



JUN 7 2005

**TO:** Wade F. Horn, Ph.D.  
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for Children and Families

Mark B. McClellan, M.D., Ph.D.  
Administrator  
Centers for Medicare & Medicaid Services

**FROM:** Daniel R. Levinson *Daniel R. Levinson*  
Acting Inspector General

**SUBJECT:** Eight-State Review of the Ability of Noncustodial Parents To Contribute Toward the Medical Costs of Title IV-D Children That Were Paid Under the Medicaid Program (A-01-03-02501)

The attached final report consolidates the results of our eight-State review of the ability of noncustodial parents to contribute toward the Medicaid costs of Title IV-D children. Our objective was to estimate the potential savings to the Medicaid program if noncustodial parents had been required to contribute toward the Medicaid costs incurred for their children.

Title IV-D of the Social Security Act sets forth the Federal Child Support Enforcement program. Administered by the Administration for Children and Families (ACF), this program provides authority to establish and enforce child and medical support obligations for noncustodial parents. Because medical support orders are not enforceable when noncustodial parents' employers do not provide health insurance or it is too costly, some Title IV-D children are enrolled in Medicaid. The Medicaid program, which the States and the Centers for Medicare & Medicaid Services (CMS) jointly fund, pays the health care costs of needy persons.

States can reduce State and Federal Medicaid costs by increasing the number of noncustodial parents who provide medical support for their children. For the 1-year period we tested, 27 percent of Title IV-D children who were enrolled in Medicaid had noncustodial parents who were financially able to contribute toward their children's Medicaid costs. These noncustodial parents could contribute an estimated \$99 million of the Medicaid costs for the Title IV-D children reviewed in the eight States. While Federal regulations authorize States to recover Medicaid costs from third-party payers:

- Title IV-D regulations do not provide specific guidance for collecting Medicaid costs from noncustodial parents who have the financial ability to pay and who do not have affordable employer-sponsored health coverage available.

- Medicaid third-party liability regulations do not address how State Medicaid agencies should coordinate with State Title IV-D agencies to collect Medicaid costs from noncustodial parents.
- Title IV-D and Medicaid regulations do not address how the States should establish and efficiently administer Medicaid fee-for-service recoveries.

We presented our results to ACF and CMS officials, judges and magistrates, State Title IV-D directors, and other members of the child support and Medicaid communities to obtain their opinions on requiring noncustodial parents to contribute toward their children's Medicaid costs. Overall, their responses were supportive. On June 10, 2003, the Commissioner of ACF's Office of Child Support Enforcement agreed to issue guidelines to make it easier for States to collect cash medical assistance.

We recommend that ACF and CMS:

- provide specific guidance to States on collecting Medicaid costs from noncustodial parents who have the financial ability to pay and who do not have affordable employer-sponsored health coverage available,
- clarify third-party liability regulations to assist State Medicaid agencies in coordinating with State Title IV-D agencies to collect Medicaid costs from noncustodial parents with medical support orders, and
- seek legislation that would allow States to accumulate medical support payments to offset Medicaid fee-for-service costs for a reasonable period.

In commenting on the first recommendation, ACF agreed to share our findings with States, and CMS agreed to share ACF's guidance with the State Medicaid agencies. ACF deferred to CMS on our other recommendations.

In regard to the second recommendation, CMS said that existing regulations and guidance provided sufficient authority for State Medicaid agencies to coordinate with State Title IV-D agencies and for referring Medicaid recipients to Title IV-D agencies. CMS requested that we provide more specificity about what needs to be clarified. We believe that existing regulations and guidance do not expressly address the issue of collecting cash assistance from noncustodial parents through the State Title IV-D agency. Therefore, CMS should inform States of their options to use the Title IV-D agency to recover Medicaid costs from noncustodial parents.

Concerning the final recommendation, CMS commented that existing Federal law and regulations prohibited States from accumulating additional medical support payments. However, CMS said that it would commit to reexamining its authorities under Federal law and would work with us to draft legislation that would allow States to collect medical support payments from noncustodial parents on a pooled basis. We agree that legislation is needed to permit States to accumulate medical support payments and have changed our recommendation accordingly. We will work with CMS as needed to draft legislation.

Please send us your final management decision, including any action plan, as appropriate, within 60 days. If you have any questions or comments about this report, please do not hesitate to call me, or your staff may contact Joseph J. Green, Acting Assistant Inspector General for Grants and Internal Activities, at (202) 619-1175 or through e-mail at [Joe.Green@oig.hhs.gov](mailto:Joe.Green@oig.hhs.gov). Please refer to report number A-01-03-02501 in all correspondence.

Attachment

**Department of Health and Human Services**

**OFFICE OF  
INSPECTOR GENERAL**

**EIGHT-STATE REVIEW OF THE  
ABILITY OF NONCUSTODIAL  
PARENTS TO CONTRIBUTE TOWARD  
THE MEDICAL COSTS OF TITLE IV-D  
CHILDREN THAT WERE PAID UNDER  
THE MEDICAID PROGRAM**



**JUNE 2005  
A-01-03-02501**

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## **EXECUTIVE SUMMARY**

### **BACKGROUND**

Title IV-D of the Social Security Act sets forth the Federal Child Support Enforcement program. Administered by the Administration for Children and Families (ACF), this program provides authority to establish and enforce child and medical support orders. Because medical support orders are not enforceable when noncustodial parents' employers do not provide health insurance or it is too costly, some Title IV-D children are enrolled in Medicaid. The Medicaid program, which the States and the Centers for Medicare & Medicaid Services (CMS) jointly fund, pays the health care costs of needy persons.

### **OBJECTIVE**

Our objective was to estimate the potential savings to the Medicaid program if noncustodial parents had been required to contribute toward the Medicaid costs incurred for their children.

### **SUMMARY OF FINDINGS**

States can reduce State and Federal Medicaid costs by increasing the number of noncustodial parents who provide medical support for their children. Our review of eight States, which covered a 1-year period, found that 27 percent of Title IV-D children who were enrolled in Medicaid had noncustodial parents who could contribute toward their children's Medicaid costs. These noncustodial parents were financially able to contribute an estimated \$99 million of the Medicaid costs incurred for the Title IV-D children reviewed in the eight States. While Federal regulations authorize States to recover Medicaid costs from third-party payers:

- Title IV-D regulations do not provide specific guidance for collecting Medicaid costs from noncustodial parents who have the financial ability to pay and who do not have affordable employer-sponsored health coverage available.
- Medicaid third-party liability regulations do not address how State Medicaid agencies should coordinate with State Title IV-D agencies to collect Medicaid costs from noncustodial parents.
- Title IV-D and Medicaid regulations do not address how the States should establish and efficiently administer Medicaid fee-for-service recoveries.

### **RECOMMENDATIONS**

We recommend that ACF and CMS:

- provide specific guidance to States on collecting Medicaid costs from noncustodial parents who have the financial ability to pay and who do not have affordable employer-sponsored health coverage available,

- clarify third-party liability regulations to assist State Medicaid agencies in coordinating with State Title IV-D agencies to collect Medicaid costs from noncustodial parents with medical support orders, and
- seek legislation that would allow States to accumulate medical support payments to offset Medicaid fee-for-service costs for a reasonable period.

## **AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE**

ACF's and CMS's comments on our draft report are attached as Appendixes E and F, respectively.

In commenting on the first recommendation, ACF agreed to share our findings with States, and CMS agreed to share ACF's guidance with the State Medicaid agencies. ACF deferred to CMS on our other recommendations.

In regard to the second recommendation, CMS said that existing regulations and guidance provided sufficient authority for State Medicaid agencies to coordinate with State Title IV-D agencies and for referring Medicaid recipients to Title IV-D agencies. CMS requested that we provide more specificity about what needs to be clarified. We believe that existing regulations and guidance do not expressly address the issue of collecting cash assistance from noncustodial parents through the State Title IV-D agency. Therefore, CMS should inform States of their options to use the Title IV-D agency to recover Medicaid costs from noncustodial parents.

Concerning the final recommendation, CMS commented that existing Federal law and regulations prohibited States from accumulating additional medical support payments. However, CMS said that it would commit to reexamining its authorities under Federal law and would work with us to draft legislation that would allow States to collect medical support payments from noncustodial parents on a pooled basis. We agree that legislation is needed to permit States to accumulate medical support payments and have changed our recommendation accordingly. We will work with CMS as needed to draft legislation.

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## INTRODUCTION

### BACKGROUND

#### **Child Support Enforcement Program**

The Child Support Enforcement program was established in 1975 as Title IV-D of the Social Security Act (the Act). Administered by the Administration for Children and Families (ACF), this program provides authority to establish and enforce child and medical support obligations for noncustodial parents. State Title IV-D agency responsibilities include locating noncustodial parents, establishing paternity, establishing child support and medical support obligations, and enforcing support orders.

Medical support orders are not enforceable when employers do not provide health insurance or it is too costly for the noncustodial parents. Consequently, some Title IV-D children are enrolled in Medicaid.

#### **Medicaid Program**

The Medicaid program was established in 1965 under Title XIX of the Act to help States pay the medical expenses of financially needy individuals and families. Medicaid is the payer of last resort, whose costs are shared by the Federal and State Governments. Within the Federal Government, the Centers for Medicare & Medicaid Services (CMS) administers the Medicaid program.

During the 1990s, Congress passed several laws to provide uninsured children with health insurance. While these laws were intended to provide private medical coverage to uninsured children on a national basis, employer-based (private) coverage increased only 3.5 percent from 1997 to 2001, compared with a 12-percent increase in the number of children who received Medicaid benefits during the same period. Based on U.S. Census Bureau data in 2001, more than 52 percent of Medicaid beneficiaries were children.

Because 44 of 50 States faced budget shortfalls of \$70 billion to \$85 billion in 2004, they began looking for ways to reduce Medicaid spending, the second largest program in most State budgets. The Kaiser Commission on Medicaid and the Uninsured found that 49 States planned to implement one or more of the following measures to reduce growth in Medicaid spending:

- reduce or freeze provider payments (37 States),
- control costs for prescription drugs (45 States),
- reduce benefits (25 States),
- raise eligibility requirements (27 States), and
- increase copayments (17 States).

If these reductions are implemented, approximately 1 million individuals will lose health coverage, according to a report published by the Center on Budget and Policy Priorities.

## **Eight States Reviewed**

We reviewed eight States: Connecticut, Indiana, Michigan, New Jersey, New York, North Carolina, Texas, and Virginia. Each of these States administered the Title IV-D and Medicaid programs through separate agencies and provided Medicaid services through a variety of methods. (See Appendix A.) As shown in Appendix B, the types of Medicaid costs also varied by State. Three States incurred managed care premium costs, and five States incurred both managed care premium costs and fee-for-service costs.

- A managed care premium is the monthly amount that a managed care organization charged the State for health coverage of a noncustodial parent's child at the time of our review. Premiums varied by age, gender, and location of the child. For the eight States reviewed, premiums ranged between \$28 and \$268 per month per child for children aged 1 through 18.
- Fee-for-service costs are the health care costs that the State incurred on behalf of a noncustodial parent's child. We used the costs incurred during our audit period divided by 12 months to determine a monthly average.

## **OBJECTIVE, SCOPE, AND METHODOLOGY**

### **Objective**

Our objective was to estimate the potential savings to the Medicaid program if noncustodial parents had been required to contribute toward the Medicaid costs incurred for their children.

### **Scope**

We selected the eight States, including both large and small populations, to obtain a fair representation of State operations and demographics. ACF and CMS agreed with our selections. For each State, the audit period covered 1 year. (See Appendix B.)

We selected sample cases from a total population of 773,990 children (Appendix B) who received both Title IV-D and Medicaid services; whose noncustodial parents had court orders to provide health coverage; and whose noncustodial parents made at least 3 child support payments during the audit period, not including Federal or State tax intercepts.

Our internal control review was limited to obtaining an understanding of the process used to enforce medical support orders. We also tested the reliability of computer files used to determine our sample population by tracing pertinent data to source documents.

We conducted our fieldwork at eight State Title IV-D agencies during 2002 and 2003 and issued individual reports to those agencies.

## **Methodology**

To accomplish our objective, we:

- reviewed Federal and State laws, regulations, policies, and procedures;
- interviewed Title IV-D and Medicaid program officials;
- examined State and county records related to sample items;
- tested the accuracy and completeness of data obtained;
- identified noncustodial parents who met our review criteria; and
- calculated potential savings to the Federal and State Governments.

For each State, we used a statistically valid, simple random sampling design. Details on our sampling methodology and projection are presented in Appendix C. We used child support and Medicaid laws, regulations, and income guidelines, as well as the Consumer Credit Protection Act, to determine whether noncustodial parents could contribute toward Medicaid costs. Details related to our methodology and savings calculations can be found in Appendix D.

We conducted our review in accordance with generally accepted government auditing standards.

## **FINDINGS AND RECOMMENDATIONS**

States can reduce State and Federal Medicaid costs by increasing the number of noncustodial parents who provide medical support for their children. Our review of eight States, which covered a 1-year period, found that 27 percent of Title IV-D children who were enrolled in Medicaid had noncustodial parents who could contribute toward their children's Medicaid costs. These noncustodial parents were financially able to contribute an estimated \$99 million of the Medicaid costs incurred for Title IV-D children reviewed in the eight States. While Federal regulations authorize States to recover Medicaid costs from third-party payers:

- Title IV-D regulations do not provide specific guidance for collecting Medicaid costs from noncustodial parents who have the financial ability to pay and who do not have affordable employer-sponsored health coverage available.
- Medicaid third-party liability regulations do not address how State Medicaid agencies should coordinate with State Title IV-D agencies to collect Medicaid costs from noncustodial parents.
- Title IV-D and Medicaid regulations do not address how the States should establish and efficiently administer Medicaid fee-for-service recoveries.

## **MEDICAL SUPPORT AND MEDICAID RULES**

Federal statutes and implementing regulations establish parental obligations to pay for their children's health care and authorize State collections of Medicaid costs.

Regarding enforcement of medical support obligations, 45 CFR § 303.31(b)(1) requires that the Title IV-D agency "unless the custodial parent and child(ren) have satisfactory health insurance other than Medicaid, petition the court or administrative authority to include health insurance that is available to the noncustodial parent at reasonable cost in new or modified court or administrative orders for support." Also, 45 CFR § 303.31(a)(1) states that "Health insurance is considered reasonable in cost if it is employment related or other group health insurance, regardless of service delivery mechanism."

Pursuant to 45 CFR § 302.51(a)(1), amounts collected are first applied to the current month's child support and any remaining balances are applied to arrears. ACF guidance (OCSE-PIQ-93-05) clarifies this provision in specifying that medical support be treated as a current support obligation. In addition, 42 CFR § 433.138 requires State Medicaid agencies to take reasonable cost-effective measures to determine the legal liability of third parties, including noncustodial parents, to pay for Medicaid services.

Finally, section 1912(b) of the Act allows States to recover Medicaid costs from individuals.

## **NONCUSTODIAL PARENTS' ABILITY TO CONTRIBUTE TO MEDICAID COSTS**

Of the Title IV-D children in our eight-State sample, 27 percent had noncustodial parents who could pay some or all of their children's Medicaid costs for the year covered by our review. As shown in Table 1, we tested a total of 1,600 Title IV-D children from a population of 773,990 and found that 469 of their noncustodial parents could contribute toward the children's Medicaid costs.<sup>1</sup> Projecting our results, we estimated that 206,313 children in the 8 States had noncustodial parents who could contribute.

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<sup>1</sup>We eliminated the remaining 1,131 cases (1,600 less 469) from our calculations because the noncustodial parent provided private health coverage or could not afford to contribute toward the child's health coverage, including Medicaid costs; the family was not Medicaid eligible; the noncustodial parent reunited with the family; there was no medical support order; or enforcement of medical support was pending.

**Table 1: Children Whose Noncustodial Parents Could Contribute Toward Their Medicaid Costs**

<b>State</b>	<b>Population</b>	<b>Sample Size</b>	<b>Contributing Parents</b>	<b>Percentage</b>	<b>Projected</b>
CT	33,791	200	74	37%	12,503
IN	18,493	200	52	26%	4,808
MI	206,157	200	34	17%	35,047
NC	88,533	100	35	35%	30,987
NJ	17,701	200	67	34%	5,930
NY	229,543	300	54	18%	41,318
TX	125,564	200	96	48%	60,271
VA	54,208	200	57	29%	15,449
<b>Total</b>	<b>773,990</b>	<b>1,600</b>	<b>469</b>	<b>27%*</b>	<b>206,313</b>

\*Weighted average based on size of each State's population of Title IV-D children.

### **Noncustodial Parents' Potential Contributions**

We found that the 469 noncustodial parents in the 8 States reviewed could contribute \$273,042 toward their children's Medicaid costs. Of the 469 individuals, 166 could pay all of their children's monthly Medicaid costs and 303 could pay a part. To determine how much the noncustodial parents could contribute, we used each State's Title IV-D guidelines for determining child and medical support. The variables we used included net pay, monthly child support payments, minimum income reserved for self-support, and number of children. Projecting our results, we estimated that \$99 million could have been collected from 206,313 noncustodial parents.

As illustrated in Table 2, noncustodial parents' contributions could offset 50 percent of the Medicaid costs for seven of the eight States reviewed.<sup>2</sup> Potential collections in each State, as a percentage of Medicaid costs, ranged from 21 to 67 percent. In New Jersey, which had the lowest cost recovery rate, we looked only at Temporary Assistance for Needy Families cases, which automatically qualify for Medicaid, because the State could not separate those cases from the entire Title IV-D sampling universe.

<sup>2</sup>We excluded North Carolina because one individual in our sample had exceptionally high Medicaid costs that skewed our results.

**Table 2: Noncustodial Parents' Contributions and Medicaid Costs**

<b>State</b>	<b>Contributing Parents</b>	<b>Amount (Millions)</b>	<b>Medicaid Costs (Millions)</b>	<b>Percentage of Costs Covered</b>
CT	74	\$9.3	\$13.8	67%
IN	52	3.0	5.4	56%
MI	34	10.5	26.8	39%
NJ	67	2.5	11.8	21%
NY	54	32.9	56.1	59%
TX	96	16.6	36.9	45%
VA	57	6.8	11.3	59%
<b>Total</b>	<b>434</b>	<b>\$81.6</b>	<b>\$162.1</b>	<b>50%</b>
NC	35	\$17.4	N/A	N/A
<b>Grand Total</b>	<b>469</b>	<b>\$99.0</b>	<b>N/A</b>	<b>N/A</b>

### **Feasibility of Noncustodial Parents' Contributions**

Three of the eight States reviewed had laws requiring that noncustodial parents pay some portion of the Medicaid costs incurred for their children. The remaining five States did not have similar provisions.<sup>3</sup>

#### **Three States With Laws To Collect Medicaid Costs**

During our audit period, three States collected Medicaid costs from noncustodial parents:

- New York collected \$8.1 million from noncustodial parents to offset birthing costs paid by Medicaid.
- Texas collected \$2.4 million from noncustodial parents whose children received Medicaid benefits.
- Indiana collected \$500,000 from noncustodial parents to offset birthing costs paid by Medicaid.

Texas law, for example, requires the Title IV-D agency to petition the court for health coverage through the noncustodial parents' employers. If that option is not available or affordable, the court may require the noncustodial parents to make cash contributions toward their children's health coverage at no more than 10 percent of the noncustodial parents' net income:

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<sup>3</sup>Because Connecticut was modifying its Medicaid collection process, we included it as one of the five States (in addition to Michigan, New Jersey, North Carolina, and Virginia) that did not have a process in place.

- If the children receive Medicaid coverage, Texas retains the cash contributions from the noncustodial parents.
- If the custodial parents provide private health care coverage, they receive the cash contributions to offset current medical expenses.
- If the children receive no health coverage (public or private), the custodial parents receive the cash contributions to offset future medical expenses.

### **Five States Without Laws To Collect Medicaid Costs**

To test the feasibility of collecting Medicaid costs in the five States without laws to collect such costs, we compared the incomes of sampled noncustodial parents who could pay Medicaid costs with those of noncustodial parents who provided private health coverage for their children. As Table 3 shows, the range of income for both groups is similar.

**Table 3: Feasibility of Collecting Noncustodial Parents’ Contributions in Five States**

	<b>Annual Income</b>	
	<b>Low</b>	<b>High</b>
Noncustodial parents who could pay Medicaid costs	\$11,500	\$74,900
Noncustodial parents who provided private coverage	\$12,000	\$88,000

Therefore, we believe that the noncustodial parents whom we identified could afford to contribute toward Medicaid costs.

### **Barriers to Noncustodial Parents’ Participation in Medicaid Costs**

We found barriers at both the Federal and State levels that may impede the collection of Medicaid costs from noncustodial parents.

#### **Federal Regulations**

Federal guidelines do not require Title IV-D or Medicaid agencies to collect Medicaid costs from noncustodial parents.

- Title IV-D regulations do not provide specific guidance for collecting Medicaid costs from noncustodial parents who have the financial ability to pay and who do not have affordable employer-sponsored health coverage available.

- Medicaid third-party liability regulations do not address how State Medicaid agencies should coordinate with Title IV-D agencies to collect costs from noncustodial parents.
- Title IV-D and Medicaid regulations do not address how the States should establish and efficiently administer Medicaid fee-for-service recoveries.

### **State Legislation**

The five States reviewed that did not have legislation to collect Medicaid premiums or birthing costs from noncustodial parents have expressed interest in enacting such legislation. However, they first need to overcome several barriers, including determining the best method for collecting fee-for-service costs, working out feasibility issues with State Medicaid officials, and upgrading State automated systems.

### **CONCLUSION**

Although States may need to seek changes to their own statutory provisions, States have the authority under Federal laws to collect Medicaid costs from noncustodial parents. However, clarification of Federal guidance by ACF and CMS would improve the process for collecting Medicaid costs.

We presented our results to ACF and CMS officials, judges and magistrates, State Title IV-D directors, and other members of the child support and Medicaid communities to obtain their opinions on requiring noncustodial parents to contribute toward their children's Medicaid costs. Overall, their responses were supportive. On June 10, 2003, the Commissioner of ACF's Office of Child Support Enforcement agreed to issue guidelines to make it easier for States to collect cash medical assistance.

### **RECOMMENDATIONS**

We recommend that ACF and CMS:

- provide specific guidance to States on collecting Medicaid costs from noncustodial parents who have the financial ability to pay and who do not have affordable employer-sponsored health coverage available,
- clarify third-party liability regulations to assist State Medicaid agencies in coordinating with State Title IV-D agencies to collect Medicaid costs from noncustodial parents with medical support orders, and
- seek legislation that would allow States to accumulate medical support payments to offset Medicaid fee-for-service costs for a reasonable period.

## **AGENCY COMMENTS**

ACF's and CMS's comments on our draft report are attached as Appendixes E and F, respectively. CMS also provided technical comments, which we have incorporated as appropriate.

In response to our first recommendation, ACF said that it was considering a number of medical support issues and agreed to share our findings with States through a "Dear Colleague Letter." CMS agreed to share ACF's guidance with the State Medicaid agencies. In addition, both ACF and CMS stated that they planned to hold interagency meetings to address medical support collaboration issues. ACF deferred to CMS on our other recommendations.

In regard to the second recommendation, CMS said that existing regulations and guidance provided sufficient authority for State Medicaid agencies to coordinate with State Title IV-D agencies and for referring Medicaid recipients to Title IV-D agencies. CMS requested that we provide more specificity about what needs to be clarified.

Concerning the final recommendation, CMS commented that existing Federal law and regulations prohibited States from accumulating additional medical support payments. However, CMS said that it would commit to reexamining its authorities under Federal law and would be happy to work with us to draft legislation that would allow States to collect medical support payments from noncustodial parents on a pooled basis.

## **OFFICE OF INSPECTOR GENERAL RESPONSE**

In response to CMS's request for more specificity, we believe that existing regulations and guidance do not expressly address the issue of collecting cash assistance from noncustodial parents through the State Title IV-D agency. For example, CMS's State Medicaid Manual does not address the State Medicaid agency's responsibility to provide to the State Title IV-D agency the Medicaid expenditures that the State incurred on behalf of a noncustodial parent's child. Without establishing a specific dollar amount owed to the State, the Title IV-D agency would be unable to recover Medicaid expenditures. Therefore, CMS should inform States of their options to use the Title IV-D agency to recover Medicaid costs from noncustodial parents.

We agree with CMS that legislation is needed to permit States to accumulate medical support payments and have changed our recommendation accordingly. We will work with CMS as needed to draft legislation.

# **APPENDIXES**

**STATE PROFILES****CONNECTICUT**

In Connecticut, the Bureau of Child Support Enforcement, Department of Social Services, administers the Child Support Enforcement program. The Support Enforcement Division of the judicial branch enforces child and medical support orders.

The Medical Care Administration, Managed Care Division, Department of Social Services, oversees the Medicaid program. The State contracts with managed care organizations to provide services to Medicaid recipients at negotiated capitation rates (premiums). The premiums are based on recipient age and county location and are paid monthly to the managed care organizations.

Recognizing that noncustodial parents have an obligation to provide health coverage for their children, Connecticut enacted legislation requiring noncustodial parents to contribute toward their children's Medicaid costs when health insurance at a reasonable cost is unavailable.

Effective July 1, 1999, Connecticut State law, Public Act 99-279, directs the court or family support magistrate to provide for health care coverage of children in court orders and requires the noncustodial parents to pay part or all of the Medicaid costs, including premiums paid to managed care organizations, if private health insurance is not available or is too costly.

**INDIANA**

The Indiana Family and Social Services Agency, Division of Family and Children, administers the Child Support Enforcement program.

The Indiana Family and Social Services Agency, Office of Medicaid Policy and Planning (OMPP), oversees the Medicaid program. OMPP contracts with managed care organizations to provide services to Medicaid recipients at negotiated capitation rates (premiums). OMPP pays monthly premiums that are based on the age and sex of the recipient as well as the plan's service area. Medical procedures not covered by the premiums are paid by OMPP in accordance with established fee-for-service schedules.

Under State child support provisions, the Indiana Child Support Rules and Guidelines, the State can recover Medicaid birthing costs from noncustodial parents.

**MICHIGAN**

The Friend of the Court, Family Division of Circuit Court, enforces child and medical support orders. The Office of Child Support, Family Independence Agency, establishes paternity, and prosecuting attorneys are responsible for obtaining child support orders.

The Michigan Department of Community Health (MDCH) oversees the Medicaid program. MDCH contracts with managed care organizations to provide services to Medicaid recipients at negotiated capitation rates (premiums). MDCH pays monthly premiums that are based on the age and sex of the recipient as well as the plan's service area. Medical procedures not covered by the premiums are paid by MDCH in accordance with established fee-for-service schedules.

Michigan legislation requires all new child support orders to provide for medical support and allows for the recovery of birthing costs.

**NEW JERSEY**

The Office of Child Support and Paternity, Division of Family Development, Department of Human Services, administers the Child Support Enforcement program and delegates daily operations for public assistance cases to the county boards of social services.

The Division of Medical Assistance and Health Services (DMAHS), Department of Human Services, oversees the Medicaid program. DMAHS contracts with managed care organizations to provide services to Medicaid recipients at negotiated capitation rates (premiums). DMAHS pays monthly premiums that are based on the age and sex of the recipient as well as the plan's service area. Medical procedures not covered by the premiums are paid by DMAHS in accordance with established fee-for-service schedules.

New Jersey legislation requires all child support orders to provide for medical coverage when insurance is available to either parent at a reasonable cost, unless the parents agree to an alternative health care arrangement.

**NEW YORK**

The Division of Child Support Enforcement, Office of Temporary and Disability Assistance, supervises the State's Child Support Enforcement program.

The Department of Health, Office of Medicaid Management (OMM), oversees the Medicaid program. OMM pays for Medicaid services through contracts with managed care organizations or in accordance with established fee-for-service schedules. Premiums for managed care organizations, based on the age and sex of the recipient as well as the plan's service area, are negotiated rates paid by OMM on a monthly basis. Medical procedures not covered by managed care organizations are paid by OMM in accordance with established fee-for-service schedules.

New York legislation requires noncustodial parents to provide medical support when employer-sponsored health insurance benefits are available at a reasonable cost. The legislation also allows for the recovery of Medicaid birthing costs. After our review, the State passed legislation to ensure health insurance benefits for all Title IV-D children, including a provision for noncustodial parents to contribute toward the cost of Medicaid services their children received.

**NORTH CAROLINA**

The Child Support Enforcement Office, Division of Social Services, administers the Child Support Enforcement program.

The Division of Medical Assistance, Department of Health and Human Services, oversees the Medicaid program. Approximately 73 percent of Medicaid beneficiaries receive services through a State plan requiring the child's caretaker to pay a monthly management fee of \$2 to \$3 to the

primary care physician. One county provides a managed care option requiring a monthly capitation fee. Otherwise, Medicaid costs are covered under a fee-for-service arrangement.

North Carolina legislation regarding medical support obligations mirrors Federal law.

**TEXAS**

The Child Support Division, Office of the Attorney General, administers the Child Support Enforcement program. The Health and Human Services Commission is responsible for statewide oversight of the Medicaid program.

Texas legislation considers health care coverage an integral part of the child support obligation. In 2001, the Texas Family Code was amended to require (1) the custodial parent to apply for Medicaid when neither parent has access to private health insurance at a reasonable cost and (2) the noncustodial parent to contribute toward Medicaid costs.

**VIRGINIA**

The Division of Child Support Enforcement administers the Child Support Enforcement program. Medicaid costs are paid under a fee-for-service arrangement or through monthly premiums to managed care organizations. The State plan also requires the State to make monthly premium payments to physicians and pay fee-for-service charges for beneficiaries.

## STATE SELECTION CRITERIA AND SAMPLE INFORMATION AND FIELDWORK

## State Selection Criteria

State	Single-Parent Families With Children Under 18 Years Old (000 omitted)	Income per Capita Ranking (2000)	Centralized Database?	Title IV-D Caseload (000 omitted)	Medical Support Calculated Separately From Child Support?	Fee-for-Service or Managed Care (MC)
CT	112	1	Yes	254	Yes	MC
IN	212	31	Yes	344	Yes	MC
MI	364	17	No	1,721	Yes	MC
NC	228	30	Yes	520	Yes	Both
NJ	250	3	Yes	483	No	Both
NY	704	4	Yes	1,295	Yes	Both
TX	721	25	Yes	1,071	Yes	Both
VA	236	13	Yes	415	No	Both

## Sample Information and Fieldwork

State	Audit Period	Population	Sample Size <sup>1</sup>	Fieldwork		Report Number
				Start	End	
CT	April 2001 – March 2002	33,791	200	07/2002	12/2002	A-01-02-02502
IN	June 2001 – May 2002	18,493	200	06/2002	01/2003	A-05-02-00075
MI	May 2001 – April 2002	206,157	200	10/2002	01/2003	A-05-02-00077
NC	June 2001 – May 2002	88,533	100	08/2002	11/2002	A-04-02-00013
NJ	September 2001 – August 2002	17,701 <sup>2</sup>	200	09/2002	01/2003	A-02-02-02004
NY	January 2001 – December 2001	229,543	300	07/2002	01/2003	A-02-02-02003
TX	June 2001 – May 2002	125,564	200	07/2002	02/2003	A-06-02-00053
VA	June 2001 – May 2002	54,208	200	06/2002	02/2003	A-03-02-00204
<b>Total</b>		<b>773,990</b>	<b>1,600</b>			

<sup>1</sup>Sample size varied by State depending on the ability of the State's child support system to identify paying cases, cases with or without medical support orders, and children receiving Medicaid benefits.

<sup>2</sup>Includes only Temporary Assistance for Needy Family cases, which automatically qualify for Medicaid. Does not include Medicaid-only cases.

## SAMPLING METHODOLOGY AND PROJECTIONS

## Attribute Projections: Statistical Samples of Eight States

State	Sample Size	Population Size	Noncustodial Parents Who Could Contribute Toward Medicaid Premiums	Point Estimate	90-Percent Confidence Interval	
					Lower Limit	Upper Limit
CT	200	33,791	74	12,503	10,584	14,519
IN	200	18,493	52	4,808	4,067	5,838
MI	200	206,157	34	35,047	26,332	45,309
NC	100	88,533	35	30,987	23,975	38,603
NJ	200	17,701	67	5,930	4,957	6,968
NY	300	229,543	54	41,318	33,135	50,601
TX	200	125,564	96	60,271	52,732	67,866
VA	200	54,208	57	15,449	12,616	18,544
<b>Total</b>	<b>1,600</b>	<b>773,990</b>	<b>469</b>	<b>206,313</b>		

**Variable Projections: Noncustodial Parents' Medicaid Contributions**

State	Sample Size	Population Size	Noncustodial Parents Who Could Contribute Toward Medicaid Premiums	Point Estimate	90-Percent Confidence Interval	
					Lower Limit	Upper Limit
CT	200	33,791	74	\$9,320,551	\$7,539,815	\$11,101,287
IN	200	18,493	52	3,039,504	2,100,368	3,978,639
MI	200	206,157	34	10,480,878	6,855,921	14,105,834
NC	100	88,533	35	17,396,132	7,951,471	26,840,794
NJ	200	17,701	67	2,507,044	1,936,990	3,077,097
NY	300	229,543	54	32,880,841	21,162,057	44,599,626
TX	200	125,564	96	16,631,699	13,318,038	19,945,359
VA	200	54,208	57	6,793,469	4,747,449	8,839,488
<b>Total</b>	<b>1,600</b>	<b>773,990</b>	<b>469</b>	<b>\$99,050,118</b>		

## Variable Projections: Medicaid Costs

State	Sample Size	Population Size	Noncustodial Parents Who Could Contribute Toward Medicaid Premiums	Point Estimate	90-Percent Confidence Interval	
					Lower Limit	Upper Limit
CT	200	33,791	74	\$13,836,610	\$11,522,462	\$16,150,758
IN	200	18,493	52	5,352,515	3,551,112	7,153,918
MI	200	206,157	34	26,769,229	16,882,575	36,655,882
NC	100	88,533	35	N/A	N/A	N/A
NJ	200	17,701	67	11,818,691	3,819,656	19,817,727
NY	300	229,543	54	56,113,293	39,260,352	72,966,235
TX	200	125,564	96	36,930,413	29,925,374	43,935,452
VA	200	54,208	57	11,338,286	8,038,335	14,638,237
<b>Total</b>	<b>1,600</b>	<b>773,990</b>	<b>469</b>	<b>\$162,159,037</b>		

## DETAILS OF METHODOLOGY

For each sampled item, we took the following steps:

- We reviewed State Title IV-D computer files, which reflect all children in the noncustodial parent's family, to determine the medical enforcement and Medicaid enrollment status for each child and the amount paid in child support.
- We verified the accuracy of medical support information against other State agencies' files. However, we relied on State Title IV-D records to determine if private health insurance was available to the noncustodial parent and if the cost was reasonable.
- We obtained noncustodial parent gross income from the State Department of Labor and court records and used Federal and State withholding information to calculate net income.
- We determined how much noncustodial parents could pay toward the Medicaid costs incurred by each of the eight States. For Texas, we used 10 percent of noncustodial parents' net income, as provided in State law. For the remaining States, we performed the following calculations:
  - We reduced noncustodial parent pay (net of State and Federal income taxes) by child support for the family and a minimum self-support reserve (the amount a State allowed a noncustodial parent to take home). Two of the eight States did not specify a reserve, so we used \$700 because most States used that amount. The remaining States used reserves ranging from \$600 to \$966.
  - We divided the amount available for medical support by the number of children of each noncustodial parent.
  - We compared the amount available per child with the Medicaid premium or the fee-for-service costs and used the lesser of the two.
  - We determined whether the total of child support calculated by the State Title IV-D agencies and medical support we calculated using State Title IV-D procedures was below the 50-percent income requirement of the Consumer Credit Protection Act. This Act limits a person's debt to 50 to 65 percent of his or her income, depending on individual circumstances. We used the limit of 50 percent.
- We obtained wage data of those noncustodial parents already providing private health insurance for their children to assess whether their wages were comparable to our population of noncustodial parents. Such a comparison would determine the feasibility of whether the noncustodial parents in our sample had the financial ability to pay the Medicaid costs.



DEPARTMENT OF HEALTH & HUMAN SERVICES

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**ADMINISTRATION FOR CHILDREN AND FAMILIES**

Office of the Assistant Secretary, Suite 600  
370 L'Enfant Promenade, S.W.  
Washington, D.C. 20447

DATE: APR 7 2005

TO: Daniel R. Levinson  
Acting Inspector General

FROM: Wade F. Horn, Ph.D. *Wade F. Horn*  
Assistant Secretary  
for Children and Families

SUBJECT: Comments on the Office of Inspector General's (OIG) Draft Report  
entitled, "Eight-State Review of the Ability of Noncustodial Parents to  
Contribute Toward the Medical Costs of Title IV-D Children That Were  
Paid Under the Medicaid Program" (A-01-03-02501)

Attached are the Administration for Children and Families' comments on the above-referenced OIG draft report.

If you have any questions regarding our comments, please contact David Siegel, Acting Commissioner, Office of Child Support Enforcement at (202) 401-9370.

Attachment

**COMMENTS OF THE ADMINISTRATION FOR CHILDREN AND FAMILIES  
ON THE OFFICE OF INSPECTOR GENERAL'S DRAFT REPORT ENTITLED,  
"EIGHT-STATE REVIEW OF THE ABILITY OF NONCUSTODIAL PARENTS  
TO CONTRIBUTE TOWARD THE MEDICAL COSTS OF TITLE IV-D  
CHILDREN THAT WERE PAID UNDER THE MEDICAID PROGRAM" (A-01-  
03-02501)**

The Administration for Children and Families (ACF) appreciates the opportunity to comment on the Office of Inspector General's (OIG) draft report.

**OIG Recommendations**

We recommend that ACF and the Centers for Medicare and Medicaid Services (CMS):

- provide specific guidance to States on collecting Medicaid costs from noncustodial parents who have the financial ability to pay and who do not have affordable employer-sponsored health coverage available
- clarify third-party liability regulations to assist state Medicaid agencies in coordinating with State IV-D agencies to collect Medicaid costs from noncustodial parents with medical support orders
- allow States to accumulate medical support payments to offset Medicaid fee-for-service costs for a reasonable period.

**ACF Comments**

In response to the first recommendation, ACF's Office of Child Support Enforcement (OCSE) is currently considering a number of medical support issues. Regional meetings are planned for FY 2005 during which OCSE and CMS will be discussing the collection of Medicaid costs from noncustodial parents who have the ability to pay. OCSE will also share OIG findings with states through a "Dear Colleague Letter."

For the last two recommendations, OCSE defers to CMS to respond since that agency is accountable for these areas.



DEPARTMENT OF HEALTH & HUMAN SERVICES

Centers for Medicare & Medicaid Services

Administrator  
Washington, DC 20201

FEB 18 2005

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**TO:** Daniel R. Levinson  
Acting Inspector General  
Office of Inspector General

**FROM:** Mark B. McClellan, M.D., Ph.D. *MM*  
Administrator

**SUBJECT:** Office of Inspector General (OIG) Draft Report, *"Eight-State Review of the Ability of Noncustodial Parents to Contribute Toward the Medical Costs of Title IV-D Children That Were Paid Under the Medicaid Program,"* (A-01-03-02501)

Thank you for the opportunity to review and comment on the OIG draft report entitled, *"Eight-State Review of the Ability of Noncustodial Parents to Contribute Toward the Medical Costs of Title IV-D Children That Were Paid Under the Medicaid Program."*

The Office of the Inspector General (OIG) reviewed the noncustodial parents' ability to contribute to the costs of coverage for children in the Medicaid program in eight states. The OIG concluded that there are children in the Title IV-D program (state programs that facilitate child support payments) that are potentially eligible for Medicaid and that there are a number of children enrolled in Medicaid whose noncustodial parents could potentially contribute toward Medicaid costs. Specifically, the OIG estimated that 27 percent of children in the child support enforcement or Title IV-D system could contribute an estimated \$99 million toward those children's incurred Medicaid costs. The OIG recommended: that the Center for Medicare & Medicaid Services (CMS) issue program guidance to advise states of their authority under Federal law to collect Medicaid costs from noncustodial parents; that the Administration for Children and Families (ACF) and CMS should determine whether additional third-party liability regulations need to be clarified to assist state Medicaid agencies in coordinating with state title IV-D agencies to collect Medicaid costs from noncustodial parents with medical support orders; and that ACF and CMS should allow states to accumulate medical support payments to offset Medicaid fee-for-service costs for a reasonable period of time.

The following are CMSO's comments.

CMS believes that all uninsured families should be encouraged to apply for Medicaid and SCHIP by both child support enforcement (Title IV-D), Medicaid and SCHIP agencies. CMS also concurs that states should maximize funding that is available for children's health care coverage by seeking payments from noncustodial parents who are capable of contributing toward the medical costs incurred by their children for whom they are responsible.

**Recommendation**

OIG recommended that ACF and CMS provide specific guidance to states on collecting Medicaid costs from noncustodial parents who have the financial ability to pay and who do not have affordable employer-sponsored health coverage available.

**Response**

The report notes that ACF has agreed to issue guidelines to help states overcome some of the barriers to collecting cash medical assistance. The ACF guidance will address this recommendation and CMS will share the guidance with our regional offices and State Medicaid agencies.

CMS and ACF will also discuss this recommendation at interagency, multi-state meetings dedicated to medical support collaboration issues that CMS is working with ACF to organize in five regional offices in 2005. These meetings will focus on medical support collaboration issues between State IV-D agencies and Medicaid and SCHIP agencies, including case referral, data exchange, and communication to improve state efforts to secure health insurance for children and gather necessary information to calculate state performance on the medical support performance indicator and Medicaid cost savings for incentive purposes.

In addition, the President's FY 2006 budget includes a legislative proposal to require IV-D agencies to seek medical support for children through health insurance available to either parent. This proposal recognizes that it may be more suitable for some children to be covered under their custodial parent and would give states the option to enforce orders against custodial parents. CMS and ACF will collaborate to implement this initiative.

**Recommendation**

OIG recommended that ACF and CMS clarify third-party liability regulations to assist State Medicaid agencies in coordinating with state Title IV-D agencies to collect Medicaid costs from noncustodial parents with medical support orders.

**Response**

Existing CMS regulations (42 CFR 433.151) provide sufficient authority for State Medicaid agencies to coordinate with State IV-D agencies for these collections. In addition, the CMS State Medicaid Manual (Section 3905.6) provides specific guidance for referring Medicaid recipients to IV-D agencies. In addition, the December 19, 2000 State Medicaid Director letter on establishing paternity and obtaining and pursuing medical support, which was also sent to State IV-D agencies by ACF, further clarified Federal policy regarding Medicaid and IV-D collaboration.

The draft report is unclear as to what OIG believes needs to be "fixed" with respect to the current guidance. CMS would welcome some illustrative examples and additional specificity in the report with regard to what OIG believes needs to be clarified.

**Recommendation**

OIG recommended that ACF and CMS allow states to accumulate medical support payments to offset Medicaid fee-for-service costs for a reasonable period.

**Response**

We believe the existing Federal law and regulations prohibit states from accumulating additional medical support payments. The Title XIX statute (§1912(b)) and Medicaid regulations (42 CFR §433.154) do not allow the state Medicaid agency to retain more than the amount expended on behalf of the Medicaid recipient. However, we will commit to re-examining this issue to determine whether we have any flexibility under the authorities. We would be happy to work with you to draft a legislative proposal that would allow for the collection of these funds from non-custodial parents on a pooled basis.

# ACKNOWLEDGMENTS

This report was prepared under the direction of Michael Armstrong, Regional Inspector General for Audit Services. Other principal Office of Audit Services staff who contributed include:

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For information or copies of this report, please contact the Office of Inspector General's Public Affairs office at (202) 619-1343.