if the parent or caretaker refuses to cooperate.

Although the parent is not required to assign the child's rights, Section 1902(a)(25)(H) requires States to have laws which automatically assign an individual's rights to payment for medical care by third parties to the extent that Medicaid has made a payment. These laws assign to States an individual's rights whether or not an assignment was executed. In addition, although a State cannot require parents to cooperate in establishing paternity and pursuing medical support when only the child is applying for Medicaid, under Section 1902(a)(25)(A) the State must ask the parent whether the child has health insurance in order to identify legally liable third party resources. This information must be collected at the time of application and redetermination in accordance with HCFA regulations at 42 CFR 433.138.

SCHIP Requirements

There are no Federal requirements for cooperation with CSE under Title XXI State Children's Health Insurance Program (SCHIP) rules. If a State chooses to implement SCHIP through Medicaid, all of the above Medicaid requirements will apply because the newly covered children will be Medicaid beneficiaries. If the State chooses to implement SCHIP through a separate child health program, these

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requirements do not apply. CSE agencies, however, can be a helpful source of information about SCHIP and Medicaid coverage for parents of uninsured children who are in contact with CSE. Effective coordination with CSE can help States meet their child health coverage enrollment goals.

Child Support Enforcement (CSE) Services

CSE services are available to families who are eligible for Medicaid. States should advise parents of these services. Parents who have filed for Medicaid on behalf of a child only are not obligated but may choose to utilize CSE services. The Medicaid agency should ensure that families that want to take advantage of child support services are referred to the CSE agency.

HCFA and the Administration on Children and Families (ACF) will continue to work together with States to develop and provide models of effective applications, application processes, and agency coordination.

If you or your staff have any questions concerning this letter, please contact Marty Svolos at (410) 7864582.

Sincerely,

/s/

Timothy M.
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Director

cc:
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