



MEMORANDUM

To: Reporters and Editors
From: Carol Guthrie for Senate Finance Chairman Max Baucus (D-Mont.)
Re: GAO finding on CMS August 17 CHIP directive

Senate Finance Chairman Max Baucus (D-Mont.) welcomed the news today that the Centers for Medicare and Medicaid Services (CMS) exceeded its authority when it issued a proposal threatening the health coverage of thousands of low-income American kids through the State Children's Health Insurance Program (CHIP). In August 2007, CMS sent a letter to states insisting that 95 percent of all children below 200 percent of the poverty level must have verifiable health insurance coverage before any additional children could receive care through CHIP. This threatened children already on CHIP rolls and also halted some state plans to increase coverage of children without health insurance through CHIP. A new Government Accountability Office legal opinion states that the August 17 letter amounted to a proposed rule by CMS. That opinion means that CMS did not have the authority to impose these changes in the form of a letter. Rather, the law required CMS to give notice of the rule to Congress before the rule could be implemented. From Chairman Baucus:

“This legal opinion will help to ensure that thousands of American children whose parents cannot afford health insurance can now get the doctors’ visits and medicines they’re meant to have through the Children’s Health Insurance Program. CHIP supporters knew that CMS had overstepped its bounds by trying to tie states’ hands when it came to covering kids in need, and now the GAO has issued a firm legal opinion saying the same. I will continue to work with my colleagues in both chambers and on both sides of the aisle to ensure that CHIP maintains its focus on low-income, uninsured American children, with the flexibility to serve those kids in every state’s program.”

Baucus led the Senate in passing a comprehensive renewal and improvement of the Children's Health Insurance Program last year. The president vetoed the new CHIP law twice, and the vetoes were sustained by CHIP opponents in the House of Representatives. While an extension of the original program is in place, Baucus has committed to fully renew and improve CHIP in 2009.

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