

November 26, 1997

Mr. Bernard A. Buescher
Acting Executive Director
State of Colorado
Department of Health Care Policy & Financing
1575 Sherman Street
Denver, Colorado 80203

Dear Mr. Buescher:

The Department of Health and Human Services has reviewed your proposal, dated October 13, 1997 for a State Children's Health Insurance Program under Title XXI of the Social Security Act. Under the law, HCFA must either approve, disapprove or request additional information on a proposed Title XXI State Plan within ninety days. The ninety-day review period for Colorado's proposal began on October 15, 1997. Based on our review of Colorado's Title XXI State Plan, the State's request, as submitted, does not fully conform to the statutory requirements of Title XXI. Therefore, pursuant to Section 2106(c) of the Act, we are writing to request that you provide us with additional information in order to ensure we can fully assess your plan. Enclosed is a detailed listing of questions that relate to your proposal. From that listing, our major concerns relate to the following areas:

1. Section 4.1.5, the interaction between the CHIP plan and the immigration requirements enunciated in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. We are concerned that your immigration requirements do not conform with the requirements of a means tested program.
2. Section 4.4.1, the screening process for determining whether a CHIP applicant is Medicaid eligible. We would like further clarification of your CHIP screening process in light of our comments included in the enclosure.
3. Section 8.2, the cost sharing for medical transportation appears to exceed the maximum allowable under title XXI.
4. Section 9.8.3, the donations received from the six private foundations. We are requesting more information so we can evaluate whether the donations are allowable in accordance with section 1903(w)(2)(A).

Processing of your Title XXI State Plan will cease until a substantive response to all of the enclosed questions is received. Upon receipt of the additional information, the 90-day review period will resume at the point at which it was stopped by this request. A final decision will be made by day 90 of the review period, unless the information submitted is incomplete and it is again necessary to request additional information. Please send your response, either on disk or electronically, as well as in hard copy to Sherrie Fried, project officer for Colorado's Title XXI proposal, with a copy to HCFA Region VIII. Ms. Fried's Internet address is: SFried@HCFA.GOV. Her mailing address is:

Division of Integrated Health Systems
Health Care Financing Administration
Mail Stop **C3-18-26**
7500 Security Boulevard
Baltimore, Maryland **21244-1850**

We appreciate the efforts of your staff and share your goal of providing health care to low income, uninsured children through Title XXI. If you have questions or concerns regarding the matters raised in this letter, your staff may contact either Ms. Fried at **(410) 786-6619** or Spencer Ericson, Associate Regional Administrator for the HCFA Region VIII Division of Medicaid and State Operations, at **(303) 844-2121**. They will provide or arrange for any technical assistance that you may require in preparing your response. Your cooperation is greatly appreciated.

Sincerely,

Richard Fenton
Deputy Director
Family and Children's Health Programs Group
Center for Medicaid and State Operations

Enclosure

CC: Denver Regional Office

**Questions and Comments on the Colorado Health Plan Plus (CHP+)
Title XXI State Plan**

Section 2. General Background and Description of State Approach to Child Health Coverage

Section 2.2.2

1. How will CHP+ interact with the Kaiser School Connection, voluntary practitioner program, and the existing mental health capitation program for low income children?

Section 2.3

2. Current HCFA policy does not permit the use of the Internet for the transmission of data subject to the Federal Privacy Act (which would include Medicaid and Title 21). Based on this policy, the State's proposal to transmit eligibility information using the Internet would not be allowed. However, this policy is currently under review, and we are working to develop criteria for systems design and procedures that would be necessary to satisfy Federal Privacy Act concerns. The State's proposed system would need to satisfy these criteria in order to be approved for use under Title 21 or Medicaid, and our approval of the Title 21 plan would be contingent on the State's satisfaction of those requirements.

Section 3. General Contents of State Child Health Plan

Section 3.2

3. How will the State assure that children with special needs receive care from adequately experienced providers? Will these children be allowed to have specialists as their primary care providers?
4. What utilization control methods are currently employed by Colorado Child Health Plan that are being brought over into CHP+? If these methods are at the discretion of the primary care provider, how does the state ensure that adequate and appropriate utilization controls are applied? How does the State monitor utilization rate in fee-for-service areas?
5. State law (page 16 of Senate Bill 97-5) requires managed care organizations to actively seek the participation of essential community providers (ECPs). How will these ECPs be integrated into the Title XXI delivery system?
6. How will mental health services under CHP+ be coordinated with existing community services programs for children with mental illness and serious emotional disturbances which are at least partially funded through the Block Grants for Community Health Services, Public Health Service Act, Subpart I; also, how will mental health services be coordinated with substance abuse services provided under Subpart II?

Section 4. Eligibility Standards and Methodology

Section 4.1.5

7. The Title XXI program has been legally defined as a means tested program and as such the immigration requirements established in Sections 403 and 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, and the Balanced Budget Act of 1997 apply. The immigration requirements provided in this plan do not conform with these requirements. The State proposes providing care to legal immigrants under their plan. This is not allowed under the new welfare reform statute. How does the State justify their inclusion? If the State is unable to justify the inclusion of all legal immigrants, how will it verify which immigrants came to the US before 8/22/96 and which ones arrived after that date, as well as immigrants who have been in continuous residence for more than five years.

Section 4.3

8. Please explain the “financial penalty” for failure to renew on time (page 26). What are the penalty amounts and how will they be implemented?
9. Please clarify whether the annual renewal process for children (page 26) will include information necessary for follow-up screening to determine that the child remains eligible for Title XXI.

Section 4.4.1

10. The process described in section 4.4.1 of the State plan for Medicaid screening does not appear to meet the statutory requirements for Medicaid screening. At a minimum, we believe that all children who are potentially eligible for Medicaid under the State plan as poverty-level children should be identified in the screening process. In States, which have not accelerated the phase-in of the poverty level children’s group to cover children up to 19, the process must also identify, for children at ages not covered under the State’s poverty-level group, all children potentially eligible under the optional categorically needy eligibility group described at 42 CFR 435.222, Individuals Under Age 21 Who Meet the AFDC Income and Resource Requirements. While the State may initially use a gross income screen which compares total family income against the applicable Medicaid standard, it must have a second income determination screen that verifies the child is not Medicaid eligible before enrolling the child in the CHP+. The initial gross income screen would eliminate from the eligibility process children whose gross family income was low enough that Medicaid eligibility would be almost certain. A second screen, in which a full income determination was made, would detect children whose gross family incomes exceeded the initial screening standard but who were nevertheless Medicaid-eligible when applicable income disregards were applied. Absent this second step, the State would not be meeting its responsibility to ensure that children eligible for Medicaid are enrolled for such assistance (sec. 2102(b)(3)). It is also expected that the State adequately inform every applicant about the right to apply for Medicaid, the advantages of Medicaid

eligibility, and where and how to apply for Medicaid.

11. How would other commonly reported types of income, such as intangible income, reparation payments, per capita American Indian/Alaska Native (*MAN*) payments and cash gifts, be handled in the eligibility process? It is important to note that certain income is exempt under federal statutes and the plan must ensure appropriate handling of such. We encourage the state to include a blanket statement on how to count all income not specifically referenced.
12. The state comments that children thought to be eligible for Medicaid will be referred to an appropriate office for enrollment (page 27). What specific, proactive steps will the state make to help ensure that these Medicaid-eligible children enroll in Medicaid?

Section 7. Quality and Appropriateness of Care

Section 7.1

13. Please clarify how the state intends to evaluate quality and appropriateness of care in all other non-HMO environments or for special populations.
14. Please clarify how the state will evaluate the results of the CHP+ program. For example, will the State require HMOs to report CHP+ specific data so that the effects of this plan can be measured and analyzed to identify areas in need of improvement that are specific to the needs of these children?

Section 8. Cost Sharing and Payment

Section 8.2

15. Please verify whether American Indian/Alaska Natives (AI/ANs) are exempt from the plan's co-payment requirements. If so, please indicate if this applies only to those with access to IHS facilities or to all AI/ANs including urban Indians. Does this exemption also apply to premium requirements?
16. The copayment for medical transportation (page 41) is \$15. This seems to violate the maximum \$6 copayment requirement for nonemergency use of the emergency room (2 times the nominal copayment amount) for those persons at or below 150% of poverty.

Section 8.3

17. Are all enrollees subject to the same premium amounts effective January 1, 1998, or are only current *CCHP* enrollees offered premiums at half of that charged new enrollees?

Section 8.4.2

18. Please clarify what services are included as "well baby and well child care"?

Section 8.5

- 19. Attachment 6, “Child Health Plan Plus Family Premium Cost Sharing Cost” does not reflect the premium amounts detailed on page 56. Please clarify this discrepancy.
- 20. How will the State make families aware of the aggregate limit on cost-sharing? The application states that responsibility rests with the family to request reimbursement for expenditures that surpass the 5 percent limit (page 57). How will this process work?

Section 9. Strategic Objectives and Performance Goals for the Plan Administration

Section 9.8.3

- 21. We have concerns related to donations and require additional information in the following areas to determine whether these donations are bonafide:

University Hospital

The State of Colorado indicates that University Hospital would contribute a “donation” in the amount of \$650,000 to the Colorado Child Health Plan each year. However, because University Hospital is a public hospital, the contribution does not appear to be a provider related donation. Instead, this appears to be an intergovernmental transfer. To the extent the University Hospital contribution did not originate from an impermissible tax or donation, the \$650,000 would not be subject to the donation law under 1903(w) of the Act. Therefore, we request that the State of Colorado describe its compliance with section 1903(w)(6)(A) of the Act by further explaining the funding source used by University Hospital to make the contribution to the State. To the extent this money is appropriated to the facility by the State and is not derived from an impermissible health care related tax or donation, the State should revise the State plan page to reflect an intergovernmental transfer and not a donation.

Private Foundations

The State of Colorado indicates that six (6) private foundations would contribute “donations” in the amount of \$335,676 to the Colorado Child Health Plan each year. It appears that each of these meet the definition of a provider related donation in accordance with section 1903(w)(2)(A) of the Act in that they are entities related to health care providers. However, in order to determine whether the donations are bona fide in accordance with section 1903(w)(2)(B), more information is needed from the State. Specifically, the State should provide a description of each foundation, including the purpose of each foundation and the source(s) of funding for each foundation.

Blue Cross Blue Shield of Colorado

It appears that the fee-for-service claims processing services donated by Blue Cross Blue Shield of Colorado meets the definition of a provider related donation in accordance with section 1903(w)(2)(A) of the Act in that it is an entity related to health care providers. However, in order to determine whether the donations are bona fide in accordance with section 1903(w)(2)(B), more information is needed from the State. Please describe this

“in kind” donation mechanism. Included in this description should be the effective date of this donation mechanism, the estimated dollar amount of the in kind donation, and whether or not the State claims these services as an administrative expense.

22. Is it reasonable for the plan to rely on Blue Cross/Blue Shield’s donation of fee-for-service claims processing given their current request to move from non-profit to profit status? What assurances has the State received? Has any contingency plan been developed should the need arise?

Section 9.9

23. Has the State held any public meetings to provide opportunities **for** a wide array of consumers, lay persons, advocates, public entities, and special populations to provide input into the development of this program?

Section 9.10

24. Please clarify whether modifications to the Medicaid Management Information System (MMIS) are for purposes of the Title XXI program. If *so*, these modifications could be made at the enhanced rate subject to the 10 percent administrative cap. However, Title XXI changes whose costs exceed the cap will be eligible for reimbursement at the regular administrative match of 50 percent, even if these are **MMIS** changes. **MMIS** rates of 75 percent and 90 percent FFP are not applicable since such match is explicit to Title **XIX** not Title XXI.
25. Does the state plan to use cost allocation for the Colorado Benefits Management System (CBMS) in order to divide the system cost among the various programs that will be served? Will Title XXI **fund** the entire cost of CBMS?
26. Pages 2 and 72 indicate that enrollment will be permitted only up to the level of finding made available by State appropriations and through private finding. The State has approximately 160,000 uninsured children but anticipates enrolling about 8500 in the first year, 10,700 in the second year and 23,000 in the third year. How will the cap on enrollment be implemented? Why is the count of number of children participating *so* low? Would the State share the assumptions upon which enrollment figures provided on page 72 are based?
27. The state intends to use savings from Medicaid managed care to fund the child health program (page 73). Please provide the analysis supporting that over \$7.5 million will be raised between 1998 and 2000 from Medicaid managed care savings.