"Availability of SCHIP Allotments for Fiscal Years 1998 through 2001"
Chairman's Mark

Section 1. Extension Of Availability Of SCHIP Allotments For Fiscal Years 1998 Through 2001.

(a) Extending Availability of SCHIP Allotments for Fiscal Years 1998 through 2001.

Current Law

Funds for the State Children's Health Insurance Program (SCHIP) are authorized to be appropriated for FY1998 through FY2007. From each year's appropriation, each state is allotted an amount determined by a formula set in law. Federal funds not drawn from a state's allotment by the end of each fiscal year continue to be available to that state for two additional fiscal years. For example, FY2003 allotments are available until the end of FY2005. SCHIP law requires that allotments not used at the end of three years be redistributed by the Secretary of Heath and Human Services (HHS) to states that have fully spent their original allotments for that year. Redistributed funds which are not used by the end of the fiscal year in which they are reallocated return to the Treasury.

The Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (BIPA 2000), created a special rule for the redistribution and availability of unused FY1998 and FY1999 SCHIP allotments. This special rule decreased the amount available for redistribution to states that had used all of their original allotments for these two years and allowed states that had not spent all of their allotments to retain some of their unspent funds.

States that *did* fully expend their SCHIP allotments for each of those years by the three-year deadline received an amount equal to spending in excess of their original exhausted allotment. Each territory that used its original allotment for each of those years by the three-year deadline received an amount equal to 1.05% of the total amount available for redistribution to all states and territories multiplied by that territory's proportion of the allotments available for all territories.

States that did *not* fully expend their SCHIP allotments by the three-year deadline retained from remaining unspent funds an amount equal to their proportional contribution to the total pool of unspent funds. These states were able to use up to 10% of the retained FY1998 funds for outreach activities.

To calculate the amounts available for redistribution and retention in each formula described above, the Secretary used expenditures reported by states not later than December 15, 2000 for the FY1998 reallocation, and November 30, 2001 for the FY1999 reallocation.

Redistributed and retained funds from FY1998 and FY1999 were available through the end of FY2002. Not all states used their redistributed 1998 and 1999 funds.

On March 27, 2003, CMS published an interim policy for a partial redistribution of unused FY2000 allotments (available for redistribution after September 30, 2002). CMS intends to issue a final redistribution methodology (as determined by the Secretary) in the *Federal Register* by June 30, 2003 unless Congress passes legislation for the redistribution of unspent FY2000 allotments.

Committee Provision

The Committee's bill would extend the availability of FY1998 and FY1999 reallocated funds through the end of FY2004 and would establish a new method for redistributing unspent allotments for FY2000 and for FY2001. This new method is a modified version of the special redistribution rules for unspent FY1998 and FY1999 allotments.

For each of FY2000 and FY2001, no more than 50% of the total amount of unspent funds would be available for redistribution to states, commonwealths, and territories that exhausted their SCHIP allotments for each of those years by the applicable three-year deadline. Subject to this ceiling, each such state would receive an amount equal to 50% of the total amount of unspent funds for each of those years minus amounts redistributed to the territories, multiplied by the ratio of such state's spending by the applicable three-year deadline in excess of such state's original exhausted allotment for each of those years, to total spending by the applicable three-year deadline for all states that exhausted their SCHIP allotments for each of those years in excess of all such state's original exhausted allotments for each of those years. Each territory would receive an amount equal to 1.05% of the total amount available for redistribution for each of those years multiplied by that territory's proportion of the original allotment available for all territories.

The Committee's bill would make redistributed funds from the FY2000 reallocation available through the end of FY2004. Redistributed funds from the reallocations for FY2001 would be available through the end of fiscal year 2005.

For each of FY2000 and FY2001, the amount available for retention among those states that *did not* fully expend their SCHIP allotments by the applicable three-year deadline would be equal to 50% of such state's unspent funds for each of those years.

The Committee's bill would make retained funds for such jurisdictions from the FY2000 reallocation available through the end of FY2004. Retained funds from the reallocation for FY2001 would be available through the end of FY2005.

Similar to current law for FY1998 and FY1999, to calculate the amounts available for reallocation for FY2000 and FY2001, the Secretary would use expenditures reported by states not later than November 30 of the applicable calendar year.

Reason for Change

Under current law, a total of $2.7 billion in SCHIP funds either expired September 30, 2002 or are projected to expire on September 30, 2003. These unspent funds are largely the result of timing conflicts between the initial implementation of SCHIP and the period of availability of the annual allotments. Funds from the early years of the SCHIP program accumulated while states worked through the start-up process and established functioning programs. Now that state SCHIP programs are fully operational and have enrolled more than five million children, they are threatened with the loss of funding necessary to keep those children enrolled.

This provision would prevent $2.7 billion in unspent SCHIP funds from reverting to the Treasury and will help states to avert the projected national enrollment decline resulting from the decrease in SCHIP allotments.

Effective Date

This subsection, and the amendments made by this subsection, shall be effective as if this subsection had been enacted on September 30, 2002, and amendments under Title XXI of the Social Security Act for fiscal years 1998 through 2000 are available for expenditure on and after October 1, 2002, under the amendments made by this subsection as if this subsection had been enacted on September 30, 2002.

(b) Authority for Qualifying States to Use Certain Funds for Medicaid Expenditures

Current Law

No provision.

Committee Provision

For FY1998, FY1999, FY2000 and FY2001, the Committee's bill would allow "qualifying states" to use up to 20% of their original SCHIP allotment or their reallocated funds (for that fiscal year) for certain Medicaid medical assistance payments. Qualifying states would be eligible to receive, subject to availability of their SCHIP allotment or reallocated funds for the year, an amount equal to the difference between the enhanced SCHIP matching rate and the FMAP for Medicaid expenditures (in a given fiscal year) associated with children through age18 with family incomes greater than 150% of the federal poverty level (FPL). Use of these funds for expenditures incurred under an approved Section 1115 waiver in the qualifying state would not impact the budget neutrality agreement for such states. For example, they may not be counted as an offset to ensure that the predicted "with waiver"costs do not exceed the "without waiver"costs as required by the budget neutrality agreement.

For a given fiscal year, "qualifying states" would include those who: (1) as of April 15, 1997, or under a Section 1115 waiver implemented on January 1, 1994, had a Medicaid income eligibility standard for at least one category of children (excluding infants) of at least 185% FPL; and (2) as of January 1, 2001 had a SCHIP eligibility standard of at least 200% FPL, or greater than 200% FPL if under a Section 1115 waiver targeted at uninsured children; (3) did not impose waiting lists or enrollment caps for children whose family income is at least 200% FPL; (4) provide statewide SCHIP coverage to all children who meet such state's income and other eligibility requirements; and (5) have implemented at least three of the following procedures for establishing children's eligibility for their Medicaid and SCHIP programs: (a) use the same uniform, simplified application form; (b) do not apply asset tests; (c) adopt 12-month continuous enrollment; (d) use same forms, verification policies, and frequency for initial eligibility determinations and eligibility redeterminations; and/or (e) initial eligibility determinations can be made by disproportionate share hospital (DSH) facilities as well as federally qualified health centers.

Reason for Change

In order for states to access their SCHIP allotments, current law requires states to expand income eligibility levels above the levels in effect under Medicaid on March 31, 1997. SCHIP funds may not be used to pay for children already eligible for Medicaid as of this date.

A small number of states have been unable to access a large portion of their SCHIP allotments because their Medicaid eligibility levels were significantly above the federal mandatory minimum levels for Medicaid when SCHIP was enacted. This provision would allow those states to use a limited amount of their SCHIP allocation to cover the costs of certain children who were already enrolled in Medicaid when SCHIP was enacted, provided that the states meet a number of criteria related to eligibility simplification and enrollment.

Effective Date

Effective upon enactment of this act.