



APR 15 2004

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

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

FROM: Dara Corrigan 
Acting Principal Deputy Inspector General

SUBJECT: Review of the Ability of Noncustodial Parents To Contribute Toward the Medical Costs of Title IV-D Children in New York Under the State Children's Health Insurance Program (A-02-02-02005)

Attached is an advance copy of our final report on the ability of noncustodial parents to contribute toward the medical costs of Title IV-D children in New York under the State Children's Health Insurance Program (SCHIP). We will issue this report to the State within 5 business days.

The Child Support Performance and Incentive Act of 1998 (Public Law 105-200, effective October 1, 2001) encourages States to enforce medical support orders and provide health care coverage to uninsured children. Pursuant to the law, the Secretaries of Health and Human Services and Labor established the Medical Child Support Working Group and appointed the members from the child support community. In June 2000, the Working Group issued a report to both Secretaries identifying impediments to effective enforcement of medical support orders and recommending solutions. Because medical support orders are not enforceable when employers do not provide health insurance or the cost is unreasonable, some children who receive child support (Title IV-D children) are enrolled in SCHIP. In such cases, the Working Group recommended that States authorize decisionmakers, such as judges, to require noncustodial parents to contribute toward the costs of SCHIP benefits for their children.

We reviewed two populations of Title IV-D children in New York whose noncustodial parents were unable to provide court-ordered medical support: children who were eligible for SCHIP but not enrolled and children enrolled in SCHIP. Our objectives were to determine:

- the number of children, potentially without health insurance, who would have been eligible to receive SCHIP benefits and the amount that the noncustodial parents could have contributed toward SCHIP premiums if their children had been enrolled and

- the number of children who received SCHIP benefits and the amount that the noncustodial parents could have contributed toward SCHIP premiums.

We conducted similar audits in six other States on which we will issue final reports. We conducted these audits as a result of a March 2002 Office of Inspector General report that identified significant savings potential in Connecticut if noncustodial parents were required to contribute toward the SCHIP costs of their children.

New York has an opportunity to increase SCHIP enrollment and have noncustodial parents pay a portion of the associated costs. Based on a statistically valid sample, we estimated that 71,813 Title IV-D children would have been eligible to receive SCHIP benefits during calendar year 2001. The noncustodial parents of 36,877 of these children could have contributed \$22,260,226 toward the \$40,687,355 (Federal and State combined) in premiums that would have been incurred if the children had been enrolled.

Based on another statistical sample, we estimated that 21,120 Title IV-D children received SCHIP benefits in 2001. An estimated 12,347 of these children had noncustodial parents who could have contributed \$5,119,668 toward the \$9,277,486 in SCHIP premiums (Federal and State combined) paid on behalf of their children.

Effective October 2, 2002, State legislation requires parents to enroll their children in the Medicaid program or in SCHIP if private insurance is not available at a reasonable cost. Also, noncustodial parents with sufficient means are required to contribute toward the premium costs of the State program that provides health insurance to their children. However, State officials indicated that the State Public Health Law limited the amount of the noncustodial parent's contribution to the custodial parent's share of the SCHIP premiums. Additionally, State officials advised us that any amount collected from the noncustodial parent would be paid to the custodial parent and could not be used to offset the State's share of SCHIP premiums. As a result, the State would be unable to realize the savings we identified unless it revised its law.

We recommend that New York's Division of Child Support Enforcement coordinate with the Department of Health to consider broadening the State's authority to allow for the recovery of the SCHIP savings identified in our report.

Division of Child Support Enforcement officials said that further analysis was necessary to assess the feasibility of having noncustodial parents contribute, above the statutory limit, toward SCHIP costs. Also, they did not believe that it was reasonable to conclude that noncustodial parents' income in excess of the self-support reserve, minus the child support obligation, could be used to offset those costs.

In calculating the savings, we followed child support guidelines that factor in the income of the noncustodial parent, the amount of child support that the noncustodial parent was ordered to pay, the minimum self-support reserve to which the noncustodial parent was entitled, and any other children of the noncustodial parent in our population. After considering all of these factors, if noncustodial parents had income remaining, we determined that they could contribute to the SCHIP costs of their children.

Department of Health officials stated that setting the cost sharing higher for children who are enrolled by a noncustodial parent would constitute discrimination and that civil rights laws would not permit such a policy. Rather than enrolling a child in a State-subsidized program, they recommended that courts require noncustodial parents who could afford health insurance to purchase it privately or through their employer.

Our recommendation would not discriminate based on family status, but would equalize contributions to some extent. This would be accomplished by giving a judge, on a case-by-case basis, the latitude to set an appropriate payment by a noncustodial parent. Such payment would not necessarily be capped at the contribution toward premium payments set by SCHIP, currently based solely on the custodial parent's income, but could be tailored to the financial particulars of the individuals involved. We also believe that it is reasonable, and in agreement with court orders, that noncustodial parents be financially responsible for their children's medical costs, including those borne by State and Federal Governments.

If you have any questions or comments about this report, please do not hesitate to call me or have your staff contact Donald L. Dille, Assistant Inspector General for Grants and Internal Activities, at (202) 619-1175 or through e-mail at ddille@oig.hhs.gov. Please refer to report number A-02-02-02005 in all correspondence.

Attachment



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office Of Inspector General
Office Of Audit Services

Report Number: A-02-02-02005 APR 21 2004

Region II
Jacob K. Javits Federal Building
26 Federal Plaza
New York, NY 10278

Mr. Robert Doar
Acting Commissioner, Office of Temporary and Disability Assistance
Department of Family Assistance
40 North Pearl Street, 16th Floor
Albany, New York 12243

Dear Mr. Doar:

Enclosed are two copies of the Department of Health and Human Services (HHS), Office of Inspector General (OIG) report entitled "Review of the Ability of Noncustodial Parents To Contribute Toward the Medical Costs of Title IV-D Children in New York Under the State Children's Health Insurance Program." A copy of this report will be forwarded to the HHS official noted below for review and any action deemed necessary.

Final determination as to actions taken on all matters reported will be made by the HHS action official named below. We request that you respond to the HHS action official within 30 days from the date of this letter. Your response should present any comments or additional information that you believe may have a bearing on the final determination.

In accordance with the principles of the Freedom of Information Act (5 U.S.C. § 552, as amended by Public Law 104-231), OIG reports issued to the Department's grantees and contractors are made available to members of the press and general public to the extent the information is not subject to exemptions in the Act that the Department chooses to exercise (see 45 CFR Part 5).

Please refer to report number A-02-02-02005 in all correspondence.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Timothy J. Horgan", with a long horizontal stroke extending to the right.

Timothy J. Horgan
Regional Inspector General
for Audit Services

Enclosures -- as stated

Direct Reply to HHS Action Official:

Director, Office of Audit Resolution and Cost Policy
Office of Finance
Assistant Secretary for Budget, Technology and Finance
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Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**REVIEW OF THE ABILITY OF
NONCUSTODIAL PARENTS TO
CONTRIBUTE TOWARD THE
MEDICAL COSTS OF TITLE IV-D
CHILDREN IN NEW YORK UNDER
THE STATE CHILDREN'S HEALTH
INSURANCE PROGRAM**



**APRIL 2004
A-02-02-02005**

EXECUTIVE SUMMARY

BACKGROUND

The State Children's Health Insurance Program (SCHIP) allows States to provide free or affordable health care coverage to uninsured children in families whose incomes are too high to qualify for Medicaid but too low to afford private coverage. Because medical support orders are not enforceable when employers do not provide health insurance or the cost is unreasonable, some children who receive child support (Title IV-D children) are enrolled in SCHIP.

During our audit period, New York law did not require that Title IV-D children be enrolled in SCHIP when private insurance was not available or too costly. Additionally, there was no State or Federal requirement for noncustodial parents to contribute toward the SCHIP premiums paid on behalf of their children. As a result, New York and the Federal Government paid the costs incurred by children receiving SCHIP benefits.

OBJECTIVES

We reviewed two populations of Title IV-D children in New York whose noncustodial parents were unable to provide court-ordered medical support: children who were eligible for SCHIP but not enrolled and children enrolled in SCHIP. Our objectives were to determine:

- the number of children, potentially without health insurance, who would have been eligible to receive SCHIP benefits and the amount that the noncustodial parents could have contributed toward SCHIP premiums if their children had been enrolled and
- the number of children who received SCHIP benefits and the amount that the noncustodial parents could have contributed toward SCHIP premiums.

Our audit covered calendar year 2001.

SUMMARY OF FINDINGS

Children Potentially Without Health Insurance

New York has an opportunity to enroll potentially uninsured Title IV-D children in SCHIP and provide a means for noncustodial parents to fulfill their medical support obligations. We estimated that 71,813 children whose noncustodial parents were unable to provide court-ordered medical support would have been eligible to receive SCHIP benefits during 2001 if no other health insurance had been available. An estimated 36,877 of these children had noncustodial parents who could have contributed \$22,260,226 toward SCHIP premiums if their children had been enrolled.

Children Who Received SCHIP Benefits

We estimated that 21,120 children received SCHIP benefits during 2001 because their noncustodial parents were unable to provide court-ordered medical support. An estimated 12,347 of these children had noncustodial parents who could have contributed \$5,119,668 toward SCHIP premiums.

New York Legislative Changes

Effective October 2, 2002, State legislation requires parents to enroll their children in SCHIP or Medicaid if private insurance is not available at a reasonable cost. In addition, noncustodial parents with sufficient means are required to contribute toward the costs of the State program that provides health insurance to their children. However, State officials said that the State Public Health Law limited the amount of the noncustodial parent's contribution to the custodial parent's share of SCHIP premiums. Additionally, they advised us that any amount collected from the noncustodial parent would be paid to the custodial parent and could not be used to offset the State's share of SCHIP premiums. As a result, the State would be unable to realize the savings we identified unless it revised its law.

RECOMMENDATION

We recommend that New York's Division of Child Support Enforcement (DCSE) coordinate with the Department of Health (DOH) to consider broadening the State's authority to allow for the recovery of the SCHIP savings identified in our report.

STATE'S COMMENTS

DCSE officials said that further analysis was necessary to assess the feasibility of having noncustodial parents contribute, above the statutory limit, toward SCHIP costs. Also, they did not believe that it was reasonable to conclude that noncustodial parents' income in excess of the self-support reserve,¹ minus the child support obligation, could be used to offset those costs. DCSE's comments are included in their entirety in Appendix F.

DOH officials stated that setting the cost sharing higher for children who are enrolled by a noncustodial parent would constitute discrimination and that civil rights laws would not permit such a policy. Rather than enrolling a child in a State-subsidized program, they recommended that courts require noncustodial parents who could afford health insurance to purchase it privately or through their employer. DOH's comments are included in their entirety in Appendix G.

¹ The self-support reserve is the minimum monthly amount that the noncustodial parent is entitled to keep.

OFFICE OF INSPECTOR GENERAL RESPONSE

Response to DCSE Comments

Our determination that noncustodial parents could contribute toward SCHIP costs was not based solely on the ability to regularly pay child support. Even though we calculated savings only for noncustodial parents who met their child support obligations, we considered other factors: the income of the noncustodial parent, the amount of child support that the noncustodial parent was ordered to pay, the minimum self-support reserve to which the noncustodial parent was entitled, and any other children of the noncustodial parent in our population. After considering all of these factors, if noncustodial parents had income remaining, we determined that they could contribute to the SCHIP costs of their children.

Response to DOH Comments

Our recommendation would not discriminate based on family status, but would equalize contributions to some extent. This would be accomplished by giving a judge, on a case-by-case basis, the latitude to set an appropriate payment by a noncustodial parent. Such payment would not necessarily be capped at the contribution toward premium payments set by SCHIP, currently based solely on the custodial parent's income, but could be tailored to the financial particulars of the individuals involved. We also believe that it is reasonable, and in agreement with court orders, that noncustodial parents be financially responsible for their children's medical costs, including those borne by State and Federal Governments.

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INTRODUCTION

BACKGROUND

Child Support Enforcement Program

The child support enforcement program was enacted in 1975 under Title IV-D of the Social Security Act. The program establishes and enforces support and medical obligations owed by noncustodial parents to their children. Within the Federal Government, the Administration for Children and Families (ACF), Office of Child Support Enforcement is responsible for administering the program. In New York, DCSE, located within the Office of Temporary and Disability Assistance, administers the program. The State's 58 local social services districts carry out program activities through their child support enforcement and collection units.

When a child support order is established or modified, DCSE is required to seek medical support if the noncustodial parent has access to employer-sponsored health insurance at a reasonable cost. The amount of child support that a noncustodial parent is obligated to pay is based on State guidelines.

State Children's Health Insurance Program

The Balanced Budget Act of 1997 established SCHIP under Title XXI of the Social Security Act. This program allows States to provide free or affordable health care coverage to uninsured children in families whose incomes are too high to qualify for Medicaid but too low to afford private coverage. Within the Federal Government, the Centers for Medicare & Medicaid Services (CMS) administers SCHIP.

New York implemented its SCHIP program, known as Child Health Plus, on April 1, 1998. To be eligible for the program, children must be under the age of 19, be residents of New York, and have no other health insurance available (neither eligible for Medicaid nor covered by private insurance). DOH administers SCHIP by contracting with managed care organizations to provide services to qualified recipients at negotiated capitation rates (premiums). For many families, SCHIP is free. However, families with higher incomes pay a monthly premium of \$9 or \$15 a month per child. The difference between the amount paid by families and the amount charged by managed care organizations is subsidized by Federal and State funds. If a family's income is more than 2.5 times the poverty level, the family pays the full monthly premium charged by the managed care organization.

Related Reports

On March 13, 2002, we issued a report (A-01-01-02500) showing that an additional 11,600 uninsured children in Connecticut could have been enrolled in SCHIP if the State IV-D agency had been used as an enrollment tool. In addition, the report noted that noncustodial parents could have contributed approximately \$10.9 million (\$7.1 million

Federal share) toward the costs of enrolling these children in SCHIP. We recommended that Connecticut require noncustodial parents to enroll their children in SCHIP when other health insurance is not available at a reasonable cost and assess the ability of noncustodial parents to contribute toward the SCHIP costs of their children.

The Child Support Performance and Incentive Act of 1998 (Public Law 105-200, effective October 1, 2001) encourages States to enforce medical support orders and provide health coverage to uninsured children. Pursuant to the law, the Secretaries of Health and Human Services and Labor established the Medical Child Support Working Group and appointed the members from the child support community. In June 2000, the Working Group issued a report to both Secretaries identifying impediments to effective enforcement of medical support and recommending solutions. The Working Group recommended, among other things, that States authorize decisionmakers, such as judges, to require noncustodial parents to contribute toward the costs of SCHIP benefits for their children when employer-sponsored health insurance is not available or not affordable.

After considering the Working Group's report and the results of our work in Connecticut, we initiated reviews in New York, Indiana, Michigan, New Jersey, North Carolina, Texas, and Virginia. The objective of these reviews was to identify savings to SCHIP if noncustodial parents had been required to contribute toward the costs of SCHIP benefits for their children.

OBJECTIVES, SCOPE, AND METHODOLOGY

Objectives

We reviewed two populations of Title IV-D children in New York whose noncustodial parents were unable to provide court-ordered medical support: children who were eligible for SCHIP but not enrolled and children enrolled in SCHIP. Our objectives were to determine:

- the number of children, potentially without health insurance, who would have been eligible to receive SCHIP benefits and the amount that the noncustodial parents could have contributed toward SCHIP premiums if their children had been enrolled and
- the number of children who received SCHIP benefits and the amount that the noncustodial parents could have contributed toward SCHIP premiums.

Scope

For calendar year 2001, we reviewed a statistically valid sample of:

- 300 children from a population of 291,134 Title IV-D children who did not receive SCHIP benefits and

- 200 children from a population of 64,986 Title IV-D children who received SCHIP benefits.

We did not review the overall internal control structure of DCSE, DOH, or the child support enforcement units at the local districts. We did, however, review pertinent controls over the establishment and enforcement of child and medical support orders.

Methodology

To accomplish our objectives, we:

- reviewed Federal and State laws, regulations, policies, and procedures;
- interviewed DCSE and DOH officials;
- examined State and county records related to sampled 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.

We selected the sampled items using a simple random sample design. Details on our methodology and savings calculations can be found in Appendix A. Appendices B through E provide details on our sampling results and projections.

We conducted our review in accordance with generally accepted government auditing standards. We performed fieldwork from August 19, 2002 to February 28, 2003.

FINDINGS AND RECOMMENDATIONS

New York has an opportunity to enroll uninsured Title IV-D children in SCHIP and provide a means for noncustodial parents to fulfill their medical support obligations. We estimated that 71,813 uninsured children would have been eligible to receive SCHIP benefits during 2001 if no other health insurance had been available and that 36,877 of these children had noncustodial parents who could have contributed \$22,260,226 toward SCHIP premiums.

For those children who were enrolled, we estimated that 21,120 received SCHIP benefits during 2001. An estimated 12,347 of these children had noncustodial parents who could have contributed \$5,119,668 toward SCHIP premiums.

FEDERAL AND STATE REQUIREMENTS

Federal Laws and Regulations

Over the past decade, several Federal laws and regulations have been enacted to provide health insurance for uninsured children. Under 45 CFR § 303.31(b)(1), a medical support order must be established when the noncustodial parent has access to employer-sponsored health insurance at a reasonable cost. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 directs the Title IV-D agency to notify an employer of a noncustodial parent's medical support obligation and directly enroll his or her children if a health plan is available. The Child Support Performance and Incentive Act of 1998 encourages States to enforce medical support orders and provide health coverage to uninsured children.

Although the intent of these laws and regulations is to provide private medical coverage to uninsured children, medical support orders are not enforceable when employers do not provide health insurance or the cost is unreasonable.

State Laws

Section 413(1)(a) of the New York Family Court Act states that the parents of a child under the age of 21 are required to pay a fair and reasonable amount in child support if they possess sufficient means to do so or are able to earn such means. In addition, section 416(a) requires that medical support orders be established when health insurance benefits are available to noncustodial parents through an employer at a reasonable cost. However, at the time of our review, there was no requirement to enroll Title IV-D children in SCHIP when private insurance was not available or too costly. Additionally, there was no requirement for noncustodial parents to contribute toward the premiums paid on behalf of their children enrolled in SCHIP. As a result, the costs incurred by those children were paid by New York and the Federal Government.

SAMPLE RESULTS AND PROJECTIONS

Initial Analysis of Sampled Items

We analyzed the sampled children in each population to identify those whose noncustodial parents during 2001:

- had a current child support obligation,
- made a minimum of three child support payments, and
- were ordered to provide medical support but were unable to because it was either not available or too costly.

We eliminated from our detailed analysis those sampled children whose noncustodial parents lacked one or more of the above attributes.

Detailed Analysis of Children Without Health Insurance

On the basis of the initial analysis, we eliminated 197 of the 300 sampled children from further calculations. For the remaining 103, we determined that 74 children would have been eligible to receive SCHIP benefits during 2001 if no other health insurance had been available.² For these children, we calculated the number of noncustodial parents who could have contributed toward the SCHIP premiums that would have been incurred if their children had been enrolled:

- The noncustodial parents of 38 of the 74 children could have contributed \$22,938 toward the total premiums of \$41,926 (Federal and State combined). Projecting these results to the population of 291,134 children, we estimated that 36,877 children had noncustodial parents who could have contributed \$22,260,226, or 54.7 percent of the total \$40,687,355 in SCHIP costs (Federal and State combined) that would have been incurred if these children had been enrolled in the program. These estimates represent the midpoint of the 90-percent confidence interval. (See Appendices B and D for detailed sampling results and projections.)
- For 36 of the 74 children, there would have been no potential savings to the SCHIP program.³

Detailed Analysis of Children Who Received SCHIP Benefits

On the basis of our initial analysis, we eliminated 128 of the 200 sampled children from further calculations. Of the remaining 72 children, 65 received SCHIP benefits during 2001 because their noncustodial parents were unable to provide court-ordered medical support.⁴ For these children, we calculated the number of noncustodial parents who could have contributed toward the SCHIP premiums incurred on behalf of their children:

- The noncustodial parents of 38 of the 65 children could have contributed \$15,756 toward the total SCHIP premiums of \$28,552 (Federal and State combined). Projecting these results to the population of 64,986 children, we estimated that 12,347 children had noncustodial parents who could have contributed \$5,119,668,

² For the remaining 29 children, documentation was not available to determine whether the noncustodial parents of 11 children provided court-ordered medical support or had access to affordable health insurance, and 18 children were not eligible for SCHIP because they did not reside in New York during our audit period (12 children) or their custodial parents provided health insurance (6 children).

³ Of these 36 children, 27 had noncustodial parents who could not have afforded to pay any of the premiums that the State and Federal Governments would have incurred and 9 had custodial parents whose income was high enough to pay the managed care organization's entire premium.

⁴ For the remaining seven children, we eliminated three from further review because the State and Federal Governments paid no SCHIP costs while the noncustodial parents were ordered to provide medical support, and documentation was not available to determine whether the noncustodial parents of four children provided court-ordered medical support or had access to affordable health insurance.

or 55.2 percent of the total \$9,277,486 in SCHIP premiums (Federal and State combined). These estimates represent the midpoint of the 90-percent confidence interval. (See Appendices C and E for detailed sampling results and projections.)

- The noncustodial parents of 27 of the 65 children could not have afforded to pay any of the SCHIP premiums.

STATE LEGISLATIVE CHANGES

After our audit period, New York enacted legislation (section 413 of the Family Court Act), effective October 2, 2002, to ensure health insurance coverage of all Title IV-D children. This legislation authorizes courts to require parents to provide health insurance to their children. Although the focus of this legislation is on obtaining medical coverage for children through private health insurance, it also requires parents to enroll their children in SCHIP or Medicaid if private insurance is not available at a reasonable cost. In addition, noncustodial parents who possess sufficient means are now required to contribute toward the costs of the State program that provides health insurance to their children. Finally, any existing child support orders that do not provide for health insurance benefits will be modified in accordance with this legislation.

Although the legislation requires noncustodial parents to contribute toward the health insurance costs of their children, DCSE officials said that State SCHIP laws (sections 2510 and 2511 of New York State's Public Health Law) limited the amount of the noncustodial parent's contribution to the custodial parent's share of SCHIP premiums. Additionally, State officials advised us that any amount collected from the noncustodial parent would be paid to the custodial parent and could not be used to offset the State's share of SCHIP premiums. As a result, the State would be unable to realize the savings our review identified unless it revised its SCHIP laws.

RECOMMENDATION

We recommend that New York's DCSE coordinate with DOH to consider broadening the State's authority to allow for the recovery of the SCHIP savings identified in our report.

STATE'S COMMENTS

Because our report involved two separate State agencies, we received comments from each agency, as summarized below.

DCSE Comments

DCSE officials said that further analysis was necessary to assess the feasibility of having noncustodial parents contribute, above the statutory limit, toward SCHIP costs. They did not believe that it was reasonable to conclude that noncustodial parents' income in excess of the self-support reserve, minus the child support obligation, could be used to offset those costs. The officials were also concerned that our analysis used current child support payments, isolated in time, as an indication of a noncustodial parent's ability to

regularly pay child support and to contribute toward SCHIP costs. According to DCSE officials, this analysis ignores the courts' limited discretion to deviate, based on income and other factors, from the presumptive child support obligation. They also said that our analysis failed to recognize the transient employment of many noncustodial parents, which often results in unpaid child support.

DCSE's comments are included in their entirety in Appendix F.

DOH Comments

DOH officials stated that they could not determine the reasonableness or accuracy of the savings we projected because they lacked sufficient details.

With respect to our recommendation, the officials stated that setting the cost sharing higher for children who are enrolled by a noncustodial parent would constitute discrimination and that civil rights laws would not permit such a policy. Rather than enrolling a child in a State-subsidized program, they recommended that courts require noncustodial parents who could afford health insurance to purchase it privately or through their employer.

DOH's comments are included in their entirety in Appendix G.

OFFICE OF INSPECTOR GENERAL RESPONSE

Response to DCSE Comments

Many subjective factors are involved in determining child and medical support obligations. However, our determination that a noncustodial parent could contribute toward SCHIP costs was not based solely on the ability to regularly pay child support. Even though we calculated savings only for noncustodial parents who met their child support obligations, we considered other factors: the income of the noncustodial parent, the amount of child support that the noncustodial parent was ordered to pay, the minimum self-support reserve to which the noncustodial parent was entitled, and any other children of the noncustodial parent in our population. After considering all of these factors, if noncustodial parents had income remaining, we determined whether they could contribute to the SCHIP costs of their children.

As to ignoring the courts' discretion to deviate from the presumptive child support obligation, we could use only the State's child support guidelines to make our determinations. We could not predict what actions the courts would have taken if noncustodial parents had been required to contribute toward their children's SCHIP costs.

Finally, we believe that we accounted for the transient employment of noncustodial parents that often results in unpaid child support. Regardless of employment status, if noncustodial parents did not meet their child support obligations or have sufficient

income, we did not determine whether they could have contributed toward their children's SCHIP costs.

Response to DOH Comments

We do not agree that our recommendation would impermissibly discriminate against families with children enrolled in SCHIP for whom there is a court-ordered child support arrangement. Currently, the amount of an SCHIP premium in New York is based on the custodial parent's household income; the noncustodial parent's income is not considered. As a result, the SCHIP premium payment is likely to be lower than that of an "intact" family where both incomes are considered. Our recommendation would not discriminate based on family status, but would equalize contributions to some extent. This would be accomplished by giving a judge, on a case-by-case basis, the latitude to set an appropriate payment by a noncustodial parent. Such payment would not necessarily be capped at the contribution toward premium payments set by SCHIP, based solely on the custodial parent's income, but could be tailored to the financial particulars of the individuals involved.

Also, the noncustodial parents in our projection were under medical support orders but did not provide private health insurance because their employers did not offer it or the cost was not reasonable. Consequently, we believe that it is reasonable, and in agreement with the court orders, that noncustodial parents be held financially responsible for their children's medical costs, including those borne by State and Federal Governments.

APPENDICES

DETAILS ON OUR SAMPLING METHODOLOGY AND SAVINGS CALCULATIONS

Sampling Methodology

- ✓ Used an extract from DCSE's Child Support Management System (CSMS) to create a universe of 356,120 Title IV-D children:
 - who were not Medicaid eligible for all of 2001 and
 - whose noncustodial parent had made at least one child support payment during 2001.
- ✓ Obtained an extract from the State's SCHIP computer system containing all children who received SCHIP benefits during 2001.
- ✓ Tested the accuracy and completeness of the extracts from CSMS and the SCHIP system.
- ✓ Matched the universe created from the CSMS extract to the extract of children receiving SCHIP benefits to create a population of:
 - 291,134 Title IV-D children who did not receive SCHIP benefits during 2001 and
 - 64,986 Title IV-D children who were enrolled in SCHIP during 2001.
- ✓ Used simple random sampling techniques to select:
 - 300 children from the population of 291,134 who did not receive SCHIP benefits during 2001 and
 - 200 children from the population of 64,986 who were enrolled in SCHIP during 2001.

Savings Calculations

- ✓ Reviewed DCSE guidelines for calculating child support payments.
- ✓ Determined, for the sampled items in each population, if the noncustodial parents:
 - had a current child support obligation,
 - made three or more child support payments, and
 - met their current child support obligation.
- ✓ Reviewed State and county records for sampled children to determine if the noncustodial parent was able to provide court-ordered medical support.
- ✓ Determined, for the sampled children who did not receive SCHIP benefits, the number of children who would have been eligible to receive SCHIP benefits if no other health insurance had been available. These determinations were made, in accordance with SCHIP income eligibility levels, using information from ACF's Office of Child Support Enforcement.

- ✓ Eliminated those sampled children who received private health insurance through their custodial parents even though their noncustodial parents were ordered to provide medical support. To identify these children, we relied on information in State and county records.
- ✓ Determined the amount of medical support that noncustodial parents could have contributed toward their children's SCHIP costs by reducing each noncustodial parent's net monthly income by (1) the amount of monthly child support the noncustodial parent was ordered to pay and (2) the minimum self-support reserve to which the noncustodial parent was entitled. We then divided the amount available for medical support by the number of children the noncustodial parent had in our population to determine the amount available, if any, for medical support for each sampled child.
- ✓ Computed the potential savings to SCHIP by comparing the amount of medical support that the noncustodial parent could pay with the monthly SCHIP premiums that the State and Federal Governments paid on behalf of the noncustodial parent's child. The SCHIP cost represented the months in which the noncustodial parent had a current child support obligation and was unable to provide court-ordered medical support. The potential savings to SCHIP was the lower of (1) the amount of medical support that the noncustodial parent could pay or (2) the monthly SCHIP costs the State and Federal Governments paid on behalf of the noncustodial parent's child.
- ✓ Used attribute and variable appraisal programs¹ to estimate (1) the number of children whose noncustodial parents did not provide court-ordered medical support and who would have been eligible for SCHIP if no other health insurance had been available, (2) the number of children who received SCHIP benefits because their noncustodial parents were unable to provide court-ordered medical support, and (3) the savings to SCHIP if noncustodial parents from both populations had been required to make monthly contributions toward the SCHIP costs of their children.

¹ An attribute is a characteristic that an item either has or does not have. In attribute sampling, the selected sampled items are evaluated in terms of whether they have the attribute of interest. An attribute appraisal program is a computer program that estimates the proportion of the population or the number of items in the population that have the attribute.

In variable sampling, the selected sampling units are evaluated with respect to a characteristic having values that can be expressed numerically or quantitatively, e.g., the dollar amount of error in a voucher. A variable appraisal program is a computer program that computes a statistic from the sample values to estimate the population parameter, e.g., an estimate of the total dollar amount of error in the population.

**STATISTICAL SAMPLING INFORMATION:
TITLE IV-D CHILDREN NOT RECEIVING SCHIP BENEFITS**

**Sampling Results
(Federal and State Combined Costs)**

Population (Children)	Sample Size (Children)	Sampled Items With Characteristics of Interest (Children)	SCHIP Premiums (For 74 Children)	Sampled Items With No Savings (Children)	SCHIP Premiums (For 36 Children)	Sampled Items With Potential Savings (Children)	SCHIP Premiums (For 38 Children)	Potential SCHIP Savings (For 38 Children)
291,134	300	74	\$70,079	36	\$28,153	38	\$41,926	\$22,938

**Projection—Population of 291,134 Children
(Federal and State Combined Costs)
(Precision at the 90-Percent Confidence Level)**

	Sampled Items With Characteristics of Interest (Children)	SCHIP Premiums (For Sampled Items With Characteristics of Interest)	Sampled Items With No Savings (Children)	SCHIP Premiums (For Sampled Items With No Savings)	Sampled Items With Potential Savings (Children)	SCHIP Premiums (For Sampled Items With Potential Savings)	SCHIP Savings (For Sampled Items With Potential Savings)
Upper Limit	84,726	\$81,322,286	45,228	\$36,304,400	47,362	\$51,493,954	\$29,287,999
Point Estimate (Midpoint)	71,813	\$68,008,145	34,936	\$27,320,791	36,877	\$40,687,355	\$22,260,226
Lower Limit	59,999	\$54,694,005	26,319	\$18,337,181	28,035	\$29,880,755	\$15,232,453
Precision	N/A	19.58%	N/A	32.88%	N/A	26.56%	31.57%

**STATISTICAL SAMPLING INFORMATION:
TITLE IV-D CHILDREN RECEIVING SCHIP BENEFITS**

**Sampling Results
(Federal and State Combined Costs)**

Population (Children)	Sample Size (Children)	SCHIP Premiums (For 200 Children)	Sampled Items With Characteristics of Interest (Children)	SCHIP Premiums (For 65 Children)	Sampled Items With <u>No</u> Savings (Children)	SCHIP Premiums (For 27 Children)	Sampled Items With Potential Savings (Children)	SCHIP Premiums (For 38 Children)	Potential SCHIP Savings (For 38 Children)
64,986	200	\$149,443	65	\$48,020	27	\$19,468	38	\$28,552	\$15,756

**Projection—Population of 64,986 Children
(Federal and State Combined Costs)
(Precision at the 90-Percent Confidence Level)**

	Sampled Items With Characteristics of Interest (Children)	SCHIP Premiums (For Sampled Items With Characteristics of Interest)	Sampled Items With <u>No</u> Savings (Children)	SCHIP Premiums (For Sampled Items With <u>No</u> Savings)	Sampled Items With Potential Savings (Children)	SCHIP Premiums (For Sampled Items With Potential Savings)	SCHIP Savings (For Sampled Items With Potential Savings)
Upper Limit	24,928	\$18,710,324	11,779	\$8,519,132	15,687	\$11,816,955	\$6,784,492
Point Estimate (Midpoint)	21,120	\$15,603,210	8,773	\$6,325,724	12,347	\$9,277,486	\$5,119,668
Lower Limit	17,568	\$12,496,096	6,309	\$4,132,317	9,463	\$6,738,017	\$3,454,844
Precision	N/A	19.91%	N/A	34.67%	N/A	27.37%	32.52%

**ANALYSIS OF PROJECTIONS:
TITLE IV-D CHILDREN NOT RECEIVING SCHIP BENEFITS**

As explained in Appendix B, we estimated that 36,877 children had noncustodial parents who could have contributed \$22,260,226 toward the \$40,687,355 (Federal and State combined) in SCHIP premiums that would have been incurred if their children had been enrolled in SCHIP during our audit period. All estimates were made at the midpoint of the 90-percent confidence interval. The following table itemizes our estimates of whether the noncustodial parents could have paid all or part of the SCHIP premiums and should assist New York in implementing new legislation.

Population of Title IV-D Children Not Receiving SCHIP Benefits (291,134 Children)

	Noncustodial Parent Can:	Sample Value	Projection at Midpoint
Number of Children	Pay <u>part</u> of premium	30	29,113
	Pay <u>all</u> of premium	8	7,764
	Total	38	36,877
SCHIP Premiums	Pay <u>part</u> of premium	\$32,802	\$31,832,630
	Pay <u>all</u> of premium	9,124	8,854,724
	Total	\$41,926	\$40,687,354¹
SCHIP Savings	Pay <u>part</u> of premium	\$13,814	\$13,405,502
	Pay <u>all</u> of premium	9,124	8,854,724
	Total	\$22,938	\$22,260,226

¹ The difference between the total shown here and the total shown in Appendix B is due to rounding.

**ANALYSIS OF PROJECTIONS:
TITLE IV-D CHILDREN RECEIVING SCHIP BENEFITS**

As explained in Appendix C, we estimated that 12,347 children had noncustodial parents who could have contributed \$5,119,668 toward the \$9,277,486 (Federal and State combined) in SCHIP premiums paid on behalf of their children. All estimates were made at the midpoint of the 90-percent confidence interval. The following table itemizes our estimates of whether the noncustodial parents could have paid all or part of the SCHIP premiums and should assist New York in implementing new legislation.

Population of Title IV-D Children Receiving SCHIP Benefits (64,986 Children)

	Noncustodial Parent Can:	Sample Value	Projection at Midpoint
Number of Children	Pay <u>part</u> of premium	25	8,123
	Pay <u>all</u> of premium	13	4,224
	Total	38	12,347
SCHIP Premiums	Pay <u>part</u> of premium	\$20,990	\$6,820,463
	Pay <u>all</u> of premium	7,562	2,457,023
	Total	\$28,552	\$9,277,486
SCHIP Savings	Pay <u>part</u> of premium	\$8,194	\$2,662,645
	Pay <u>all</u> of premium	7,562	2,457,023
	Total	\$15,756	\$5,119,668



George E. Pataki
Governor

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Brian J. Wing
Commissioner

June 25, 2003

Re: Report Number A-02-02-02005

Dear Mr. Horgan:

This is in response to your draft report entitled "Review of the Ability of Non-Custodial Parents to Contribute Towards the State Children's Health Insurance Program Costs of the Title IV-D Children in New York." My comments are limited to the aspects related to the child support program.

As you know, Governor Pataki is a strong supporter of children's health care. We totally agree that the State Children's Health Insurance Program, known in New York State as Child Health Plus, is a viable means to expand children's access to health care coverage when their parents do not have such coverage because it is neither affordable nor available. We are pleased your review found that a significant number of IV-D children were enrolled in the Child Health Plus program (page 3 under Methodology showed that 69,986 or 18% of IV-D children that were identified as the universe for the study were enrolled). We had not done such an analysis and find that information useful to provide a baseline as we assess the implementation of the new health insurance coverage laws.

As you reference, on October 2, 2002, Governor Pataki signed into law Chapter 624 of the Laws of 2002 relating to health insurance coverage for children in child support orders. The amendments to the Family Court Act and the Domestic Relations Law included in the new legislation are effective as of October 2, 2002. The legislation requires the court to address the provision of health insurance coverage in all Supreme Court and Family Court child support orders. Two of the key elements of the legislation follow:

If neither parent has available health insurance benefits the court must direct the custodial parent to make application for the state's Child Health Insurance Plan and Medicaid program. Such a direction by the court shall not limit or alter either parent's obligation to obtain health insurance benefits at such time as they become available. The Child Health Insurance Plan and Medicaid program must not be an acceptable alternative or substitution for private health insurance coverage.

- The cost of providing health insurance benefits must be prorated between the parties by the court. If the custodial parent is ordered to provide health insurance benefits, the non-custodial parent's pro-rata share will be added to the basic support obligation by the court. If the non-custodial parent is ordered to provide health insurance coverage, the custodial parent's share

"providing temporary assistance for permanent change

will be subtracted from the basic support obligation by the court. If the court finds that the proration is unjust or inappropriate, the court must order the parties to pay such amount as it finds just and appropriate and make a finding setting forth the factors it considered, the amount of each party's share of the cost, and the reason(s) the court did not order a pro rata adjustment (Reference §416 NYS Family Court Act).

The new law provides for parental contributions toward the cost of health care including the Child Health Plus program. In addition, as your report observes, there are statutorily prescribed limits as to parental contribution for Child Health Plus.

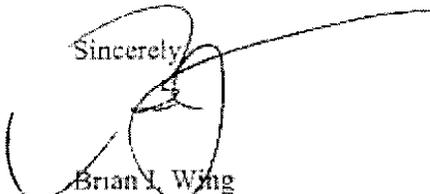
The report concludes that cost savings could be realized if non-custodial parents contributed to the costs of Child Health Plus **over and above such amounts** now set forth in statute and recommends undefined amendments to §2510 and §2511 of the Public Health Law.

From a child support perspective, further analysis would be necessary to assess the feasibility of such non-custodial parent contributions. We do not believe it reasonable to conclude that non-custodial parent income in excess of the self-support reserve (135% of the poverty income guidelines amount for a single person as reported by the federal Department of Health and Human Services), minus the guidelines child support obligation, can be used to offset the cost of Child Health Plus. Further study would be needed as to how such non-custodial parent income is expended. For example, it could be expended on other children living in the non-custodial parent household, or on other child support obligations.

It is also a concern that the analysis uses current child support payments isolated in time as an indication of non-custodial parent ability to regularly pay child support and, therefore, also contribute to the cost of Child Health Plus. This ignores the court's limited discretion to deviate from the presumptive child support obligation using income or other factors as basis for deviation. It also fails to recognize the transient employment of a large number of non-custodial parents that often results in unpaid child support.

Finally, I defer to the NYS Department of Health to further respond to the report and the recommendation as the statutes subject to change are within their purview. We are sharing a copy of your report and this letter with the Department of Health for their review and comment as appropriate.

Thank you for the opportunity to comment.

Sincerely,

Brian J. Wing

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Regional Inspector General for Audit Services
Office of Audit Services
DHHS, Region II
Jacob K. Javits Federal Building
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Antonia C. Novello, M.D., M.P.H., Dr.P.H.
Commissioner

Dennis P. Whalen
Executive Deputy Commissioner

July 29, 2003

Mr. Timothy J. Horgan
Regional Inspector General for Audit Services
Office of Audit Services
DHHS, Region II
Jacob K. Javits Federal Building
New York, New York 10278

Dear Mr. Horgan:

Re: Report Number A-02-02-02005

The following are our comments on your draft report entitled, "Review of the Ability of Non-Custodial Parents to Contribute Towards the State Children's Health Insurance Program Costs of Title IV-D Children in New York." Please note that the program abbreviation should be CHPlus, as CHP is an abbreviation for a health plan and should not be used for the state program. Our comments follow the order of the report.

Summary of Findings (i)

Fiscal Projections -- The NYS Department of Health (Department) cannot determine the reasonableness of the savings projected by the Office of Inspector General since the Department does not have sufficient detail to make an assessment.

Non-Custodial Parents' (NCPs) Contributions

Recommendation -- Your report recommends considering revising sections 2510 and 2511 of New York State's Public Health Law to allow the state to realize additional cost savings to the CHPlus program by requiring NCPs to pay a larger share of the premium. The family contribution for the CHPlus program is determined based on the household income of the household in which the child lives. It would constitute discrimination to set the cost-sharing higher for children who are enrolled by a non-custodial parent. We do not believe the civil rights laws would permit such a policy. We recommend that the courts require those non-custodial parents who can afford health insurance to purchase it privately or through their employer, if available, rather than enroll the child in a state subsidized program.

Related Reports (2)

The first paragraph should clearly state up-front that the report being discussed is on the state of Connecticut.

Appendices

The Department cannot determine the accuracy of the projections based on the information presented in the report.

Thank you for the opportunity to comment on this draft report.

Sincerely,

A handwritten signature in black ink, appearing to read "Judith Arnold".

Judith Arnold
Deputy Commissioner
Division of Planning, Policy
and Resource Development

ACKNOWLEDGMENTS

This report was prepared under the direction of Timothy J. Horgan, Regional Inspector General for Audit Services. Other principal Office of Audit Services staff who contributed includes:

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