



DEPARTMENT OF HEALTH & HUMAN SERVICES
Health Care Financing Administration

Center for Medicaid and State Operations
Family and Children's Health Programs Group
7500 Security Boulevard
Baltimore, MD 21244-1850

OCT 19 2000

Mr. Karl B. Kurtz
Director
Department of Health and Welfare
450 W State Street, 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036

Dear Mr. Kurtz:

Thank you for your response, dated October 2, 2000, regarding the amendment to your State Children's Health Insurance Program under Title XXI of the Social Security Act. We are impressed with the efforts that Idaho has made to provide health care coverage to uninsured children. As you are aware, your proposal has been undergoing review by the Department of Health and Human Services. In order to proceed with our review, however, the following additional information is required.

Pursuant to section 2107(e)(1)(C) of the Act, a State is required to comply with Section 1903(w) of the Social Security Act (the Act), relating to limitations on provider taxes and donations. Specifically, our concern regarding this provision is as follows:

Section 2.2.2. It is our understanding that the Mountain States Group intends to make a contribution to the State for the State to use as the non-Federal share of certain SCHIP outreach activities. Furthermore, it is our understanding that the Mountain States Group will also perform outreach services for which the State intends to claim Federal financial participation. The arrangement, as proposed, appears to meet the statutory definition of a provider-related donation as defined in section 1903(w)(2)(A)(iii) of the Act. Specifically, that section of the statute considers a donation to be provider-related when an entity providing goods or services under the State plan makes a donation or other voluntary payment to a State or unit of local government. Furthermore, the payment proposed to be made by the State to the Mountain States Group for the cost of the outreach activities does not appear to meet the definition of a "bona fide provider-related donation" as required by 42 CFR 433.54(c)(i). That is, the amount of the payment received by the donating provider is positively correlated to the amount of the donation. Such a relationship between a provider-related donation and a non-Medicaid payment is

prohibited by the bona fide provider-related donation requirements. Section 1903(w)(1)(A)(i) of the Act imposes a penalty for States that receive provider-related donations that are not considered bona fide.

The proposed contribution from the Mountain States Groups does not appear permissible under the Federal statute and regulations. Therefore, in order to avoid the statutory penalty applicable to State receipt of provider-related donations that are not considered bona fide, please revise your amendment to comply with 1903(w) by:

- (i) withdrawing the provision to accept the provider-related donation from the Mountain States Group; or,
- (ii) contracting with an entity that is independent from the Mountain States Group to perform such outreach activities.

While we fully support the outreach activities described in the plan amendment, we cannot support the method by which you propose to fund the non-Federal share of such activities. If you choose to accept the donation from the Mountain States Group, an entity with no relationship to the Mountain States Group must perform the outreach activities in order for the provider-related donation to be considered bona fide.

Under Section 2106(c) of the Social Security, HCFA must approve, disapprove, or request additional information on a proposed Title XXI State Plan within ninety days. This letter constitutes our notification that specified additional information is needed in order to fully assess your plan. The 90-day review period has been stopped by this request and will resume as soon as a substantive response to all of the enclosed questions is received. The members of the review team would be happy to answer any questions you may have in regard to this letter and to assist your staff in formulating a response.

Please send your response, either on disk or electronically, **as** well as in hard copy to Angela Corbin, Project Officer for ~~Idaho's~~ Title XXI proposal, with a copy to Mr. Bob Reed, Chief Medicaid Branch for the Division of Medicaid and State Operations, HCFA Region X. Ms. Corbin's Internet address is acorbin@hcfa.gov. Her mailing address is:

Center for Medicaid and State Operations
Health Care Financing Administration
Mail Stop S2-01-16
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 concerns regarding the matter raised in this letter, your staff may contact either **Ms. Corbin** at (410) 786-0620 or **Mr. Reed** at (206) 615-2330. They will provide or arrange for any technical assistance you may require in preparing your response. Your cooperation is greatly appreciated.

Sincerely,

*J*ndy Mann
Director

cc: Seattle Regional Office