UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

HUMAN RESOURCES
DIVISION

August 10, 1984

Carolyne K. Davis, Ph.D.
Administrator, Health Care Financing
Administration
Department of Health and Human Services

Dear Dr. Davis:

Subject: New York Requires Employed Medicaid Recipients to Enroll in Employer-Sponsored Health Insurance (GAO/HRD-84-86)

As a part of our review of the use of recipient health insurance coverage to avoid Medicaid costs, we encountered a practice in New York State which warrants your attention. The state is attempting to hold down Medicaid costs by requiring working recipients as a condition of Medicaid eligibility to enroll themselves and their families in available employer-sponsored health insurance plans. If these insurance plans require employee contributions, the state is using Medicaid funds to make the contributions on behalf of the employed Medicaid recipients.

Even though this practice appears to have potential for Medicaid savings, the state's imposition of this additional condition for Medicaid eligibility is not permitted by federal law. Conditions for eligibility in addition to those specified in the Medicaid law are only permissible if the state requests and the Health Care Financing Administration (HCFA) grants a waiver from Medicaid requirements for demonstration project purposes. Because New York State has not requested a waiver it should be required to discontinue the practice.

BACKGROUND

The Medicaid program, authorized by title XIX of the Social Security Act (42 U.S.C. 1396), is a federal/state medical assistance program for low-income people. The Congress intended that, as a public assistance program, Medicaid would pay for health care only after Medicaid recipients had used all of their other health care resources. Medicaid recipients sometimes have other health care resources through third parties such as private health or casualty insurers. Medicaid law and regulations require that the states make reasonable efforts to identify and collect from liable third parties, and share any savings with the federal government in the same proportion as medical expenditures.

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According to Bureau of the Census statistics and Department of Health and Human Services (HHS) data[1], between 18 and 20 percent of the Medicaid population have some form of private health insurance. Some of these Medicaid eligibles are covered under private health insurance through their own or their parents' full or part-time employment, wherein the employers pay all or part of the premiums.

In fiscal year 1983, New York State's Medicaid program spent about $6 billion for medical assistance to about 2.3 million people. New York State and the federal government shared the $6 billion in Medicaid costs about equally. According to 1980 Bureau of the Census data, about 7 percent of New York State's Medicaid recipients were employed full-time for at least part of the year.

NEW YORK REQUIRES ENROLLMENT IN AVAILABLE EMPLOYER BENEFIT PLANS

New York State has had an ongoing practice of requiring Medicaid recipients to use their health insurance as the primary resource for medical costs, when the recipients have such insurance. However, in 1980 the state Medicaid agency noted indications that thousands of working Medicaid recipients were not enrolling in available employer sponsored health insurance coverage.

State Medicaid officials told us that they believed working Medicaid recipients were not enrolling themselves and their families in available employer-sponsored health insurance because

--the Medicaid program would generally pay their medical bills and

--in some cases, the employer's health plan required the employee to pay a share of the insurance premium.

The New York State Medicaid program was modified by state law in 1981, and by an administrative directive in May 1982, to require as a condition of Medicaid eligibility, that employed Medicaid recipients enroll themselves and their dependents in available employer sponsored health insurance plans. If an employer plan requires the employee to pay for part of the premium, Medicaid eligibility offices are to determine on a case by case basis if paying the premiums is likely to be cost effective.

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[1]National Medical Care Utilization and Expenditure Survey, conducted by HHS, on characteristics of the noninstitutionalized Medicaid population, 1980 sample data.

Between July 1982 and June 1983, New York State's Medicaid program spent $3.4 million in federal and state Medicaid funds to pay working Medicaid recipients' shares of employer-sponsored health insurance premiums. However, state officials told us that the state has not kept records of how many Medicaid recipients it has required to enroll in these insurance plans.

States may impose only those conditions for Medicaid eligibility which the Social Security Act authorizes. Most of the permissible conditions relate to the income and resource levels that applicants for assistance can have and be eligible for Medicaid. While section 1902(a)(25) of the act requires states to "take all reasonable measures to ascertain the legal liability of third parties to pay for care and services," a legal liability under an employer-sponsored health plan does not exist until a recipient is enrolled in the plan. Thus, this provision does not appear to authorize a state requirement for recipients to enroll in such plans. A HCFA official told us that establishing additional eligibility requirements such as requiring enrollment in available health insurance is not subject to state discretion and is not allowed.

DEMONSTRATION PROJECT MAY BE APPROPRIATE TO EVALUATE MANDATORY ENPOLLMENT IN EMPLOYER-SPONSORED HEALTH INSURANCE

Section 1115(a) of the Social Security Act gives HHS authority to waive compliance with Medicaid eligibility requirements if a state wishes to conduct a demonstration project. This authority has been delegated to the Administrator of HCFA, who grants these waivers on a case-by-case basis to study innovative methods that are likely to further Medicaid objectives. Requiring Medicaid recipients to take advantage of available health insurance probably meets this general criteria for a demonstration project. Namely, Medicaid is a public assistance program and as such was intended to be payer of last resort for medical care to the needy.

While New York State does not have authority to mandate that Medicaid recipients enroll in employer-sponsored health insurance, the practice would be permissable if HCFA granted a waiver for purposes of demonstration. We believe that New York State's practice does have merit for demonstration purposes, but according to HCFA officials, New York State has not requested nor has HCFA approved such a demonstration project.

A demonstration project could provide a means of evaluating whether savings are available to the Medicaid program because applicants for demonstration projects must propose an evaluation methodology. Although neither HCFA nor New York State has

evaluated the extent to which Medicaid funds have been saved by requiring mandatory enrollment in health insurance, the potential for savings exists because

--enrolling Medicaid recipients in available employer plans has the effect of shifting the primary responsibility for the recipients' medical care to the insurer instead of Medicaid, and

--even when Medicaid pays for a portion of the insurance premium for these plans, it may be cost effective to the Medicaid program. For example, New York State analyzed 26 working Medicaid families in one county where it paid for the recipients' share of employer sponsored health insurance. For these families, the state spent about $9,500 for the recipients portion of the employer-sponsored insurance that, in turn, paid for about $52,000 of the Medicaid recipients' medical bills, yielding a payback of more than 5 to 1.

Furthermore, this practice may have national applicability. Using Bureau of the Census 1981 data, we compared the incidence of employer-provided health insurance between Medicaid and non-Medicaid eligibles working 50 to 52 weeks a year in jobs paying less than $13,001 annually. The non-Medicaid population was about 75 percent more likely to be enrolled in available health insurance than the Medicaid population, indicating that the Medicaid population may be depending on Medicaid as their primary medical resource.

CONCLUSIONS

New York State's practice of requiring employed Medicaid recipients to enroll in employer-sponsored health insurance plans is not permitted without a waiver from eligibility requirements for demonstration purposes; however, no such waiver has been requested or granted. Therefore, New York should be required to cease this practice.

Although New York's practice has not been evaluated, there appears to be a potential for Medicaid savings. If the state desires to continue the practice, it should request a waiver to test the cost effectiveness of the practice.

RECOMMENDATION TO THE ADMINISTRATOR OF HCFA

We recommend that you direct the New York State Medicaid agency to discontinue the practice of requiring Medicaid recipients to enroll in employer-sponsored health insurance as a condition for eligibility until and unless it seeks demonstration project status for this practice and you approve the necessary waiver.

OBJECTIVES, SCOPE, AND METHODOLOGY

Our objectives were to determine whether New York State's practice of requiring Medicaid eligibles to enroll in employer-sponsored health insurance

--is permitted under federal statute and regulations, and

--has been evaluated to determine whether it was cost-effective.

To determine whether the practice was permitted by federal statute and regulations, we reviewed Medicaid law and regulations and obtained comments from HCFA's Bureau of Eligibility, Reimbursement and Coverage, Division of Medicaid Eligibility Policy. To determine whether the practice had been evaluated, we visited the New York State Medicaid agency where we interviewed state Medicaid officals and obtained applicable studies, procedures, and cost data.

We conducted our review in accordance with generally accepted government auditing standards. Field work was completed in June 1984.

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We would appreciate hearing from you within 30 days on whatever action you take or plan on our recommendation.

Sincerely,

Thomas Dowdal

Thomas Dowdal
Group Director