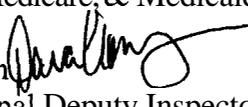




NOV 21 2003

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

Thomas A. Scully
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 Indiana That Were Paid Under the Medicaid Program (A-05-02-00075)

We are alerting you to the issuance within 5 business days of our final report entitled "Review of the Ability of Noncustodial Parents to Contribute Toward the Medical Costs of Title IV-D Children in Indiana That Were Paid Under the Medicaid Program." A copy is attached.

Congress enacted the Child Support Performance and Incentive Act of **1998** (Public Law 105-200, effective October 1, 2001) to encourage the States to enforce medical support orders and provide health care coverage to uninsured children. Under the provisions of the law, Congress directed the establishment of the Medical Child Support Working Group by the Secretaries of Health and Human Services and Labor. The Secretaries 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. Since medical support orders are not enforceable when employers do not provide health insurance or the cost is unreasonable, some Title IV-D children are enrolled in Medicaid. In cases where Title IV-D children are enrolled in Medicaid, the Working Group recommended that States authorize decisionmakers, such as judges, to require noncustodial parents (NCPs) to contribute toward the costs of Medicaid benefits for their children.

The objective of our audit was to identify the number of children in Indiana who received child support (Title IV-D children) and also received Medicaid benefits because their NCPs did not provide court-ordered medical support. We also determined the potential savings that could have accrued to the Medicaid program if the NCPs had been required to contribute toward the Medicaid costs of these children. Our audit covered the period June 1, 2001, through May 31, 2002.

We conducted similar audits in seven other States on which we have issued or will soon issue final reports. We conducted these audits as a result of a June 1998 Office of Inspector General report, which identified significant potential savings in Connecticut if NCPs were required to contribute toward the Medicaid costs of their children.

We reviewed a statistical sample of 200 children from a population of 18,493 children in Indiana who were covered by Title IV-D of the Social Security Act between June 1, 2001, and May 31, 2002. We estimated that 16,366 children received Medicaid benefits because their NCPs did not provide court-ordered medical support because either it was not available through their employers or it was too costly. Of the 16,366 children, an estimated 4,808 had NCPs who could potentially contribute an aggregate of \$3 million toward total Medicaid costs of \$13,446,426 (Federal and State combined). The potential savings were calculated by subtracting from the NCP's monthly net income the child support ordered and a self-support reserve and dividing the result by the NCP's number of children. If sufficient income remained, we considered it potentially available to cover part or all of the Medicaid expenses.

We recommended that Indiana consider the results of our study and pursue collecting the Medicaid costs incurred by the children of NCPs who have medical support orders and the ability to pay.

The State endorsed the goal of our review, but expressed reservations concerning factors used to calculate the savings recommended in the draft report. In consideration of the State's response, we revised our calculation of potential Medicaid savings by using guidelines employed by Indiana.

If you have any questions or comments about this report, please do not hesitate to contact me or have your staff call Donald L. Dille, Assistant Inspector General for Grants and Internal Activities, at (202) 619-1175 or e-mail him at ddille@oig.hhs.gov. To facilitate identification, please refer to report number A-05-02-00075 in all correspondence.

Attachment



DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF AUDIT SERVICES
233 NORTH MICHIGAN AVENUE
CHICAGO, ILLINOIS 60601

REGION V
OFFICE OF
INSPECTOR GENERAL

NOV 25 2003

Report Number A-05-02-00075

Ms. Karla Mantia
Deputy Director, Indiana Family and Social Services Agency
Division of Family and Children's Service
402 West Washington Street, Room W360
Indianapolis, Indiana 46204

Dear Ms. Mantia:

Enclosed are two copies of a U.S. 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 N-D Children in Indiana That Were Paid Under the Medicaid Program."

Final determination as to actions taken on all matters reported will be made by the HHS Action Official. We request that you respond to this 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 information contained therein is not subject to exemptions in the Act which the Department chooses to exercise (See 45 CFR Part 5).

To facilitate identification, please refer to Report Number A-05-02-00075 in all correspondence relating to this report.

Sincerely yours,

A handwritten signature in black ink that reads "Paul Swanson".

Paul Swanson
Regional Inspector General
for Audit Services

Enclosures

Direct Reply to HHS Action Official:
Ms. Jean Augustine, Director
Office of Audit Resolution and Cost Policy
Department of Health and Human Services
Room 522E, Humphrey Building
200 Independence Avenue, S.W.
Washington, D.C. 20201

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
INDIANA THAT WERE PAID UNDER THE
MEDICAID PROGRAM**



**NOVEMBER 2003
A-05-02-00075**

EXECUTIVE SUMMARY

OBJECTIVE

The objective of our audit was to identify the number of children in Indiana who received child support (Title IV-D children) and also received Medicaid benefits because their noncustodial parents (NCPs) did not provide court-ordered medical support. We also determined the potential savings that could have accrued to the Medicaid program if the NCPs had been required to contribute toward the Medicaid costs of these children. Our audit covered the period June 1, 2001, through May 31, 2002.

SUMMARY OF FINDINGS

The 18,493 children in our population incurred an estimated \$13.4 million in Medicaid costs because their NCPs were unable to provide private health care coverage. In our sample of 200, we identified 52 NCPs who could have potentially contributed \$32,872 to their children's Medicaid costs. Projecting the \$32,872 to the total population of 18,493 children in our universe results in an estimated savings of \$3,039,504 to the Medicaid program. We estimated potential savings to the Medicaid program by subtracting from the NCP's monthly net income the child support ordered and a self-support reserve of \$700 and dividing the results by the NCP's number of children. If sufficient income remained, it was considered potentially available to cover either part or all of the Medicaid expenses.

Although Indiana has made progress in obtaining private health insurance for its children, situations still exist which hamper Indiana from fully maximizing potential private health insurance sources for medical support. Court orders for medical support require NCPs to provide health coverage only if it is available at a reasonable cost through their employer. In addition, Indiana child support guidelines do not require NCPs to contribute toward the Medicaid costs their children incur.

RECOMMENDATION

We recommend that Indiana consider the results of our study and pursue collecting the Medicaid costs incurred by the children of NCPs who have medical support orders and the ability to pay.

DIVISION OF FAMILY AND CHILDREN'S SERVICE COMMENTS

The Division of Family and Children (Division) disagreed with our method of estimating potential Medicaid savings. Also, they believe that arrearages on the NCP child support obligation might affect the ability to recover the cost of Medicaid services. Federal statute requires that payments in excess of the current support obligation be applied first to arrearages or used to reimburse the State and Federal Governments for Temporary Assistance to Needy Families/cash assistance payments made on behalf of the children. Further, the Division also stated that under some circumstances they have the ability to pursue NCPs for the Medicaid costs of their children without increasing the child support obligation. Indiana law allows the State,

pursuant to the assignment of medical rights, via an established child support order, to recoup a child's Medicaid expenditures from the NCP in the same proportional percentage used to determine that NCP's child support income share responsibility. The Division has used this procedure to pursue Medicaid birthing costs from NCPs. So far the Division has asked NCPs to repay Medicaid \$4,870,201 in birthing expenditures. To date, \$499,795 has been collected.

OAS RESPONSE

In consideration of the Division's response, we revised our calculation of potential Medicaid savings. Our recalculated estimate conforms to the State's income guidelines and the concept contained in the Consumer Credit Protection Act. Using this approach, we identified NCPs who could afford to pay some or all of their children's Medicaid costs and estimated that they could potentially contribute over \$3 million.

Regarding the Division's comment on paying arrearages, Federal program regulations require that amounts collected go toward current child support and medical support obligations before any arrearage is paid.

We agree that the Division should continue to pursue innovative ways to recover Medicaid costs.

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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 purpose of the program was to establish and enforce support and medical obligations owed by NCPs to their children. Within the Federal Government, the Administration for Children and Families, Office of Child Support Enforcement, is responsible for administering the program.

The Indiana Family and Social Services Agency, Division of Family and Children, is the Title IV-D agency that administers the Child Support Enforcement program. The Division's responsibilities include intake, paternity establishment, identifying NCPs' health insurance coverage, and enforcing the cash and medical support orders. Although Indiana has guidelines that spell out the amount that NCPs are required to pay in child support, it does not specify amounts that NCPs should pay for their children's medical care. The Division did not have an estimate of Title IV-D eligible children not covered by a parent's health insurance, some of whom are consequently covered by the Medicaid program.

Medicaid Program

The Medicaid program was established in 1965 under Title XIX of the Social Security Act to pay for medical expenses for certain vulnerable and needy individuals and families with low income and resources. Medicaid is the payer of last resort, whose costs are shared between the Federal and State Governments. Within the Federal Government, the Medicaid program is administered by the Centers for Medicare & Medicaid Services (CMS).

The Indiana Family and Social Services Agency, Office of Medicaid Policy and Planning, oversees the Medicaid program and has arranged contracts with various managed care organizations to provide services to Medicaid recipients at negotiated capitation rates (premiums). The premiums, which are based on the age and sex of the recipient, as well as the plan's service area, are paid on a monthly basis. The recent premium ranges for children were as follows:

- | | |
|--------------------------|---------------------|
| • Newborn (0-11 months) | \$119.70 - \$136.75 |
| • Preschool | \$74.80 - \$88.53 |
| • Child (1-12 years) | \$68.88 - \$76.90 |
| • Teenager (13-18 years) | \$97.79 - \$108.01 |

Medical procedures not covered by the premiums are paid in accordance with established fee-for-service schedules.

Related Reports

On June 18, 1998, we issued a report (A-01-97-02506), which showed that NCPs could contribute approximately \$11.4 million (Federal and State combined) toward their children's Medicaid costs in Connecticut. The report recommended that Connecticut require NCPs to pay all or part of the Medicaid costs for their dependent children.

Congress enacted the Child Support Performance and Incentive Act of 1998 (Public Law 105-200, effective October 1, 2001) to encourage the States to enforce medical support orders and provide health care coverage to uninsured children. Under the provisions of the law, Congress directed the establishment of the Medical Child Support Working Group by the Secretaries of Health and Human Services and Labor. The Secretaries 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. Since medical support orders are not enforceable when employers do not provide health insurance or the cost is unreasonable, some Title IV-D children are enrolled in Medicaid. In cases where Title IV-D children are enrolled in Medicaid, the Working Group recommended that States authorize decisionmakers, such as judges, to require NCPs to contribute toward the costs of Medicaid benefits for their children.

After consideration of the report issued by the Working Group and the results of our audit in Connecticut, we initiated reviews in Indiana, New York, New Jersey, Connecticut (followup), Michigan, North Carolina, Texas, and Virginia to determine the potential savings to the Medicaid program that could result if NCPs were required to contribute to the costs of Medicaid benefits for their children.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

The objective of our audit was to identify the number of children in Indiana who received child support (Title IV-D children) and also received Medicaid benefits because their NCPs did not provide court-ordered medical support. We also determined the potential savings that could have accrued to the Medicaid program if the NCPs had been required to contribute toward the Medicaid costs of these children.

Scope

For the period June 1, 2001, through May 31, 2002, we selected a statistically valid sample of 200 children from a population of 18,493 children:

- who received Title IV-D services;
- whose NCPs had been court-ordered to provide health coverage; and
- whose NCPs made at least three child support payments during the period.

Cases were statistically selected using a simple sampling design. Details on our sampling methodology and projection are presented in Appendix A. We evaluated applicable child support and Medicaid laws, regulations, and guidelines to determine whether NCPs could contribute toward the Medicaid costs of their children.

We did not review the overall internal control structure of the Indiana child support agency. Our review was limited to obtaining an understanding of the process used to enforce medical support orders. Further, we tested the reliability of computer files used to determine the population for our sample by tracing pertinent data to source documents.

Methodology

For each sample item, we:

- reviewed State Title IV-D computer files to determine the amount paid in child support;
- reviewed State Title IV-D records to determine whether NCP health insurance was available and if the cost of insurance was reasonable. We relied on State Title IV-D records for this information;
- verified the accuracy of the NCPs' health insurance coverage for their children by requesting independent verification from Title IV-D county offices; and
- identified whether the Title IV-D child had incurred Medicaid costs.

We identified potential savings to the Medicaid program by calculating what NCPs could reasonably contribute toward their children's Medicaid costs. The finding was recalculated using the State's income guidelines and the concept contained in the Federal Consumer Credit Protection Act, which limits the amount of debt that can be recovered from a debtor to 50 percent of disposable earnings. In addition, since Indiana did not have a minimum amount for self-support reserve, we used an amount that certain high-income States use--\$700.

Our review was conducted in accordance with generally accepted government auditing standards. We performed our fieldwork at the Division between June 2002 and January 2003.

FINDINGS AND RECOMMENDATION

We estimated that our population of 18,493 children incurred \$13.4 million in Medicaid costs because their NCPs were unable to provide private health insurance coverage. In our sample, we identified 52 NCPs who could afford to pay some or all of their children's Medicaid costs. We estimated that they could contribute \$32,872 toward Medicaid costs. We projected these results to the total population and estimated that the NCPs could have contributed over \$3 million toward the Medicaid costs of 4,808 children.

Federal Laws and Regulations

Over the past decade, Congress passed several Federal laws and CMS published regulations to provide health insurance for uninsured children. Specifically:

- The Omnibus Budget Reconciliation Act of 1993 permits Title IV-D agencies to establish medical support orders for children when the NCP has access to medical coverage.
- The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 directs the Title IV-D agency to notify an employer of an NCP's medical child support obligation and directly enroll his or her children if a health plan is available.
- The Child Support Performance and Incentives Act of 1998, Public Law 105-200, encourages States to enforce medical support orders and provide health coverage to uninsured children.
- Title 45, Code of Federal Regulations, section 303.31(b)(1) requires medical support orders to be established when the NCP has access to health insurance that is available through an employer at a reasonable cost.

While the essence of the above laws and regulations is to provide private medical coverage to uninsured children, medical support orders are not enforceable when an NCP's employer does not provide health insurance or if the cost is unreasonable. Consequently, some Title IV-D children are enrolled in Medicaid.

Indiana State Laws

Although Indiana Code does not require NCPs to make additional contributions toward their children's Medicaid cost, like most States, it recognizes that NCPs have an obligation to provide health care coverage for their children. Indiana Code, section 31-16-6-4, provides that:

. . . A child support order may also include, where appropriate, basic health and hospitalization insurance coverage for the child . . . the court may order the parent who is ordered to pay child support to provide the insurance coverage for the child if the insurance coverage: (1) is available to the parent ordered to pay child support or the dependents of the parent as part of the parent's employee benefit plan; or (2) is available at reasonable cost to the parent ordered to pay child support

Initial Analysis of Sample Results

Out of our sample of 200 children, we excluded 23 children that received private health coverage and 80 children that did not receive child support payments in the months when the children incurred Medicaid costs. We excluded these children and NCPs from further review because there was no potential for Medicaid program savings.

The remaining 97 children had NCPs who met their child support obligation during months that their children incurred Medicaid costs. For these children, we calculated potential savings from NCP contributions toward Medicaid costs. We identified 52 NCPs who could afford to pay for some or all of their children's Medicaid costs.

Detailed Analysis of Sample Cases

The NCPs for the 52 children could potentially contribute \$32,872 toward the Medicaid costs incurred by their children. We used the following methodology to determine the amount of medical support the NCPs could contribute for each sample child:

We reduced the NCP's net monthly income by (i) the amount of monthly child support the NCP was ordered to pay and (ii) the minimum self-support reserve the NCP was entitled to and/or the net income limitation imposed under the Consumer Credit Protection Act, whichever was greater. Then we divided the amount available for medical support by the number of children the NCP had in our population to determine the amount available for medical support for our sample child.

We computed the potential savings to the Medicaid program by comparing the amount of medical support the NCP could pay toward the monthly Medicaid costs the State paid on behalf of the NCP's child. The cost of these services represented months where the NCP had a current child support obligation and did not provide court-ordered medical support. The potential savings to the Medicaid program was the lower of (i) the amount of medical support the NCP could pay or (ii) the monthly Medicaid cost the State paid on behalf of the NCP's child.

In calculating the potential savings, we assumed that NCPs would consistently pay computed Medicaid costs. Factors not considered in our savings calculations include future increases or decreases in Medicaid costs and NCP income. Projecting the \$32,872 estimated contribution to the total population of 18,493 children in our universe resulted in an estimated savings to the Medicaid program of \$3,039,504.

Recommendation

We recommend that Indiana consider the results of our study and pursue collecting the Medicaid costs incurred by the children of NCPs who have medical support orders and the ability to pay.

Division Comments

The Division disagreed that it is reasonable to automatically increase the NCP's child support obligation by 20 percent without evidence of a change in the NCP's income, and that the proposed increases in child support payments would be automatically applied for the repayment of Medicaid costs. The Division stated that Federal statutory requirements governing the distribution of support payments require that any payments in excess of the current support obligation would more appropriately be applied to any existing support arrearages due the custodial parent, or to reimburse the State and Federal Governments for their provision of Temporary Assistance for Needy Families/cash assistance payments made on behalf of the children. Although the Division stated that the Office of Medicaid Policy and Planning (OMPP) could not (under Indiana law) recover Medicaid costs from NCPs, it later clarified this point by stating that under some circumstances OMPP can pursue NCPs for the Medicaid costs of their children without increasing the child support obligation. Indiana law allows the State, pursuant to the assignment of medical rights, via an established child support order, to recover a child's

Medicaid expenditures from the NCP in the same proportional percentage used to determine the child support income share responsibility. Using this approach, the Division has established orders for the NCP to repay Medicaid for birthing expenditures amounting to \$4,870,201. Since January 1, 2001, the Division has collected \$499,795 of this amount to reimburse the Medicaid program.

OAS Response

Although we initially estimated potential NCP contributions by using the 20 percent of the NCP's established child support orders, we revised our calculation by following the State's income guidelines, and using the concept contained in the Federal Consumer Credit Protection Act. Using this approach, we identified the NCPs who could afford to pay some or all of their children's Medicaid costs and estimated their contribution to their children's Medicaid costs. Projecting the sample result to the population of children shows a potential savings of \$3 million.

Regarding the Division's comment on paying arrearages, Federal program regulations require that amounts collected go toward current child support and medical support obligations before any arrearage is paid.

We agree that the Division should continue to pursue innovative ways to recover Medicaid costs.

APPENDICES

STATISTICAL SAMPLING INFORMATION
FOR REVISED PROJECTIONS USED IN OUR OAS COMMENTS

Sample Results:

- Population (Title IV-D Children): 18,493
- Sample Size (Title IV-D Children): 200
 - Medicaid Costs Incurred By Sample: \$145,421
 - Number of children whose NCPs Provided Health Coverage: 23
 - Number of children whose NCPs Did Not Provide Health Coverage: 177
 - Sample Items with No Characteristics of Interest (Children): 148
 - Sample Items with Characteristics of Interest: 52
 - Potential Medicaid Program Savings of Sample Items with Characteristics of Interest: \$32,872

Projections:

(Precision At The 90-Percent Confidence Level)

	Estimated Medicaid Savings	Estimated Number Of Children Whose NCPs Could Contribute To Estimated Medicaid Savings	Total Estimated Medicaid Costs For The Population	Estimated Number of Children Whose NCPs Did Not Provide Health Coverage
Upper Limit	\$3,978,639	5,838	\$16,330,090	17,012
Point Estimate (Midpoint)	\$3,039,504	4,808	\$13,446,426	16,366
Lower Limit	\$2,100,368	3,878	\$10,562,762	15,558
Precision	30.90%	N/A	21.45%	N/A



"People
helping people
help
themselves"

APPENDIX B
Page 1 of 4

Frank O'Bannon, Governor
State of Indiana

Division of Family and Children

Child Support Bureau
MS 11, 402 W. WASHINGTON STREET, ROOM W360
INDIANAPOLIS, IN 46204-2739

John Hamilton, Secretary

VIA U.S. Mail

Mr. Paul Swanson
Regional Inspector General for Audit Services
Department of Health and Human Services
233 North Michigan Avenue
Chicago, Illinois 60601

April 30, 2003

Re: Common Identification Number A-05-02-00075

Dear Mr. Swanson:

Please accept this letter as the Indiana Child Support Bureau's response to the Office of Inspector General (OIG) "Draft Report" dated March 6, 2003. The purpose of the review was to estimate the number of Title IV-D children who received Medicaid benefits because the non-custodial parents' (NCP) employers did not offer health insurance or the insurance offered was too expensive. In the sample of 200 children, the OIG identified 97 children whose NCPs could have contributed \$12,898 toward the Medicaid costs incurred for their children. The recommendation made in the "Draft Report" is for Indiana to modify existing state child support laws to require the NCPs to pay all or part of the Medicaid costs for their children, resulting in estimated annual savings to the Medicaid program of \$1.2 million.

While the Indiana Child Support Bureau certainly endorses the goal of reducing costs for the Medicaid program, it has reservations and concerns regarding the approach recommended in the "Draft Report." These reservations stem from what seems to be an oversimplification of the child support enforcement process in Indiana. Further, the report is based on three problematic premises. First, that it is reasonable to arbitrarily increase a NCP's child support obligation by twenty percent without evidence of a change in income. Second, that an increase in a child support obligation could be applied for the repayment of Medicaid costs. And third, that the state Medicaid program (OMPP) cannot, under Indiana law, recover Medicaid costs from a NCP. These issues are addressed below.

Despite the above reservations, the CSB has shared these recommendations with the OMPP and FSSA for evaluation regarding feasible alternatives. The CSB will also forward a copy of these recommendations to the Indiana Supreme Court for consideration in reevaluating Indiana's Child Support Rules and Guidelines prior to the next federally required review scheduled for 2006.

Equal Opportunity / Affirmative Action Employer



It is not reasonable to arbitrarily increase a child support obligation by twenty percent without regard to income.

In Indiana, the amount of a NCP's child support obligation is based upon the Indiana Child Support Rules and Guidelines developed by the Judicial Administration Committee of the Judicial Conference and adopted by the Indiana Supreme Court. Those Guidelines are based on the widely adopted "Income Shares Model" that is predicated upon the economic needs of the child/children and the income of the parents. See 45 CFR 302.56 and the Indiana Child Support Rules and Guidelines.

The "Draft Report" contains a misstatement that the auditor is attributing to the Indiana Division of Family and Children (DFC). Specifically, on page one (1) of the Executive Summary the statement is made that the DFC "agreed that it was not unduly burdensome or unreasonable to expect NCPs to increase their support payments by twenty per cent." And, on page three (3) of the report, it states that the DFC agrees that "a twenty per cent increase in NCP medical support payments was reasonable."

At no time did the CSB or DFC agree that an arbitrary increase of a NCPs child support obligation by twenty percent, without evidence of increased income, was "reasonable." The report correctly reflects that according to Indiana law, a child support order may only be increased (or decreased) by a showing that an existing order would differ by more than twenty per cent based upon new income information. IC 31-16-8-1.

Finally, the CSB is concerned that the proposed twenty per cent increase of **all** Indiana court ordered NCPs' obligations is inappropriate given the comparatively small number of cases with Medicaid-dependent children v. those without. The proposed increase to **all** NCP obligations is not only inconsistent with the income shares model, but may result in the inability of some NCPs to meet their child support obligations. It is also worthy to note that a twenty per cent (20%) increase in child support orders would have a demonstrable negative effect on the ability of the state IV-D program to implement court orders for private health insurance on IV-D/Medicaid cases as mandated by 42 U.S.C. 666(a)(19) [National Medical Support Notice (NMSN)]. The ability to implement court ordered private health insurance, when it is available through employment, is limited by the percentage limitations on an obligor's (NCP) disposable income as set out in the federal Consumer Credit Protection Act. In an income withholding for child support action, if the combined amount of the child support order plus the children's share of the health insurance premium is greater than fifty per cent (50%), the private health insurance cannot be implemented. Therefore, an across the board, twenty per cent (20%) increase in child support orders would not only prevent private health insurance from being available in a certain number of Medicaid cases but also would prevent the implementation of private health insurance in non-Medicaid cases, thus resulting in the potential for those children becoming new state Medicaid recipients.

Assuming an increase of twenty per cent could be applied to all NCP child support obligations, the resulting increase in a child support obligation could not arbitrarily be applied for the repayment of Medicaid costs

Assuming, for the sake of discussion, that a child support order was increased by twenty per cent, the processing of any collected support would still have to comply with existing federal and state laws governing the distribution of such money. (42 U. S. C. 657 and 45 CFR 302.51). Under federal statutory requirements governing distribution, any increase in current support, must first be allocated to the current support obligation. There is no exception in federal law that would allow an increase in a support order to be paid to reimburse Medicaid. Furthermore, any payments in excess of current support in a given month are required, pursuant to federal law, to be applied to any existing support arrearage to repay the custodial parent or to reimburse state and federal governments for their provision of TANF/cash assistance. Therefore, a change in federal law governing distribution of child support would be necessary to effectuate the recommendations made in the "Draft Report."

The state Medicaid program can, under Indiana law, recover Medicaid costs from a NCP

Under existing state child support provisions, the Indiana Child Support Rules and Guidelines and federal law, the state Medicaid Program, pursuant to the assignment of medical rights (42 U.S.C. 1396k, "Third Party Liability"), has the ability, via an established child support order, to pursue recoupment of Medicaid expenditures against a NCP in the same proportional percentage used to determine income share responsibility. Using existing legal remedies, it is unnecessary to increase a child support obligation when a more effective court judgment can be established for recovery of unreimbursed medical expenses, including Medicaid expenditures.

Further, it is important to note that Indiana has already initiated measures to address the issue of medical support. The state, on behalf of the CSB and OMPP, has contracted with a private collection agency to identify Title IV-D NCPs who have access to private medical insurance for their Medicaid-dependent children. The information is being used to establish private medical coverage for the children. In addition, Indiana has enacted and implemented the federally mandated National Medical Support Notice (NMSN).

As stated above, despite the above reservations concerning the recommended approach set forth in the "Draft Report," the CSB recognizes the importance of recouping Medicaid costs. When the final report is received from the OIG, the CSB will provide copies to FSSA, OMPP and the

Indiana Supreme Court to evaluate the recommendations and implement any changes to Indiana policy, rules and statutes that are appropriate and feasible to achieve the goal of recouping additional Medicaid costs.

Sincerely,



Karla A. Mantia
Deputy Director
Child Support Bureau

Copies to:

John J. Boyce, Director, Division of Family and Children
OMPP
FSSA

ACKNOWLEDGMENTS

This report was prepared under the direction of Paul Swanson (RIGA). Other principal Office of Audit Services staff who contributed include:

Ross Anderson, Audit Manager

Rick Pound, Senior Auditor

Perley Roberts, Auditor