

Janice K. Brewer, Governor
Thomas J. Betlach, Director

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Our first care is your health care
ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM

March 25, 2010

The Honorable Janice K. Brewer
Governor
1700 West Washington
Phoenix, Arizona 85007

Dear Governor Brewer:

On December 7, 2009, AHCCCS issued a letter that analyzed the projected impacts of both the House and Senate health care reform bills. The purpose of this memorandum is to update the fiscal estimates based on the Patient Protection and Affordable Care Act (PPACA) recently signed into law and the Reconciliation Bill that still has not been enacted. These numbers represent AHCCCS' current best estimate and may be updated based on new information.

In addition to significant changes being made at the federal level, the State has also enacted a budget for FY 2011 that made changes to the AHCCCS program. For the FY 2011 budget, the Arizona Title XXI program (KidsCare) was eliminated and the budget also included a reduction of \$385 million with the requirement that AHCCCS live within "available resources".

I would like to highlight the following main points.

- 1. Overall, it is anticipated that Arizona will have to spend \$11.6 billion in General Fund monies from FY 2011 through FY 2020 to serve expansion populations, woodwork created by new mandates, and maintain previously optional groups that are now mandated by the federal government. That is, in essence, over \$1.0 billion per year in new unfunded federal mandates that will be imposed immediately on the State of Arizona. If the Reconciliation Bill is not enacted, the costs for Arizona will increase by an additional \$7.5 billion over the same time period.***
- 2. AHCCCS legal staff has concluded that as a result of the maintenance of effort requirements (MOE): (a) the State of Arizona has to restore, at a minimum, the KidsCare program with a freeze on no new enrollment; and (b) must maintain the Medicaid program at the current level, meaning the State cannot pursue any rollback of Proposition 204.***
- 3. The projected General Fund cost to continue the Proposition 204 expansion from January 1, 2011 through January 1, 2014 is \$3.8 billion. This is important because Arizona will be incurring these costs as a result of the unfunded maintenance of effort mandate prior to receiving any increased federal participation from the Reconciliation Bill.***
- 4. The projected General Fund cost to restore KidsCare with an enrollment freeze is \$38.0 million from July 1, 2010 through September 30, 2019.***

5. ***With the MOE requirements in place, the following estimates for the state match costs associated with Proposition 204 population only from FFY 2014 through FFY 2020 have been developed:***
- a. ***the PPACA provides no benefit to Arizona and the estimated costs are \$15.3 billion.***
 - b. ***If the Reconciliation Bill is enacted the costs will be reduced to \$7.76 billion.***
 - c. ***The amount required under the Reconciliation Bill is still almost \$6.0 billion (\$860 million average per year) more than the \$1.78 billion in costs the State would have incurred had Arizona been treated equitably with other non-expansion states.***

Maintenance of Effort

One of the policy concerns highlighted in the December 7, 2009 memo was the imposition of Maintenance of Effort (MOE) requirements on state programs. Given the fiscal crisis facing Arizona, how could the State continue to finance Medicaid if Congress mandated AHCCCS be maintained at current levels? This issue has also been highlighted in the numerous letters you have sent to federal policy makers over the past several months.

Based on the complexities of the various pieces of the federal legislation, legal staff was asked for a summary of the provisions (attached). ***The findings of that analysis were that the State of Arizona has to restore, at a minimum, the KidsCare program with a freeze on new enrollment and must maintain the Medicaid program at the current level, which means the State cannot pursue any rollback of Proposition 204.***

Fiscal Impact

Federal Participation Levels

The second major policy concern was the fiscal ramifications should health care reform be enacted. One of the major differences between the House and the Senate bill was the level of federal participation in financing the costs of non-categorical individuals (childless adults) between 0 and 100% of the Federal Poverty Limit (FPL) or how Newly Eligible Persons (NEP) were defined. Table I below provides a comparison between the House and Senate bills versus the language that is contained in the Reconciliation Bill that still needs to be finalized.

ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM

TABLE I

FEDERAL PARTICIPATION PERCENTAGE FOR ARIZONA CHILDLESS ADULTS 0-100% FPL

| | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 |
|------------------------|---------|---------|---------|--------|--------|--------|--------|
| HOUSE | 100.00% | 91.00% | 91.00% | 91.00% | 91.00% | 91.00% | 91.00% |
| SENATE (PPACA) | 65.85% | 65.85% | 65.85% | 65.85% | 65.85% | 65.85% | 65.85% |
| RECONCILIATION (AZ) | 82.93% | 86.34% | 89.76% | 89.17% | 91.19% | 93.00% | 90.00% |
| RECON. (Non expansion) | 100.00% | 100.00% | 100.00% | 95.00% | 94.00% | 93.00% | 90.00% |

As detailed in Table I (above), the federal participation that Arizona will receive for the childless adults covered under Proposition 204 improved under the Reconciliation Bill language as compared to the enacted PPACA, but still is not equal to the rate at which the majority of states will be funded for this population. Since Arizona has already expanded the categorical population (parents), it also will just receive traditional federal participation instead of the more generous non-expansion percentages that other states will receive.

This policy treatment has tremendous fiscal ramifications for Arizona relating to the costs of serving the Proposition 204 expansion population. From FY 2014 through FY 2020, AHCCCS estimates the following state match costs for the Proposition 204 expansion population:

- \$15.3 billion based on the language included in the PPACA.
- \$7.76 billion based on the Reconciliation Bill language.
- \$1.78 billion if Arizona were to be treated in an equitable fashion to all other states that had previously not expanded.

**ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM
 COMPARISON OF STATE MATCH
 FOR PROPOSITION 204 ADULTS**

Table II

| | PPACA | Arizona Based on Reconciliation Bill | Non-Expansion State |
|--------------|-----------------------|---|------------------------|
| FFY2014 | 1,810,552,900 | 1,304,868,200 | - |
| FFY2015 | 1,924,472,300 | 1,101,101,400 | - |
| FFY2016 | 2,046,116,700 | 1,019,370,300 | - |
| FFY2017 | 2,174,891,100 | 1,061,534,200 | 233,024,000 |
| FFY2018 | 2,312,176,700 | 1,058,427,300 | 379,857,700 |
| FFY2019 | 2,457,387,100 | 1,024,554,700 | 473,924,700 |
| FFY2020 | 2,611,820,900 | 1,188,454,000 | 690,266,900 |
| TOTAL | 15,337,417,700 | 7,758,310,100 | 1,777,073,300 |

While the language in the Reconciliation Bill reduces the State's match burden for Proposition 204 during FFY 2014 through FFY 2020 from \$15.3 billion to \$7.76 billion, that amount is still almost \$6.0 billion (\$860 million per year) more than what other states will be required to contribute in matching costs.

KidsCare (Title XXI)

A second component of the fiscal analysis involves the policy-making decision regarding KidsCare. As discussed under the MOE section, the State will have to restore the Title XXI program as part of the MOE requirements or face loss of federal participation for Medicaid (Title XIX). Since the State had an approved Title XXI program that was frozen (no new enrollees allowed) prior to the date of enactment of the Senate Bill, it is AHCCCS' opinion that policy makers may choose to restore the program in its current form – i.e. no new enrollment.

As detailed in Appendix I, the projected General Fund cost to restore KidsCare with an enrollment freeze is \$38.0 million from July 1, 2010 through September 30, 2019. On January 1, 2014, children with incomes below 133% of the federal poverty limit will be transferred to

Medicaid at the traditional state match with a projected General Fund cost of \$35.8 million from January 1, 2014 through September 30, 2020. Beginning October 1, 2015, children above 133% can either enroll in a qualified health plan through the exchange or receive coverage through KidsCare. Federal match of approximately 99% will be available for KidsCare for the period beginning October 1, 2015 and ending September 30, 2019.

Proposition 204 (Title XIX)

While the legislature reduced the AHCCCS budget, no formal statutory changes were included. As a result of the MOE requirement, if the State is going to continue with a Medicaid program, there can be no Proposition 204 “Rollback”. *The projected General Fund cost to continue the Proposition 204 expansion from January 1, 2011 through January 1, 2014 is \$3.8 billion and is detailed in Table III below. The analysis focused on these dates because Arizona will be incurring \$3.8 billion in costs as a result of the unfunded MOE mandate prior to receiving any increased federal participation from this legislation.*

**Proposition 204 Costs
 Table III**

| | General Fund | Tobacco/MSA | Federal Funds |
|-------------------------------|----------------------|--------------------|----------------------|
| FFY2011 (1/1/11 to 9/30/11) | 883,037,900 | 111,434,400 | 1,846,877,000 |
| FFY2012 | 1,256,941,600 | 148,579,200 | 2,610,252,900 |
| FFY2013 | 1,341,273,300 | 148,579,200 | 2,766,868,800 |
| FFY2014 (10/1/13 to 12/31/13) | 320,779,600 | 37,144,800 | 1,141,237,600 |
| TOTAL | 3,802,032,400 | 445,737,600 | 8,365,236,300 |

Health Care Reform Summary

Appendix II (attached) also provides a summary of the projected costs and populations served associated with health care reform including the language in the Reconciliation proposal. It is projected that by 2020, the Medicaid expansion to 133% of the FPL and the individual mandate requirements would add 223,000 individuals to the AHCCCS program.

Overall, Arizona is anticipated to have to spend \$11.6 billion in General Fund monies (\$13 billion overall) from FY 2011 through FY 2020 to serve expansion populations, woodwork created by new mandates, and maintain previously optional groups that are now mandated by the federal government. These figures represent costs for populations over which the states previously had flexibility with respect to eligibility. The PPACA eliminated this flexibility. This translates to over \$1.0 billion per year in new unfunded federal mandates that will be imposed immediately on the State of Arizona.

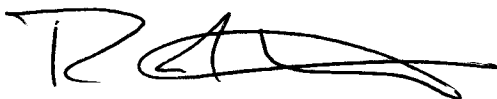
Based on the AHCCCS analysis, the following state match costs are projected as a result of health care reform.

The Honorable Janice K. Brewer
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1. \$231.3 million for newly eligible adults, categorically and non-categorically eligible, between 100-133% FPL as a result of the expansion starting on January 1, 2014 through September 30, 2020.
2. \$359.9 million for children enrolling in the program between 100-133% FPL as a result of the expansion starting on January 1, 2014 through September 30, 2020.
3. \$1,767 million for categorically eligible adults who currently are eligible (between 0-100% FPL) but are not enrolled in AHCCCS (woodwork) starting January 1, 2014 through September 30, 2020.
4. \$350 million for non-categorically eligible childless adults who currently are eligible (between 0-100% FPL) but are not enrolled in AHCCCS (woodwork) starting January 1, 2014 through September 30, 2020.
5. \$3,783 million for the Proposition 204 categorically eligible expansion groups (between 23%-100% FPL) that were previously an optional group for the State. Arizona is now mandated to continue coverage for these individuals or risk losing all federal Medicaid funds. This estimate is based on the costs to continue coverage from January 1, 2011 through September 30, 2020.
6. \$6,492 million for the non-categorically eligible childless adults (between 0-100% FPL), that were previously an optional group for the State. Arizona is now mandated to continue coverage for these individuals or risk losing all federal Medicaid funds. This estimate is based on the costs to continue coverage from January 1, 2011 through September 30, 2020.
7. \$38 million for restoration of the KidsCare program with a continued freeze as described above in the KidsCare (Title XXI) section from July 1, 2010 through September 30, 2020 and \$35.8 million for the shift to Medicaid for those below 133% in 2014.

Please feel free to contact me should you require additional information or have questions on any of these issues. We will continue to provide updates as we receive additional information regarding implementation.

Sincerely,



Thomas J Betlach
Director

cc: Senator Robert Burns, President

Senator Jorge Luis Garcia, Minority Leader
Representative Kirk Adams, Speaker
Representative David Lujan, Minority Leader
Senator Carolyn Allen
Senator Amanda Aguirre
Senator Russell Pearce
Senator Paula Aboud
Representative Nancy Barto
Representative David Bradley
Representative John Kavanagh
Representative Kyrsten Sinema

APPENDIX I

**ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM
ANALYSIS OF FEDERAL MEDICAID EXPANSION PROPOSALS
KIDSCARE ANALYSIS**

| | State cost of covering KC children 100-133% at Regular Match ¹ | State cost of continuing KC at enhanced match with transfer ² | Total State cost of continuing KidsCare |
|----------|---|--|---|
| FFY10 Q4 | - | 2,889,700 | 2,889,700 |
| FFY2011 | - | 9,492,900 | 9,492,900 |
| FFY2012 | - | 7,822,100 | 7,822,100 |
| FFY2013 | - | 7,205,400 | 7,205,400 |
| FFY2014 | 2,954,700 | 5,105,100 | 8,059,800 |
| FFY2015 | 4,343,500 | 4,564,400 | 8,907,900 |
| FFY2016 | 4,742,300 | 203,000 | 4,945,300 |
| FFY2017 | 5,177,600 | 221,700 | 5,399,300 |
| FFY2018 | 5,652,900 | 242,000 | 5,894,900 |
| FFY2019 | 6,171,800 | 264,200 | 6,436,000 |
| FFY2020 | 6,738,400 | - | 6,738,400 |
| | <u>35,781,200</u> | <u>38,010,500</u> | <u>73,791,700</u> |

1) Cost of covering existing KC children between 100-133% at the regular Medicaid match of 65% beginning 1/1/14.

2) Cost of restoring KidsCare. For 7/1/10 to 1/1/14 includes children 100-200%, thereafter includes 134% to 200%. Assumes regular CHIP match (76%) from 7/1/10 to 9/10/15, then 99% (based on 23% increase) through 9/30/19, then back to 76% thereafter.

3) Title XXI program sunsets on 9/30/2019.

4) Caseload assumes continued decline based on freeze until January 2014, followed by 3% annual growth

5) PMPY based on FFY2010 with 6% medical inflation.

**ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM
ESTIMATED IMPACT OF FEDERAL MEDICAID EXPANSION PROPOSALS
RECONCILIATION COST ESTIMATES**

| FFY | Newly Eligible FMAP Adult Expansion 100-133% FPL | | Traditional FMAP Child Expansion 100-133% FPL | | Traditional FMAP Categorical Woodwork 0-100% FPL | | Transition Percentage FMAP Childless Adult Woodwork 0-100% FPL | | Traditional FMAP Prop 204 Categorical Base Population ⁴ | | Transition Percentage FMAP Prop 204 Childless Adult Base Population ^{1,3} | | KidsCare (Varying FMAPs) Current Children (Cap. & Freeze) Base Population ^{1,3} | |
|---------|--|---------------|---|-------------|--|---------------|--|---------------|--|---------------|--|----------------|--|-------------|
| | State | Federal | State | Federal | State | Federal | State | Federal | State | Federal | State | Federal | State | Federal |
| FFY2011 | - | - | - | - | - | - | - | - | 219,437,000 | 407,525,700 | 775,035,300 | 1,439,351,300 | 12,382,600 | 39,211,600 |
| FFY2012 | - | - | - | - | - | - | - | - | 310,137,500 | 575,959,700 | 1,095,383,300 | 2,034,283,200 | 7,822,100 | 24,769,900 |
| FFY2013 | - | - | - | - | - | - | - | - | 328,745,900 | 610,528,100 | 1,161,106,600 | 2,156,340,700 | 7,205,400 | 22,817,000 |
| FFY2014 | - | 461,269,500 | 30,869,800 | 57,329,500 | 196,119,000 | 364,220,900 | 73,574,900 | 262,767,500 | 348,470,600 | 647,159,700 | 769,233,000 | 2,747,260,800 | 8,059,800 | 21,653,500 |
| FFY2015 | - | 667,935,000 | 44,595,700 | 82,820,700 | 212,740,200 | 395,088,800 | 54,115,100 | 309,683,900 | 369,378,800 | 685,989,200 | 554,463,300 | 3,173,021,300 | 8,907,900 | 22,520,300 |
| FFY2016 | - | 721,893,700 | 48,296,000 | 89,692,500 | 230,426,200 | 427,934,400 | 44,917,800 | 349,864,200 | 391,541,600 | 727,148,800 | 449,441,500 | 3,501,692,700 | 4,945,300 | 28,907,600 |
| FFY2017 | 29,369,700 | 753,823,100 | 52,279,700 | 97,090,800 | 249,705,900 | 463,739,500 | 46,409,100 | 380,341,000 | 415,034,200 | 770,777,800 | 455,466,900 | 3,732,734,200 | 5,399,300 | 31,561,200 |
| FFY2018 | 46,732,200 | 798,783,500 | 56,567,500 | 105,054,000 | 270,218,200 | 501,833,900 | 43,614,600 | 419,139,400 | 439,936,500 | 817,025,000 | 4,021,069,800 | 5,894,900 | 34,459,600 | |
| FFY2019 | 61,755,800 | 853,145,400 | 61,181,800 | 113,623,300 | 292,026,600 | 542,335,200 | 37,353,000 | 462,352,100 | 466,332,600 | 866,046,300 | 351,763,200 | 4,354,099,100 | 6,436,000 | 37,622,000 |
| FFY2020 | 91,507,400 | 897,761,600 | 66,146,000 | 122,842,800 | 315,761,900 | 586,414,900 | 49,896,700 | 489,527,600 | 494,312,700 | 918,009,400 | 461,409,800 | 4,526,804,100 | 6,738,400 | 12,514,200 |
| TOTAL | 231,365,100 | 5,154,611,800 | 359,936,500 | 668,453,400 | 1,766,998,000 | 3,281,567,600 | 349,881,200 | 2,673,775,700 | 3,763,327,400 | 7,026,179,700 | 6,491,725,000 | 31,666,657,200 | 73,791,700 | 276,035,900 |

FUND SOURCED GRAND TOTAL:

| FFY | General Fund | Tobacco/MSA | Total SM | Federal Fund | Total Funds |
|---------|----------------|---------------|----------------|----------------|----------------|
| FFY2011 | 858,275,700 | 148,579,200 | 1,006,854,900 | 1,886,088,600 | 2,892,943,500 |
| FFY2012 | 1,264,763,700 | 148,579,200 | 1,413,342,900 | 2,635,022,800 | 4,048,365,700 |
| FFY2013 | 1,348,478,700 | 148,579,200 | 1,497,057,900 | 2,789,685,800 | 4,286,743,700 |
| FFY2014 | 1,277,747,900 | 148,579,200 | 1,426,327,100 | 4,561,661,400 | 5,987,988,500 |
| FFY2015 | 1,095,621,800 | 148,579,200 | 1,244,201,000 | 5,337,059,200 | 6,581,260,200 |
| FFY2016 | 1,020,989,200 | 148,579,200 | 1,169,568,400 | 5,847,233,900 | 7,016,802,300 |
| FFY2017 | 1,105,085,600 | 148,579,200 | 1,253,664,800 | 6,230,067,600 | 7,483,732,400 |
| FFY2018 | 1,134,806,800 | 148,579,200 | 1,283,386,000 | 6,697,364,200 | 7,980,750,200 |
| FFY2019 | 1,128,269,800 | 148,579,200 | 1,276,849,000 | 7,229,223,400 | 8,506,072,400 |
| FFY2020 | 1,337,193,700 | 148,579,200 | 1,485,772,900 | 7,553,874,400 | 9,039,647,300 |
| TOTAL | 11,571,232,900 | 1,485,792,000 | 13,057,024,900 | 50,767,261,300 | 63,824,306,200 |

LIVES COVERED (MEDIUM PRESENTATION):

| FFY | Adult Expansion 100-133% | Child Expansion 100-133% | Cat Woodwork 100% | Childless Adult WW 0-100% | 204 Base Categorical | 204 Base Childless Adult | 204 Base Total | KidsCare with Medicaid Transfers | Grand Total |
|---------|--------------------------|--------------------------|-------------------|---------------------------|----------------------|--------------------------|----------------|----------------------------------|-------------|
| FFY2011 | - | - | - | - | 160,030 | 256,150 | 416,180 | 18,400 | 434,580 |
| FFY2012 | - | - | - | - | 160,030 | 256,150 | 416,180 | 14,300 | 430,480 |
| FFY2013 | - | - | - | - | 160,030 | 256,150 | 416,180 | 12,400 | 428,580 |
| FFY2014 | 44,800 | 31,600 | 98,500 | 24,500 | 160,030 | 256,150 | 416,180 | 11,600 | 627,180 |
| FFY2015 | 45,900 | 32,300 | 100,800 | 25,000 | 160,030 | 256,150 | 416,180 | 11,800 | 631,780 |
| FFY2016 | 46,800 | 33,000 | 103,000 | 25,600 | 160,030 | 256,150 | 416,180 | 11,800 | 636,380 |
| FFY2017 | 47,900 | 33,700 | 105,300 | 26,100 | 160,030 | 256,150 | 416,180 | 12,100 | 641,280 |
| FFY2018 | 48,900 | 34,400 | 107,500 | 26,700 | 160,030 | 256,150 | 416,180 | 12,500 | 646,180 |
| FFY2019 | 49,800 | 35,100 | 109,800 | 27,200 | 160,030 | 256,150 | 416,180 | 12,900 | 650,780 |
| FFY2020 | 50,800 | 35,800 | 111,800 | 27,700 | 160,030 | 256,150 | 416,180 | 5,300 | 647,580 |

NOTES:

- 1) Presentation represents 70% of expansion members and 50% of woodwork
- 2) KidsCare costs include the cost for currently enrolled KidsCare between 100-133% who will be transferred to Medicaid effective 1/1/14 (at regular Medicaid FMAP) as well as the ongoing costs for 134-200% who will be eligible for increased FMAP of 99% effective 10/1/15 to 9/30/19.
- 3) KidsCare for FFY11 includes the last quarter of FFY10 (July 2010 to September 2010) in the amount of \$2,689,700 State and \$9,150,900 Federal.
- 4) For Proposition 204 Base Populations, FFY2011 only represents 3 quarters of cost since funding is currently provided through December 31, 2010.

Janice K. Brewer, Governor
Thomas J. Betlach, Director

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DATE: March 22, 2010
TO: Tom Betlach, AHCCCS Director
FROM: Monica Coury, Assistant Director, Intergovernmental Relations
SUBJECT: Healthcare Reform Maintenance of Effort (MOE)

You asked me to review the maintenance of effort language contained in the U.S. Senate's health care reform proposal (H.R. 3590) and the reconciliation package (H.R. 4872) as passed by the U.S. House of Representatives yesterday to provide a response and brief analysis to the issue expressed below.

ISSUE

Does the passage of federal health care reform legislation impact the Arizona budget that had previously been enacted and signed into law for FY 2011 regarding the State's Children's Health Insurance Program (CHIP) program, known as KidsCare?

SHORT ANSWER

Yes. The MOE requirement for the CHIP program Patient Protection and Affordable Care Act as amended is linked to payment to the states for Title XIX Medicaid. Therefore, a repeal of the KidsCare program that takes effect after the President signs the bill will violate the MOE provision and jeopardize federal funding for the entire Title XIX Medicaid at AHCCCS.

ANALYSIS

The MOE Language in the Patient Protection and Affordable Care Act Provides that Termination of CHIP Results in Forfeiture of Enhanced FMAP for Medicaid.

The Senate health care reform bill, referred to as the Patient Protection and Affordable Care Act (PPAC Act), which can be found at H.R. 3590, contains language regarding maintenance of effort requirements (MOE) addressing both the Title XIX Medicaid program and the Title XXI Children's Health Insurance Program (CHIP), known as KidsCare in Arizona.

Tom Betlach
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The language in bold italics is language that was added to this paragraph through the Manager's Amendment, which is incorporated into the engrossed Senate bill in a different section of the bill. That amendment provides:

Manager's Amendment, Section 10203(c), amends the CHIP MOE Section 2101(b)

(2) in subsection (d)(3)—

(A) in subparagraph (A)—

(i) in the first sentence, by inserting "as a condition of receiving payments under section 1903(a)," after "2019,"

...
(ii) after September 30, 2015, enrolling children eligible to be targeted low-income children under the State child health plan in a qualified health plan that has been certified by the Secretary under subparagraph (C) . . .

Thus, CHIP eligibility standards must remain in effect from the date of enactment of the PPAC Act through September 30, 2019 *as a condition of receiving payments under section 1903(a)*, which as noted above links it to Medicaid. The repeal of the CHIP statutes would take effect June 15, 2010. This PPAC Act is currently before the President for signature, which is expected soon. Therefore, the timing of the State's elimination of the KidsCare program means that the State would forfeit federal financial participation for its entire Medicaid program.

There is no issue with the existing cap and freeze of the KidsCare program as that was implemented and approved by the Centers for Medicare and Medicaid Services (CMS) well before the date of enactment of the PPAC.

It is worth noting that the paragraph in Section 2101(a) of the PPAC Act explains that states will receive an increase of 23 percentage points in the FMAP for the CHIP program. For Arizona, that would mean that the FMAP would be approximately 99%, reducing the State's share of the cost for KidsCare to 1%. However, the Manager's Amendment changes the effective date of that increase in FMAP from October 1, 2013 to October 1, 2015 and ends on September 30, 2019. Thus, the State will have to continue to fund the KidsCare program at its regular match until October 1, 2015.

The amendment also provides that after September 30, 2015, states may enroll CHIP children in qualified health plans through the exchange that have been certified by Secretary as offering comparable pediatric coverage to CHIP.

Cc: Matt Devlin, AHCCCS General Counsel

Janice K. Brewer, Governor
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DATE: March 23, 2010
TO: Tom Betlach, AHCCCS Director
FROM: Monica Coury, Assistant Director, Intergovernmental Relations
SUBJECT: Healthcare Reform Maintenance of Effort (MOE)

You asked me to review the maintenance of effort language contained in the U.S. Senate's health care reform proposal (H.R. 3590) and the reconciliation package (H.R. 4872) as passed by the U.S. House of Representatives yesterday to provide a response and brief analysis to the issue expressed below.

ISSUE

Can the State rollback Proposition 204 without violating the maintenance of effort provisions contained in the health care reform proposal?

SHORT ANSWER

No. The State cannot make any eligibility changes to any Title XIX Medicaid population, including the Proposition 204 population, without forgoing federal financial participation for *the entire* Medicaid program.

ANALYSIS

The Maintenance of Eligibility Provisions Make Medicaid an All or Nothing Proposition.

The Senate health care reform bill, referred to as the Patient Protection and Affordable Care Act (PPAC Act), which can be found at H.R. 3590, contains language regarding maintenance of eligibility requirements (MOE) for the Title XIX Medicaid program.

Specifically, the language in the PPAC Act addressing MOE states the following:

PPAC Act, Section 2001(b) – Medicaid Maintenance of Effort

“(gg) MAINTENANCE OF EFFORT.—

“(1) GENERAL REQUIREMENT TO MAINTAIN ELIGIBILITY STANDARDS UNTIL STATE EXCHANGE IS FULLY OPERATIONAL. — Subject to the succeeding paragraphs of this subsection, during the period that begins on the date of

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enactment of the Patient Protection and Affordable Care Act and ends on the date on which the Secretary determines that an Exchange established by the State under section 1311 of the Patient Protection and Affordable Care Act is fully operational, *as a condition for receiving any Federal payments under section 1903(a)* for calendar quarters occurring during such period, a State shall not have in effect eligibility standards, methodologies, or procedures under the State plan under this title or under any waiver of such plan that is in effect during that period, that are more restrictive than the eligibility standards, methodologies, or procedures, respectively, under the plan or waiver that are in effect on the date of enactment of the Patient Protection and Affordable Care Act.

“(2) CONTINUATION OF ELIGIBILITY STANDARDS FOR CHILDREN UNTIL OCTOBER 1, 2019.—*The requirement under paragraph (1)* shall continue to apply to a State through September 30, 2019, with respect to the eligibility standards, methodologies, and procedures under the State plan under this title or under any waiver of such plan that are applicable to determining the eligibility for medical assistance of any child who is under 19 years of age (or such higher age as the State may have elected).

(Emphasis added; quotations are included as contained in the PPAC Act.)

Section 1903(a) of the Social Security Act (42 U.S.C. 1396b) as referenced above relates to payment to the states for the Title XIX Medicaid program. The application of a longer MOE period for children ties that requirement back to paragraph (1) above, which is clearly linked to Title XIX Medicaid.

Thus, the MOE provision cited above indicates that the states cannot make any changes to eligibility standards, methodologies, or procedures that are more restrictive than as of the date of enactment of the PPAC Act (March 23, 2010). Therefore, any changes made to rollback the Prop. 204 populations after March 23, 2010 will result in the State's forfeiture of all federal financial participation for the entire Medicaid program.

Cc: Matt Devlin, AHCCCS General Counsel