

**Description of the Chairman's Mark
The Keep Kids' Insurance Dependable and Secure
(KIDS) Act of 2017**

Scheduled for Markup
By the Senate Committee on Finance
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Section 1: Short Title

Current Law

No Provision.

Chairman's Mark

Establishes the title of the Act as the "Keep Kids' Insurance Dependable and Secure Act of 2017" or the "KIDS Act of 2017".

Section 2: Five-Year Funding Extension of the Children's Health Insurance Program

Current Law

The Children's Health Insurance Program (CHIP) is currently funded through FY2017 with appropriated amounts specified in statute. Since CHIP was first established in 1997, it has been funded through subsequent legislation. For instance, the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA; P.L. 111-3) provided federal CHIP funding for FY2009 through FY2013, the Patient Protection and Affordable Care Act (ACA; P.L. 111-148, as amended) provided federal CHIP funding for FY2014 and FY2015, and the Medicare Access and CHIP Reauthorization Act of 2015 (MACRA, P.L. 114-10) provided funding for FY2016 and FY2017.

For FY2016 and FY2017, the annual appropriation amounts were \$19.3 billion and \$20.4 billion, respectively. The FY2017 appropriation was the combination of semiannual appropriations of \$2.85 billion from Section 2104(a) of the Social Security Act (SSA) plus a one-time appropriation of \$14.7 billion from MACRA Section 301(b)(3), which was to be provided for the first six months of the fiscal year and remain available until expended. The federal government reimburses states for a portion of every dollar they spend on CHIP, up to state-specific annual limits called allotments. Allotments are the federal funds allocated to each state for the federal share of its CHIP expenditures. State CHIP allotment funds are provided annually, and the funds are available to states for two years. Under current law, FY2017 is the last year CHIP allotments are authorized. There are two formulas for determining state allotments: an even-year formula and an odd-year formula.

In even years, such as FY2016, state CHIP allotments are based on each state's federal allotment for the prior year plus any Child Enrollment Contingency Fund payments from the previous year, adjusted for growth in per capita National Health Expenditures and child population in the state (i.e., the allotment growth factor).

In odd years, state CHIP allotments are based on each state's spending for the prior year (including federal CHIP payments from the state CHIP allotment, Child Enrollment Contingency Fund payments, and redistribution funds). This figure is adjusted using the same growth factor as the even-year formula (i.e., growth in per capita National Health Expenditures and child population in the state). Because the odd-year formula is based on states' actual use of CHIP

funds, it is called the rebasing year, and a state's CHIP allotment can either increase or decrease depending on that state's CHIP expenditures in the previous year.

CHIPRA established the Child Enrollment Contingency Fund to provide shortfall funding to certain states. It was funded with an initial deposit equal to 20% of the appropriated amount for FY2009 (i.e., \$2.1 billion). In addition, for FY2010 through FY2017, such sums as are necessary for making Child Enrollment Contingency Fund payments to eligible states are to be deposited into this fund, but these transfers cannot exceed 20% of the appropriated amount for the fiscal year or period.

For FY2009 through FY2017, states with a funding shortfall and CHIP enrollment for children exceeding a state-specific target level shall receive a payment from the Child Enrollment Contingency Fund. This payment will be equal to the amount by which the enrollment exceeds the target, multiplied by the product of projected per capita expenditures and the enhanced federal medical assistance percentage (E-FMAP).

Certain states expanded Medicaid eligibility for children prior to the enactment of CHIP in 1997. Under the qualifying state option, these states are allowed to use their CHIP allotment funds to finance the difference between the Medicaid and CHIP matching rates (i.e., federal medical assistance percentage [FMAP] and E-FMAP rates, respectively) for the cost of children in Medicaid in families with income above 133% of the federal poverty level (FPL). The following 11 states meet the definition: Connecticut, Hawaii, Maryland, Minnesota, New Hampshire, New Mexico, Rhode Island, Tennessee, Vermont, Washington, and Wisconsin. Under current law, FY2017 is the last year in which the qualifying state option was authorized.

CHIPRA also created a state plan option for "Express Lane" eligibility through September 30, 2013. Under this option, in order to ease administrative burden, states are permitted to rely on a finding from specified "Express Lane" agencies (e.g., those that administer programs such as Temporary Assistance for Needy Families, Medicaid, CHIP, and the Supplemental Nutrition Assistance Program) for determinations of initial eligibility for Medicaid or CHIP, eligibility redeterminations for Medicaid or CHIP, or renewal of eligibility coverage under Medicaid or CHIP. This provision was extended through subsequent legislation and most recently in MACRA. Under current law, authority for "Express Lane" eligibility determinations extends through September 30, 2017.

Eligibility for Medicaid and CHIP is determined by both federal and state law, whereby states set individual eligibility criteria within federal standards. Under existing maintenance of effort (MOE) provisions, states are required to maintain their Medicaid programs with the same eligibility standards, methodologies, and procedures in place as of March 23, 2010 through September 30, 2019, for children up to the age of 19 (SSA Section 1902(gg)(2)). States are also required to maintain income eligibility levels for CHIP children through September 30, 2019, as a condition for receiving payments under Medicaid (SSA Section 2105(d)(3)).

Chairman's Mark

The Chairman's Mark would extend federal CHIP funding for five years by adding federal appropriations for FY2018 through FY2022 under SSA Section 2104(a). The funding amounts would be:

- \$21.5 billion for FY2018,
- \$22.6 billion for FY2019,
- \$23.7 billion for FY2020,
- \$24.8 billion for FY2021, and
- \$25.9 billion for FY2022.

The funding for FY2022 would be structured as it was for FY2017, with semiannual appropriations of \$2.85 billion plus a one-time appropriation in the amount of \$20.2 billion, which would be provided for the first six months of the fiscal year and remain available until expended.

The Chairman's Mark would authorize CHIP allotments for FY2018 through FY2022 under SSA Section 2104(m), maintaining the allotment formulas for odd- and even-year allotments. The Chairman's mark would structure the federal CHIP funding for FY2022 under SSA Section 2104(m)(10) the same as it was structured for FY2015 and FY2017. For FY2022, funding for the first half of the year would be available from SSA Section 2104(a)(25)(A), and from a one-time appropriation continued consistent with current law. Funding for the second half of the year would be provided in SSA Section 2104(a)(25)(B).

The full-year amount for state allotments would be determined according to the even-year formula for CHIP allotments, which means each state's allotment would equal the allotment for the prior year plus any Child Enrollment Contingency Fund payments from the previous year, multiplied by the allotment increase factor.

The Chairman's mark would extend the funding mechanism for the Child Enrollment Contingency Fund under SSA Section 2104(n) and payments from the fund, the qualifying state option under SSA Section 2105(g)(4), and authority for Express Lane eligibility determinations under SSA Section 1902(e)(13)(I) through FY2022.

The Chairman's mark would extend the Medicaid (SSA Section 1902(gg)(2)) and CHIP (SSA Section 2105(d)(3)) MOE requirements for children in families with annual income less than 300% of the federal poverty level for three years from October 1, 2019 through September 30, 2022.

Section 3: Extension of Certain Programs and Demonstration Projects

Current Law

SSA Section 1139A(e), as added by CHIPRA Section 401(a), required the HHS Secretary, in consultation with the CMS Administrator, to conduct a demonstration project to develop a model

for reducing childhood obesity by awarding grants to eligible entities (e.g., community-based organizations, federally-qualified health centers, and universities and colleges) to carry out the project.

CHIPRA authorized the appropriation of \$25 million for the period of FY2009 through FY2013 to fund the demonstration project. ACA Section 4306 replaced the authorization of appropriation with a total appropriation of \$25 million for the period of FY2010 through FY2014. MACRA Section 304(a) appropriated \$10 million to fund the demonstration project for FY2016 and FY2017.

SSA Section 1139A authorizes a variety of activities related to pediatric quality measurement and care. Under SSA Section 1139A(a), the HHS Secretary was required to identify and publish an initial core set of pediatric quality measures by no later than January 1, 2010. SSA Section 1139A(b) required the Secretary to establish a Pediatric Quality Measures Program (PQMP) by January 1, 2011. This program is required to identify pediatric quality measure gaps and development priorities, award grants and contracts to develop measures, and revise and strengthen the core measure set, among other things. Section 1139A(c) requires states to submit reports to the Secretary annually to include information about state-specific child health quality measures applied by the state, among other things. Funding for these activities was appropriated in the amount of \$45 million for each of FY2009 through FY2013. Section 210 of the Protecting Access to Medicare Act of 2014 (PAMA, P.L. 113-93) extended funding for the PQMP for FY2014 by requiring that not less than \$15 million of the \$60 million appropriated for adult health quality measures under SSA Section 1139B(e) for FY2014 be used to carry out Section 1139A(b). MACRA Section 304(b) appropriated \$20 million for the period of FY2016 through FY2017 for the purposes of carrying out SSA Section 1139A.

Chairman's Mark

The Chairman's Mark would amend SSA Section 1139A(e)(8) to appropriate \$25 million for the period of FY2018 through FY2022 to carry out the childhood obesity demonstration project. It would also amend SSA Section 1139A(i) to appropriate funding in the amount of \$75 million for the period of FY2018 through FY2022 to be used to carry out the certain activities of Section 1139A to remain available until expended.

Section 4: Extension of Outreach and Enrollment Program

Current Law

CHIPRA Section 201 appropriated (out of funds in the Treasury that were not otherwise appropriated) \$100 million in outreach and enrollment grants from FY2009 through FY2013 to be used by eligible entities (e.g., states, local governments, community-based organizations, elementary or secondary schools) to conduct outreach and enrollment efforts that increase the participation of Medicaid and CHIP-eligible children. Of the total appropriation, 10% is directed to a national campaign to improve the enrollment of underserved child populations, and 10% is targeted to outreach for Native American children. The remaining 80% is distributed among eligible entities for the purpose of conducting outreach campaigns, focusing on rural areas and

underserved populations. Grant funds also are targeted at proposals that address cultural and linguistic barriers to enrollment. The ACA extended funding by appropriating \$140 million for FY2009-FY2015 for outreach and enrollment grants. MACRA Section 303 appropriated \$40 million for FY2016 and FY2017 for outreach and enrollment grants. Under current law, appropriated funds for CHIP outreach and enrollment grants have not been enacted for FY2018 or subsequent fiscal years.

Chairman's Mark

The Chairman's Mark would amend SSA Section 2113 to appropriate \$100 million for CHIP outreach and enrollment grants for the period of FY2018 through FY2022.

Section 5: Extension and Reduction of Additional Federal Financial Participation for CHIP

Current Law

The federal government's share of CHIP expenditures (including both services and administration) is determined by the E-FMAP rate. The E-FMAP rate is derived each year by the HHS Secretary using a set formula, and it varies by state. By statute, the E-FMAP (or federal matching rate) can range from 65% to 85%.

The ACA included a provision to increase the E-FMAP rate by 23 percentage points (not to exceed 100%) for most CHIP expenditures from FY2016 through FY2019. This increases the statutory range of the E-FMAP rate to 88% through 100%. In FY2017, the E-FMAP rates ranged from 88% (13 states) to 100% (12 states).

Chairman's Mark

The Chairman's Mark would continue the 23 percent increased E-FMAP rate under SSA Section 2105(b) in current law for two years from FY2018 to FY2019. The rate would then decrease compared to the previous year to 11.5 percentage points in FY2020, with no increased E-FMAP in FY2021 and FY2022.