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AAP Division of State Government Affairs

May 8, 2008

CMS Issues New Guidance on August 17, 2007 SCHIP "Crowd Out" Directive

On Wednesday, May 7, the Centers for Medicare and Medicaid Services (CMS) issued a new [letter to state health officials](#) providing further guidance on the [August 17, 2007 CMS SCHIP "crowd out" directive](#). This May 7 CMS guidance intends to clarify components of the August 17 CMS directive, and address some of the concerns that have been raised about its negative impact on states' abilities to cover children in SCHIP, especially those above 250% of the federal poverty level (FPL).

The May 7 CMS guidance clarifies that:

- * Changes made to state crowd-out procedures because of the August 17 directive need not apply to existing enrollees in SCHIP;
- * Crowd-out procedures - particularly the 12-month uninsurance period requirement and the cost-sharing requirement - need not apply to enrollees under 250% FPL; and
- * States will have flexibility in ensuring they meet the requirement that at least 95% of children in the state below 200% FPL eligible for Medicaid or SCHIP have coverage.

The CMS guidance indicates CMS will work with states individually to ensure that the 95% coverage requirement is met, including efforts to use data from sources other than the Current Population Survey (CPS). The guidance also suggests that CMS will review alternate proposals by states to document crowd-out prevention on a case-by-case basis. A [Wall Street Journal article](#)

today provides further insight into the guidance.

While the May 7 CMS guidance is a step towards ensuring children do not lose existing SCHIP coverage, how the CMS guidance affects states' abilities to cover additional uninsured children remains to be determined. The Academy will continue to advocate that the August 17, 2007 CMS directive be rescinded, and we will provide further information on this issue as it becomes available.

If you have questions or need additional federal information, please contact Bob Hall in the Department of Federal Affairs at 202/347-8600 ext 3309, or rbhall@aap.org. For additional state-level questions or information, please contact Dan Walter in the Division of State Government Affairs at 800/433-9016 ext. 4086, or dwalter@aap.org.

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The Division of State Government Affairs sends this update to the Academy's Executive Committee, Board of Directors, District Vice-Chairs, Chapter Presidents, Chapter Vice Presidents, Chapter Legislative Contacts, Committee on State Government Affairs, Committee on Federal Government Affairs, Chapter Executive Directors, and other interested AAP members and staff.

For additional state legislative information, strategy suggestions, in-depth resources on issues of pediatric interest, and past editions of this update, log onto the AAP Member Center and see the State Government Affairs area at <http://www.aap.org/moc/statelegislation>.

For more information on the issues contained in this e-mail update, please contact Dan Walter at 800/433-9016, ext 4086 or at dwalter@aap.org.

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