



National Association of Health Underwriters

Recommendations to Improve SCHIP Premium-Subsidy Programs of Private Employer-Sponsored Coverage

With the upcoming reauthorization of the State Children's Health Insurance Program (SCHIP), the National Association of Health Underwriters (NAHU) feels that policymakers have a unique opportunity to improve SCHIP's existing public/private partnership structure and more cost-effectively cover more low-income uninsured children by removing some current restrictions that have hindered premium-subsidy efforts of private-market employer-sponsored coverage.

Many parents of SCHIP-eligible children have access to employer-sponsored health insurance coverage but cannot afford their portion of the dependent premiums. Some of these parents enroll their children in SCHIP, but many children remain uninsured. NAHU would like to see the process for states to voluntarily use SCHIP dollars to subsidize such employer-sponsored coverage made much simpler so that more families can be covered together under the same private-market plans. Doing so would have the following benefits:

- More families would accept employer-sponsored coverage for their children, lowering the number of uninsured children.
- The administrative burden on low-income families would be lessened, as families could be covered together on the same health insurance plan.
- It would reduce the "crowd-out" of the private market that occurs when parents decline employer-sponsored coverage in favor of SCHIP coverage for their dependents.
- It would lower costs by taking advantage of any premium dollars employers are willing to contribute toward their eligible employee dependent premiums—money that is now often "left on the table."
- It would also reduce SCHIP costs because the risk associated with covering the children with employer-sponsored coverage would be borne by the private market plan rather than the public program.
- Licensed health insurance producers, who are already helping millions of business owners purchase health insurance coverage for their employees nationally, could provide outreach and enrollment assistance at virtually no cost to the SCHIP program.

The original SCHIP legislation included an option for states to subsidize employer-based family coverage for eligible children if the coverage met certain requirements. But these rules are considered onerous by states; consequently, only nine have attempted to implement premium-assistance programs. In order to receive federal approval to operate an employer-buy-in program under SCHIP, states must demonstrate that the premium assistance will be directed to employer plans that meet SCHIP requirements, including

benefit standards, enrollee cost-sharing limits, and minimum employer premium contribution levels. In addition, states must show that buying the private insurance plan is cost-effective in comparison to the cost of covering the enrollee directly through the state SCHIP program.

NAHU recommends that the following changes to SCHIP be made during the reauthorization process in order to improve the ability of states and employers to offer and qualify for premium subsidies:

- The current SCHIP legislation virtually prohibits cost-sharing for children in families under 150 percent of the poverty level, and it is limited to five percent of family income for families with incomes that exceed 150 percent. Unfortunately, cost sharing is defined to not only include premiums, but also co-payments, deductibles and co-insurance. As such, most “average” private plans would exceed the five-percent maximum for many eligible participants, and the rule hinders qualifying employers from making changes to plan designs. This requirement, along with certain mandated benefit requirements that were also included in the legislation, virtually forces states to use a benchmark plan based on Medicaid-level benefits. **NAHU recommends that the federal requirements contained in 42 U.S.C. 1397cc be amended to eliminate cost-sharing requirements from the five-percent rule.**
- A further challenge is that SCHIP rules promulgated by CMS in 66 FR 2684 Section 457.810 specify that individuals are not eligible for premium assistance if they already have employer-sponsored coverage. They have to be without employer-sponsored coverage for at least six months to be eligible. This provision was originally put in place to prevent crowd-out, but it actually hinders employer subsidization efforts as it penalizes those employers that have already been subsidizing the coverage of SCHIP-eligible dependents. The SCHIP crowd-out requirements are also inconsistent with Medicaid requirements which allow for children to receive subsidized coverage if they have employer-sponsored coverage. Since the majority of states combine their SCHIP programs with Medicaid in whole or in part, the inconsistency serves as a further obstacle to premium assistance. **NAHU recommends that the reauthorization legislation over-turn the regulatory requirement in 66 FR 2684 Section 457.810 and specify that income-eligible children who already have access to employer-sponsored coverage be immediately eligible for SCHIP premium assistance.**
- Current SCHIP rules in 66 FR 2684 Section 457.810 that require that the states set minimum employer contribution amounts or percentages also pose a challenge to premium subsidies. Employers structure employee cost-sharing requirements differently based on a variety of factors, and don’t always use percentages or flat-dollar amounts to determine their contribution. Overly specific employer-participation requirements can hinder employer eligibility and can make the employer-review process overly burdensome for the states. It is also not necessary to ensure employer participation. The cost-effectiveness test, if properly applied will be enough to determine adequate employer contributions. **NAHU recommends that the reauthorization legislation specify that some type of employer premium contribution is required for an employer plan to**

qualify for participation in any SCHIP premium-subsidy program, but it should also specify that the means of contribution must be left up to the individual employer's discretion.

- Another obstacle concerns how the cost-effectiveness test for SCHIP is designed. Like with Medicaid, any SCHIP premium subsidy must be cost-effective for the state. However, unlike with Medicaid premium subsidy programs, states with SCHIP programs that are separate from their Medicaid programs must apply for a special waiver when non-eligible family members are included in the employer-premium that is being subsidized. Under this “family waiver” scenario, the cost of insuring the entire family privately must be less than the cost of insuring just the SCHIP-eligible child in the public program. Since almost all employer health insurance policies for dependents are based on a family rate and/or a rate for a parent plus his/her dependent children rather than a separate rate for just the children, the vast majority of private plans fall into this family waiver category, making this test formula virtually impossible for most employer plans to meet. **NAHU recommends that the SCHIP reauthorization legislation eliminate the “family waiver” requirement in 42 U.S.C. 1397ee(c) and 66 FR 2684 Section 457.1015 and instead apply the Medicaid cost-effectiveness standard outlined in section 1906 3(e)(2) of the Social Security Act, which merely compares the cost of covering the eligible individual(s) privately versus publicly.**
- In addition to the cost-effectiveness regulations, many SCHIP premium-subsidy regulations are inconsistent with Medicaid rules on the same topics. This poses a significant challenge to states, because in the majority of states these programs are at least partially combined. **NAHU recommends that the reauthorization legislation require CMS to review the relevant Medicaid and SCHIP rules to determine and resolve all inconsistencies. We also recommend that the reauthorization legislation specify that the goal of CMS in this review should be to simplify the employer plan integration process for both federal programs.**
- The plan benchmark standards that must be met according to existing SCHIP requirements are also very problematic. Since the requirements must be implemented on a case-by-case basis, with an annual review of every employer-sponsored health benefit plan that wishes to participate, they are very hard for states to administer. Also, since SCHIP benchmarks do not conform to most private-market employer-sponsored plan designs (in some states, there aren't even fully insured products available for private employers to buy that would meet these standards), the benchmarks have really hindered program enrollment in the states that have attempted premium subsidies. **NAHU recommends that instead of including benchmarks for employer-sponsored plans as is currently specified in 42 U.S.C. 1397cc(B), the reauthorization legislation should specify that for eligible children who participate in an employer-subsidy program, S-CHIP could be used as a secondary payer, if necessary. SCHIP coverage would be used by eligible children merely to fill in any gaps in coverage, a method that has been used successfully and cost-effectively in the Medicaid program in many states.**

- In order for employer premium-subsidy programs to work, employees have to know about them. However, ERISA prevents states from requiring employers to notify their employees about the existence of such programs. **NAHU recommends that Congress amend ERISA as part of the reauthorization legislation to specifically require employer notification about Medicaid and SCHIP premium subsidy programs, similar to way that employers are required to notify eligible employees about Medicare Part D benefits.**
- A final challenge to SCHIP subsidization of employer coverage is state-level reporting requirements. To calculate the cost-effectiveness test needed for employer premium subsidy programs, states need to obtain information about employer-sponsored plan designs. Due to ERISA obstacles, there is no way of imposing reporting requirements on private employer-sponsored plans. This barrier has hindered many states from taking up the idea of premium subsidies. Under current law, states can either ask employers to provide this information voluntarily (which many do, but not all) or ask the parents of SCHIP beneficiaries to obtain/provide it (which is both inefficient and also overly burdensome for parents). Congress could make this process much more efficient for states and also easy for employers. Right now ERISA plans are already required to provide employees with summary plan descriptions. The information contained in these summaries would be sufficient for the states to determine the cost-effectiveness of an employer plan. **NAHU recommends that Congress amend ERISA as part of the reauthorization legislation to specifically require employers participating in an SCHIP premium subsidy program to directly provide their summary plan descriptions to the state upon request.**

PLEASE NOTE: The information presented in this analysis is the exclusive property of the National Association of Health Underwriters (NAHU). It was prepared as an informational resource for NAHU members, state and federal policymakers and other interested parties. It is not to be duplicated, copied or taken out of context. Any omission or inclusion of incorrect data is unintentional. If you have any questions about the information presented in this document, please contact Jessica Waltman, NAHU's vice president of policy and state affairs, at 610-971-2404 or jwaltman@nahu.org.