



# Committee On Finance

Chuck Grassley, Chairman

Max Baucus, Ranking Member

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**NEWS RELEASE**

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## **Senators Urge Administration to Protect Integrity of Children's Health Insurance Program**

*Baucus, Grassley, Kennedy, and Hatch Contact Sec. Thompson to Oppose Certain Waivers*

(WASHINGTON, D.C.) U.S. Senators Chuck Grassley and Max Baucus recently contacted U.S. Secretary of Health and Human Services Tommy Thompson to urge reconsideration of a waiver policy that would shift funds away from the State Children's Health Insurance Program (CHIP). Sens. Edward Kennedy (D-Mass.) and Orrin Hatch (R-Utah) also signed the letter.

"The Children's Health Insurance Program has allowed us to make great strides in providing health coverage to kids across the nation," Baucus said today. "The program has helped thousands of children in my state of Montana and I'm very concerned by the Administration's approval of yet another waiver that could shift vital CHIP funds away from children.

"Congress intended that this program provide insurance to children, and we know that in the next few years, many states are expected to run out of money. So while it's critically important that we continue to work for solutions to cover all uninsured Americans, we must understand that this kind of waiver comes at the cost of a program specifically designed to help our nation's kids. I urge the Administration to stop granting waivers of this type."

The Department of Health and Human Services has approved several waivers that would permit states to use funds designated by Congress solely for children's health coverage to programs serving childless adults. The Senators stressed the importance of ensuring that all Americans have access to health insurance coverage, but not at the expense of an insurance program that was designed to specifically help children. The U.S. General Accounting Office has twice indicated that waivers such as the one approved in Michigan may not be in compliance with the CHIP law.

"We should find ways to help cover uninsured adults, and we should be creative about it," Grassley said. "But that creativity can't come at the expense of low-income uninsured children and what I believe is in defiance of congressional intent and the recommendations of the General Accounting Office. If that happened with every issue, we'd have chaos. The executive branch has to administer the laws as the legislative branch intended, plain and simple."

In addition, the General Accounting Office (GAO) released a report that was requested by Sens. Grassley and Baucus regarding the continued use of CHIP funds to cover childless adults and the policy and legal concerns surrounding those waivers. The report is at [www.gao.gov](http://www.gao.gov), correspondence # [GAO-04-166R](#).

Full text of letter to Sec. Thompson follows:

February 13, 2004

The Honorable Tommy G. Thompson  
Secretary of Health and Human Services  
200 Independence Avenue, S.W.  
Washington, D.C. 20201

Dear Mr. Secretary:

We were very concerned to learn of your recent approval of the Michigan Section 1115 Medicaid and State Children's Health Insurance Program (CHIP) waiver, which permits the state to divert funds designated by Congress solely for children's health coverage to programs serving childless adults. While we are all sympathetic to the need to expand coverage for childless adults, as you know, we continue to be extremely concerned that similar section 1115 waivers are in direct conflict with Congress' intent in enacting the CHIP program. In addition, the U.S. General Accounting Office has twice indicated that such waiver approvals may not be in compliance with the statute.

Our bipartisan concern with your action stems from our respective roles as chief authors of the CHIP legislation and as the Chairman and Ranking Member of the Committee on Finance, which has jurisdiction over the program. We have an oversight responsibility to ensure that funds set aside by Congress for certain purposes are spent on those purposes.

As you know, in adding CHIP to the Social Security Act, Congress explicitly specified that CHIP allocations could only be used "to enable [States] to initiate and expand the provision of child health assistance to uninsured, low-income children in an effective and efficient manner." [Social Security Act Section 2101(a)]. Note that the statute references children, not adults.

We find particularly weak the agency's justification for this breach of congressional intent. In approving the Michigan waiver, the Administrator of the Centers for Medicare and Medicaid Services (CMS) wrote that the purposes of the Children's Health Insurance Program would be met because coverage of childless adults would nonetheless "foster[] a broader awareness of health care coverage in low-income communities, and ... improv[e] the overall health of low-income communities." He also pointed out that uninsured childless adults "can become parents at a future point, and can be involved in decisions concerning children in the community." While we do not doubt that these statements could be true, the connection they describe between a new health insurance program for adults and the health of uninsured American children is tenuous at best. Indeed, those vague statements could be used to justify using CHIP funds for a variety of purposes not contemplated in the law, including education, child care, family planning and unemployment insurance. In brief, in enacting CHIP, Congress did not write the Department a blank check to use these children's health funds for other purposes.

As recent deficit projections point out, Federal funding is extremely constrained. Simply put, using CHIP dollars for adults takes funding away from children. Through P.L. 108-78,

Congress approved legislation to redistribute unspent CHIP funds to states that are eager and able to cover children through this program. As you know, the redistribution process allows states that have spent their allotments on congressionally-authorized purposes to continue to enroll eligible children in their programs. If CHIP funds are spent on childless adults, there will be less money to redistribute to states with robust programs for children. Our concern with limiting the availability of funds for redistribution is underscored by recent findings that over five million children who are fully eligible for low-income health programs are not yet enrolled in these programs and remain uninsured. Furthermore, projections show that federal CHIP allotments are expected to run out in eleven states in the next three years. Until all children in America who are eligible for CHIP have health insurance coverage, we do not believe that money should be diverted from the purposes specifically set out when we passed legislation implementing this targeted, very successful program.

For these reasons, we strongly oppose the Department's view that CHIP funds can be used to insure adults without children at the cost of the health of low-income children. It is our continued belief that you are acting outside the scope of your waiver authority when you approve waivers that divert funds set aside by Congress for children to insure childless adults.

We appreciate your willingness to engage in an ongoing dialogue on the important issues raised by waivers, and we appreciate your own commitment to increase accountability and integrity in the Medicaid and CHIP programs. We hope that you will view our stated concerns as an opportunity to work together to ensure that the integrity of the CHIP program is maintained and that the needs of the uninsured receive the highest attention. However, if legislation is needed to ensure that the legislative intent of the Congress is not bypassed, we will redouble our efforts to clarify the CHIP law and raise the profile of this issue within the Congress to ensure that consider such legislation is enacted.

Finally, we thank you for your continuing attention to this very important matter, and we look forward to working closely with you to develop a plan for expanding health insurance coverage to all Americans.

Sincerely,

Charles E. Grassley  
Max Baucus  
Edward M. Kennedy  
Orrin G. Hatch

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