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A Medicaid Perspective on Medical Support Cooperation: A Study of Procedures in Five States

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A Medicaid Perspective on Medical Support Cooperation: A Study of Procedures in Five States

Executive Summary

This report, prepared by the Center on Budget and Policy Priorities for the Kaiser Commission on Medicaid and the Uninsured, examines how medical support requirements impact parents applying for Medicaid coverage for themselves and their children. The report draws from case studies of medical support procedures obtained in five states: Arizona, Connecticut, Minnesota, South Carolina and Wisconsin.

In order to be eligible for Medicaid, single, divorced or separated custodial parents are required to cooperate with their state's child support enforcement agency (termed the "IV-D" agency because it was established under Title IV-D of the Social Security Act) in pursuing medical support, the legal provision for the payment of medical and dental bills by a third party, such as an insurance company or non-custodial parent.[1] If they do not cooperate, the law permits their children to obtain Medicaid, but they cannot. This study found that the steps parents may be required to take in order to fulfill medical support requirements constitute barriers to enrolling in Medicaid.

Child support can be of tremendous benefit for custodial parents with children: cash child support, when actually received, constitutes more than a quarter of a poor family's yearly income.[2] Many custodial parents need and want financial and medical support from the non-custodial parent. In fact, most single parent families who qualify for Medicaid or SCHIP are already in the child support system.[3]

However, the premise of the current *medical support* requirement for Medicaid is in need of examination: the policy is largely based on the assumption that children enrolled in public health coverage might obtain employer-based coverage (to offset the cost of Medicaid) through the non-custodial parent. Yet the ability of a non-custodial parent to provide private health coverage to his children is primarily a function of income. As research summarized in the report reveals, many non-custodial parents cannot provide employer-based coverage to their children. The dearth of employer-based insurance available to non-custodial fathers calls into question the rationale for the medical support requirement, particularly if the requirement erects barriers to eligible parents enrolling in Medicaid. This report documents such barriers.

Methodology

To understand the process parents need to follow in order to comply with medical support requirements, the Center reviewed documents produced by the state Medicaid and child support agencies and conducted telephone interviews with state officials, program staff, local eligibility workers, and other experts in each state. Each state also provided copies of the paperwork that the Medicaid and child support agencies require of parents, as well as samples of standard notices and letters sent to parents.

State officials, administrators, and front-line staff provided insight into how procedures are implemented, as well as their perspectives on the issue. Research was conducted during 2003.

Key Findings

1. Medical support requirements create "risk points" for the loss of Medicaid eligibility for parent and child.

Medical support requirements generally lengthen the amount of time required of a parent to complete the Medicaid application process. They also can constitute a complicated and even intrusive endeavor— particularly for mothers who need to establish paternity. These mothers must often submit extra paperwork and verification, and appear for personal interviews. Many states have recently eliminated burdensome paperwork, verification and personal interviews as Medicaid eligibility requirements. Yet, when these steps are requirements for *medical support cooperation,* they effectively become *Medicaid* requirements for single parents.

Paternity establishment procedures in particular states and counties in this study were found to be multi-step and even personally intrusive. For example, mothers in some states are asked to complete forms listing dates and locations where they had sexual intercourse during the presumed conception period. One form reviewed for this study asks mothers to indicate whether and what type of birth control was used each time they had intercourse during the presumed conception period.

2. Although the law indicates that parents do not need to comply if there is a risk of harm, in practice this exemption can be difficult to obtain.

If, by complying with the medical support requirements, a parent would risk harm to herself or to her children, she may be able to qualify for a "good cause" exemption and obtain Medicaid without cooperating. Although most survivors of domestic violence want child support enforced,[4] a number of studies suggest that some women do fear cooperating for this reason.[5]

Four of the five states in this study generally require that women complete another form to request a good cause exemption and obtain proof of the violence. Research has demonstrated that it can often be very difficult to obtain proof, and that some women who want a good cause exemption may not be able to obtain one because of this barrier.[6] A parent seeking a good cause exemption typically must complete a claim form explaining why her situation meets the state's criteria for good cause. After this form is submitted, all child support activity ceases, and in three of the five study states a parent has 20 days to provide proof that the abuse exists and is severe enough to warrant good cause.[7]

Printed materials on good cause provide examples of acceptable proof, such as police or hospital records or sworn statements from parties who can testify to the abuse. A claimant's written statement is also generally listed as acceptable, although in practice this is sometimes discouraged or considered insufficient. Two local eligibility offices in one state also require that the good cause form be notarized, and one local office in another state requires good cause claimants to appear for an interview. Some states provide an alternative known as "privacy protection" or the "yellow light" alternative, which permits child support to be pursued while a parent's identity and location are shielded from disclosure. This alternative is described in the report.

3. To implement the medical support requirement, Medicaid staff must sometimes judge whether a parent has "sufficiently" complied—a judgment some are neither trained to make nor comfortable making.

When forms with information about non-custodial parent are submitted to Medicaid and it is unclear whether *enough* information has been provided, Medicaid staff or supervisors may find themselves making eligibility decisions with little to guide them. Although state policy manuals explain relevant statutes and regulations, in the end, many of these decisions are judgment calls, in which a caseworker must determine whether a parent is providing "all the information she has." Medicaid agencies in the states studied do not collect data on the number of parents who are denied or lose eligibility on account of their failure to provide information on the non-custodial parent. It is likely, however, that these numbers vary significantly not only from state to state, but within individual states and offices, as there is often no clear protocol.

One county supervisor interviewed for this study explained: "We are at a little bit of a loss with how to do this. This process where they involve medical support is very old school, very detailed questioning, family stuff. We've moved away from this kind of personal questioning in Medicaid, and we're not even trained to do this anymore."

4. Although children's eligibility is legally protected, parents may not realize this, as some of the information they receive is misleading.

Federal law ensures that a child remains eligible for Medicaid even if a parent does not cooperate with medical support requirements. The Centers for Medicare and Medicaid Services (formerly the Health Care Financing Administration) issued a number of policy clarifications on medical support from 1999 to 2002, each of which emphasized this point.

States in this study typically distinguish between parent and child eligibility somewhere in the *Medicaid* application. However, the materials a parent receives later in the process, *when she is actually being asked to cooperate,*

generally fail to make this distinction and could mislead a parent into thinking that her child's eligibility is at risk. For example:

- None of the states in the study includes information about children's eligibility on the supplemental forms requesting information on the non-custodial parent. Some states include this information on the good cause notice, but some do not.

- None of the sample letters and notices from state child support agencies includes information about the protection of children's eligibility. In fact, these notices and letters often imply that children's eligibility will be in jeopardy if a parent fails to cooperate. Language from two different states' notices:

  > "An appointment has been scheduled for you at _____on_____. The purpose of this appointment is to gather information to establish paternity . . . . Failure to keep this appointment may result in further legal action . . . . Noncooperation may result in a loss of public assistance benefits."

  > "If you and your children receive [Medicaid only], federal law says you must help the county child support agency. You must help establish paternity, collect medical payments, and/or establish court-ordered dependent health and dental insurance coverage."

One of the local eligibility offices interviewed for this report described a process that involved "pending" (or holding up) children's eligibility until the parent's materials on cooperation had arrived — indicating that parent requirements were "spilling over" to children's eligibility.

5. Medicaid applications in two of the five states provide insufficient information about the assignment of rights and medical support requirements generally. Most of the states provide insufficient information about the good cause exemption in application materials.

Since the Medicaid application usually provides parents with their first official information about Medicaid, it is important that requirements be described accurately. Parents need to know that children's eligibility is not affected by cooperation with medical support but that parents' eligibility is contingent upon cooperation. They also need information regarding "assignment of rights," their consent to which is required and allows the government to collect and retain any medical support that is owed, either from an insurance company or an individual (such as a non-custodial parent). Two of the five states do not explain this requirement clearly.

Most of the states do not provide sufficient information about the good cause exemption at the application process. A chart in the report lists the information provided by each state's application.

The need to revise the medical support requirement and procedures

As noted, the current medical support requirement is based on the assumption that most children enrolled in public health coverage could obtain private coverage through the non-custodial parent. However, the ability of a non-custodial parent to provide private health coverage to his children is largely a function of income. This report summarizes recent research demonstrating that the majority of low-income non-custodial parents do not have access to employer-sponsored health insurance, and that when such insurance is available, it is less affordable than in the past. Even those non-custodial parents who do have access to employer-based coverage often live in a different city or state, making the coverage impractical for their children if it relies on a local network of providers.

Current medical support policies are unlikely to achieve the goal of replacing Medicaid coverage with employer-based insurance provided by non-custodial parents. By deterring eligible parents from enrolling in Medicaid, the requirement undermines the policy goal of reducing the number of uninsured Americans. Congress should consider giving states the flexibility to provide Medicaid coverage without imposing medical support requirements. Families enrolled in Medicaid that are interested in pursuing child or medical support should be given the opportunity to do so, but those who do not should not need to forgo health coverage as a result.

Regardless of changes in federal medical support policies, states should alter their procedures to reduce the chances that eligible parents and children will miss out on coverage. The paper concludes with specific recommendations for minimizing the paperwork and other procedural burdens to parents and targeting the efforts of state child support enforcement agencies toward families most likely to benefit.

Summary of Recommendations

1. States should have the flexibility to provide Medicaid coverage without imposing medical support requirements.

The current, outdated medical support requirement should be repealed and replaced with a requirement that parents of children enrolled in Medicaid and SCHIP be informed that free services are available to them from their state's child support enforcement agency. Giving states the flexibility to limit their pursuit of medical support to cases in which custodial parents express an interest in receiving these services would reduce the burden of cases that are unlikely to produce results. It would also remove an unnecessary barrier to families seeking Medicaid coverage.

2. States should simplify administration of the medical support requirement with assistance from the Centers for Medicare and Medicaid Services in designing systems so that Medicaid applications are not delayed or denied.

An appendix to the full report provides step by step guidelines on simplifying administration of the medical support requirement. States can take steps to simplify without any changes in federal legislation by collecting only necessary information, clarifying parent obligations and children's eligibility, and prioritizing those cases which are most likely to yield results.

3. All materials and notices sent to parents on the cooperation requirement should note that a parent's failure to cooperate does not affect a child's eligibility for Medicaid coverage.

States need to ensure that communications from both the Medicaid agency and the state child support enforcement agency clearly state that a child remains eligible for Medicaid even if the parent does not comply with medical support requirements. This message should be included in every communication regarding medical support from both state agencies.

4. Descriptions of the assignment of rights should be clarified and should include the possibility that a non-custodial parent could be pursued for medical support.

Because Medicaid is intended as the health care payer of last resort, Medicaid beneficiaries are required to assign their medical support rights to the state. States need to ensure that applicants understand the serious legal consequences of assignment. Application forms should convey the legal implications while improving the probability that applicants will read and understand the message. Parents should be told that they are "assigning their rights" to medical support to the state and that this gives the state the right to collect and retain any medical support that is owed to the custodial parent. As the term "assignment of rights" may be unclear, the application should explain that either an insurance company or an individual (such as the non-custodial parent) could be pursued by the state for payment of medical support.

5. The good cause process should be simplified and state requirements for verification should be eliminated.

Requirements to obtain notary signatures, collect official proof of a violent threat, or appear for a personal interview are unnecessary and deter women at risk from obtaining the exemption that they need. States need to design processes to protect the identity of parents who wish to pursue support despite a threat (the "yellow light" procedures described in the report) and to reduce the burden on parents who need a good cause exemption. Model processes, such as those used by Arizona

and described in the report, are already in place and can aid states in redesigning their procedures to protect women at risk.

6. Recouping prenatal and birth costs paid by Medicaid from non-custodial fathers should be prohibited as this discourages pregnant women from seeking prenatal care.

A textbox in the report describes state policies that are technically legal but inconsistent with the intent of the 1990 Congressional decision to exempt pregnant women from medical support requirements. This practice should be eliminated.

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Background Paper

I. Introduction

In recent years, publicly funded children's health programs have begun to resemble private insurance more closely than welfare programs. Streamlined application and renewal procedures have made it easier for families to get and keep their children insured. Simple applications and reduced verification have become the norm, although some states have recently reinstated procedural barriers to reduce costs — ironic testimony to the effectiveness of simplification in increasing enrollment.

Despite the significant progress in improving children's applications, applying for Medicaid as a parent requires more steps, and sometimes much more paperwork than applying for children's coverage. This means that those applying for Medicaid as a family unit are likely to find the process harder than those who seek coverage only for their children. For some families, even children's coverage may be inaccessible because of the procedural burdens built into family applications.

What may be the most difficult of these burdens exists only for families headed by single, separated, or divorced custodial parents. In order to be eligible for Medicaid, these parents are required to cooperate with their state's child support enforcement agency (termed the "IV-D" agency because it was established under Title IV-D of the Social Security Act) in pursuing medical support, the legal provision for the payment of medical and dental bills by a third party, such as an insurance company or non-custodial parent.[8] If they do not cooperate, the law says that their children can still obtain Medicaid, but they cannot. Because much of the cooperation process takes place after the disposition of a Medicaid application, the specific barriers these parents encounter have not been well understood or widely addressed in Medicaid simplification efforts.

This report, prepared by the Center on Budget and Policy Priorities for the Kaiser Commission on Medicaid and the Uninsured, examines how medical support requirements are implemented in Arizona, Connecticut, Minnesota, South Carolina and Wisconsin. It describes the steps a parent must follow to comply with medical support requirements, pointing to the hurdles that must be overcome by a parent who is not seeking child support assistance of her own accord, but cooperating with support requirements in order to receive Medicaid.[9] The study presumes a parent is not seeking cash assistance and is submitting a Medicaid application by mail; each state in the study offers this option to parent applicants.

Why Current Medical Support Policies Are Unlikely to Achieve Their Goals

Child support can be of tremendous benefit for custodial parents with children: cash child support, when actually received, constitutes more than a quarter of a poor family's yearly income.[10] Many custodial parents need and want financial and medical support from the non-custodial parent. In fact, most single parent families who qualify for Medicaid or SCHIP are already in the child support system.[11] However, the premise of the current *medical support* requirement for Medicaid is need of examination: the policy is largely based on the assumption that children enrolled in public health coverage

might obtain employer-based coverage (to offset the cost of Medicaid) through the non-custodial parent. Yet the ability of a non-custodial parent to provide private health coverage to his children is primarily a function of income. This has been noted by the Medical Child Support Working Group (MCSWG), charged by Congress with identifying barriers to effective medical support enforcement. MCSWG cited a Department of Health and Human Services study completed in 2000 that found:

- Almost three-fourths of fathers with income below 200 percent of the federal poverty line have no access to dependent health coverage.[12]

- Most fathers without access to dependent health coverage either do not work or are incarcerated, making it unlikely that many will obtain access to coverage.[13]

Other recent studies reinforce the conclusion that this group of parents is unlikely to be able to provide their children with health insurance. Low-wage workers in general have been hard hit by recent declines in the availability of employer-based insurance. And when such insurance is available, it is less affordable than in the past: Since 2001, employee contributions for health insurance increased 57 percent for single coverage and 49 percent for family coverage, while wages have increased only 12 percent. The number of jobs that provide health insurance to employees is also down: at least 5 million fewer jobs provided health insurance in 2004 than in 2001. [14]

And, as noted by the MCSWG, employer-based insurance will not be useful to the child if it requires the use of a provider network that is not available where the child lives. Between 25 and 30 percent of all non-custodial parents live in a different state than their children; an additional 20 percent of fathers live in the same state, but not the same county or city as their children.[15] In some regions of the country, in which the use of managed care with restricted provider networks is common, a non-custodial parent's provider network may not be useful to the child.

The dearth of employer-based insurance available to non-custodial fathers calls into question the rationale for the medical support requirement, particularly if the requirement erects barriers to eligible parents enrolling in Medicaid. This report documents such barriers. Moreover, even when the child support enforcement agency is able to obtain private coverage on behalf of children enrolled in Medicaid, it is not clear how much states gain financially from this. The states in this study were not able to identify the savings to their Medicaid programs, which are difficult to measure because they largely consist of costs avoided and thus do not show up in a specific "pot of money."[16]

II. Background on the Medical Support Requirements

In 1984, Congress created two new rules for families enrolling in Medicaid:

- **Assignment of rights to medical support.** Medicaid beneficiaries must assign (transfer) to the state any rights they may have to "medical

support" — that is, payment of medical and dental bills by a third party, such as an insurance company or a non-custodial parent. Since children cannot transfer their legal rights, parents are required to assign their children's rights to medical support.

- **Cooperation with medical support.** Single, divorced, or separated parents with children enrolled in Medicaid must help the state obtain the medical support to which their children may be entitled from the non-custodial parent. The specific procedures with which custodial parents must comply are determined by the states.

Parents who do not agree to assign their rights or who do not cooperate with the state in pursuing support will lose eligibility for Medicaid for themselves. Their children's eligibility, however, will *not* be affected. Pregnant women are exempt from the requirement.

These assignment and cooperation requirements are essentially carryovers from longstanding requirements for families receiving cash assistance through the old Aid to Families with Dependent Children (AFDC) and the current Temporary Assistance for Needy Families (TANF) programs to cooperate with child support. The stated purpose of these requirements, in both TANF and Medicaid, is to enable the state to recover the costs of public benefits provided to children with non-custodial parents.

In recent years, several legislative and regulatory changes have strengthened medical support enforcement. For example, the 1996 welfare law required all child support orders to include a provision for health care coverage. Other legislative and regulatory changes in recent years also strengthened medical support enforcement. Nonetheless, analysts find multiple flaws in federal and state medical support policies. For example, The Medical Child Support Working Group (MCSWG), charged by Congress with identifying barriers to effective medical support enforcement, submitted a report to the Secretaries of the Departments of Health and Human Services and Labor in June 2000 containing 76 recommendations to improve policies and procedures; these recommendations have not been considered by Congress.

Why Medical Support Requirements Might Impede Medicaid

This report examines how medical support procedures in five states — Arizona, Connecticut, Minnesota, South Carolina, and Wisconsin — might constitute barriers to health insurance for low-income parents. This report focuses on parents who have chosen not to pursue formal child support on their own but are required to do so as a condition of receiving health coverage. These are the parents who are most likely to be unable or unwilling to meet the medical support requirements.

Some Parents Do Not Want the State to Pursue Child Support

As noted, child support can be of tremendous benefit for custodial parents with children. Many custodial parents need and want financial and medical support from the non-custodial parent. Nevertheless, some low-income parents do not want the state to pursue cash or medical support on their children's behalf. The law recognizes that this may be in some parents' or children's best interests, and exempts from the requirement to cooperate with child support enforcement those parents who can establish "good cause," such as domestic violence or the pending adoption of the child. Good cause, however, is narrowly defined and implemented in most states.

Research on child support cooperation confirms that some parents (it is unclear how many) strongly wish to avoid participation in the child support system. Some may be candidates for the good cause exemption and unaware of it or unable to follow the procedures. Others might not want the state to pursue child support for a host of complex and intensely personal reasons.[17] Sometimes difficult interpersonal and family dynamics may compel some custodial parents to forgo the financial advantages that could be gained if the state were to pursue child support.

Some mothers are also concerned about the father's ability to contribute. Although parents receiving Medicaid (but no cash support) can opt for the state to pursue only medical support from the non-custodial parent, this may not be sufficient reassurance, since some states require a cash contribution from the non-custodial parent if he does not have access to health insurance. A mother may worry that the father will suffer financially if she enrolls her children in Medicaid and he is subsequently billed for part of the cost of their coverage. As one panel of experts recently explained: "Mothers know that the fathers of their children also have limited income, and may understand the fathers' problems because they share them: inadequate preparation for good jobs; discrimination; limited opportunities in their communities. Low-income mothers as well as fathers may fear the consequences of burdening the father with debts to the state he can never repay."[18]

Choosing Between Health Coverage and Child Support

Parents who seek Medicaid coverage for themselves but do not want child support must choose: *they can either forgo Medicaid or cooperate with child support enforcement procedures despite their personal reservations*. There are no data on how many parents are faced with this choice, or which choices they make. While states do collect data on "non-cooperation," these numbers include both TANF and Medicaid. Non-cooperation data also do not reflect either the number of parents who decide not to pursue Medicaid coverage in order to avoid the medical support requirement, or those parents who comply with the requirement despite their concerns.

III. Methodology

This study examined medical support procedures from the perspective of Medicaid eligibility in Arizona, Connecticut, Minnesota, South Carolina, and Wisconsin. The Center reviewed documents produced by the state Medicaid and child support agencies and conducted telephone interviews with state officials, program staff, local eligibility workers, and other experts in each state.

Each state also provided copies of the paperwork that the Medicaid and child support agencies require of parents, as well as samples of standard notices and letters sent to parents. State officials, administrators, and front-line staff provided insight into how procedures are implemented, as well as their perspectives on the issue. Research was conducted during 2003.

IV. Findings

1. Medical support requirements create "risk points" for the loss of Medicaid eligibility for parent and child.

Medical support requirements generally lengthen the amount of time required of parent completing the Medicaid application process. They also can constitute a complicated and even intrusive endeavor— particularly for mothers who need to establish paternity. The "risk points" in this process commonly include:

Additional paperwork. Single parents in the states studied have only begun the Medicaid application process when they complete and submit the application.[19] One or more supplemental forms must be completed; these forms are often complicated and are not designed for parents to fill out on their own. For example, one form reviewed by the Center — which parents are instructed to fill out "completely and accurately" — requests the following information:

- the last known employer of the non-custodial parent;
- the non-custodial parent's Social Security number;
- the date the non-custodial parent last worked;
- the non-custodial parent's monthly salary;
- names and addresses of the mother and father of the non-custodial parent.

A similar form in another state uses arcane terminology and abbreviations such as:

- "issue of marriage," which is used to inquire about whether the children were born within a marriage between the custodial and non-custodial parents;

- "ACK" and "ADJ," to be circled in response to the question "Paternity Established?"[20]

Some parents will not have all of the information requested and their lack of information may cause them to lose eligibility. (As discussed later, some eligibility workers in a state may require that all or most of the requested information be provided, while others may be more lenient.) Parents may also provide the information to a caseworker in an interview; one state does not use a form, but requires all single parents to complete a face-to-face or telephone interview.

Additional verification. The child support agency may require parents to provide children's birth certificates and social security cards. These are not generally required of parents applying for Medicaid eligibility in "intact" families. Verification has been shown to be a significant barrier to Medicaid for eligible children and parents.[21]

Paternity establishment. Mothers who have not established paternity will need to do so as part of the cooperation process. The number of paternity establishments has been increasing nationally, but varies significantly from state to state.[22] There is some evidence that the lowest-income women (those most likely to need Medicaid) are the least likely to have established paternity at the child's birth.[23]

Paternity establishment may be the most difficult part of the process, as paternity requirements in some states and counties are multi-step and personally intrusive. State IV-D agencies ask mothers who have not established paternity to complete paternity questionnaires. One state, Connecticut, sends mothers a simple, one-page questionnaire. Several of the paternity questionnaires reviewed for this study from other states ask mothers to list

- the length of their menstrual periods; and
- dates and places they had sexual intercourse during the presumed conception period.

One questionnaire also asks a mother to indicate:

- whether she used birth control and what type of birth control was used during each act of sexual intercourse within the presumed period of conception.

A "warning" at the bottom of this questionnaire reinforces the message: "[Y]our failure to completely fill out the paternity form will be considered non-cooperation."

Paternity questionnaires must generally be notarized — an additional step and an expense.[24] Paternity forms are less likely than Medicaid applications or other child support forms to be available in translation. Advocates have remarked that paternity forms can be especially difficult for mothers with limited English proficiency.

Mothers may also need to submit themselves and their children to genetic testing as part of establishing paternity. The sample is collected by mouth swab. Testing may be done at the local child support office or the parent may need to travel to a genetic testing site. Parents who are unwilling or unable to comply with paternity establishment will lose Medicaid eligibility.

Attendance at workshops or interviews held by the child support agency. Although states allow parents to provide the child support agency with information by mail or telephone, child support officials and staff said that many parents need to come to the office, particularly if they have not established paternity. Some offices are attempting to reduce the number of interviews they conduct, but others report that the majority of their cases still need to be interviewed.

An interview will generally require a day off from work, since child support offices are not usually open for weekend or evening appointments. Focus group research conducted for the federal Office of Child Support Enforcement revealed that some parents have difficulty getting to the child support office because of the hours.[25] Transportation to the child support office may also pose a problem, particularly in large states with only one child support office per county. Research conducted in three states for the federal Office of Child Support Enforcement by the Center for Policy Research in Colorado found that transportation was one of the most significant barriers to cooperation with child support requirements.[26]

Missing two scheduled appointments at the child support office without an acceptable excuse is often grounds for finding a parent non-cooperative — and sanctioning her Medicaid coverage.

Attendance at an official child support hearing. If the non-custodial parent can be located, a hearing will be scheduled. The custodial parent will generally receive written notice of the hearing in a letter from the child support agency; in some states, the non-custodial parent will be served with a summons. Some counties in one of the states in this study also serve the mother with a summons at her home or workplace, creating a potentially uncomfortable situation.

If the child support agency is able to locate the non-custodial parent and the parents agree on the terms of the child support order, states with administrative case establishment processes will permit the parents to stipulate a child support order in the office, without appearing in court. This is possible in Minnesota, South Carolina, and Wisconsin. In South Carolina an administrative hearing is conducted in the courthouse, in order to impart to parents the serious and official nature of what they are doing. In Connecticut and Arizona, which establish cases judicially, the case is heard in court.

Whether the process is administrative or judicial, the custodial parent will need to make an appearance at this point. The amount of time this appearance will require will depend on the case: if the parents agree, and the case is heard by an administrative hearing officer, and the distance from home is not great, a custodial parent might need only an hour or two for the process. Cases heard in court are harder to predict. Courts with "mixed dockets" (contempt actions and initial orders) may prioritize contempt cases, and parents may find that they are required to appear early in the morning even though their case will not be heard until later in the afternoon.

If the custodial parent appears for the court hearing but the non-custodial parent does not, the case can still proceed by default. But if genetic testing is required and has not been obtained, the case will have to be continued. In that event, the parent will need another court date — and will need to leave work again.

2. Although the law indicates that parents do not need to comply if there is a risk of harm, in practice this exemption can be difficult to obtain.

If, by cooperating with the child support enforcement agency, a parent would risk harm to herself or to her children, she may be able to qualify for a "good cause" exemption and obtain Medicaid without cooperating. Although most survivors of domestic violence want child support enforced,[27] a number of studies suggest that some women do fear cooperating for this reason.[28]

A parent seeking a good cause exemption typically must complete a claim form explaining why her situation meets the state's criteria for good cause. After

this form is submitted, all child support activity ceases, and in three of the five study states a parent has 20 days to provide proof that the abuse exists and is severe enough to warrant good cause.[29]

Printed materials on good cause provide examples of acceptable proof, such as police or hospital records or sworn statements from parties who can testify to the abuse. A claimant's written statement is also generally listed as acceptable, although in practice this is sometimes discouraged or considered insufficient. Two local eligibility offices in one state also require that the good cause form be notarized, and one local office in another state requires good cause claimants to appear for an interview.

States use a variety of methods to evaluate good cause, including interagency committees, supervisory review of all claims, and eligibility worker discretion. It was not possible to obtain information on the decision-making process of committees, but local workers and supervisors interviewed for this study described varying approaches to evaluating a claim and requiring proof.

For example, one eligibility worker said that good cause is temporarily granted while a claimant tries to obtain proof, but that "we do take their word for it. We don't deny someone good cause just because a piece of paper is missing." On the other hand, a worker in a different local office in the same state reported that she always required proof for good cause claims. A supervisor in a different state explained that she rejected about 75 percent of good cause claims and insisted that proof be "something someone saw," not just a letter from a friend that agrees with the claimant.

The good cause claim forms reviewed for this study are relatively simple, but some of the explanatory information is confusing. States often use one claim form for good cause under TANF or Medicaid, but typically, the form refers only to cash assistance. For example, one form states that "if an exemption is not granted and you fail to cooperate, your entire family will be ineligible for assistance," misleading a mother about her children's ability to keep Medicaid. Another form states that "If you and your children receive Medicaid only, federal law says that you must help the county child support enforcement agency." This is technically correct, but it suggests that the rule applies equally to everyone in the family.

South Carolina does not have a good cause claim form. All information about good cause in South Carolina is imparted by caseworkers in conversation, and there are no provisions for mail-in applicants. Several local caseworkers stated to the Center that there is no standard protocol requiring them to ask applicants about their interest in an exemption for good cause. Some caseworkers may ask, or, if a parent expresses interest in good cause, explain the exemption and ask for proof. The South Carolina Medicaid manual spells out the criteria for good cause and also lists acceptable forms of proof, including official records or affidavits from individuals who know the applicant or child.[30]

Research conducted on good cause in Colorado showed that few of the parents who wanted the exemption actually received it. Most did not complete the application process or were denied because of insufficient documentation.[31] It appears that good cause claims from parents living in some states or counties in this study might have similar outcomes.

The "Yellow Light:" An Alternative to Good Cause

Traditional good cause procedures offer parents facing domestic violence only two options: to forgo child support altogether or to enter the general child support caseload. These options are often referred to as the "red light" and "green light" responses to child support enforcement.[32] Some states, however, also offer what is termed the "yellow light" option, in which pursuit of child support is carried out with procedures designed to protect the safety of victims of domestic violence.[33] Among the surveyed states, Wisconsin and Arizona offer parents this approach.

In Wisconsin, privacy protections guarantee a parent who fears harm from domestic violence that her address, telephone number, employer and other information about her location will not be released to the alleged perpetrator or anyone else. This means, for instance, that a summons in a paternity action, which might otherwise list information on the mother, will not include her address. A notice on privacy protections for anyone cooperating with or applying for child support enforcement services explains that "you may qualify for privacy protection if you meet **any** of the following conditions:

- You or your children are covered by a protective order
- You or your children have a history of domestic violence or are at risk of domestic violence.
- A child support agency has reason to believe that you or your children may be physically or emotionally harmed if information were released.
- You have been granted good cause for non-cooperation by a Wisconsin Works agency or another county social services agency."

The form also notes that requests for protection can be made at any time, and that agency staff may require some verification of information provided on the form.

Arizona's Division of Child Support Enforcement implemented a similar policy after learning that many of the women in their caseload who feared domestic violence were claiming good cause even though they wanted child support. Child support workers interviewed a number of these women and learned that they would welcome child support services if they could be assured that their former partners would not be able to find them.

Arizona's "non-disclosure indicator" was developed for this purpose. Medicaid (or TANF) workers are responsible for informing applicants that they have a right to apply either for a good cause exemption or for the right of non-disclosure. Medicaid staff are instructed to provide applicants with a brochure explaining this right. The brochure notes that "Receipt and approval of this claim will prevent the use of the address and Social Security numbers of you and your child(ren) in court order documents. It will also prevent the release of your personal identifying information to the Federal Case Registry of all child support cases. It will require that a medical insurance carrier contact the Division of Child Support Enforcement to obtain the social security numbers of the child(ren) to be covered, send the plan identification card and additional information to the Division of Child Support Enforcement to be forwarded to you."

Parents applying for Medicaid may claim the right of non-disclosure by telling a Medicaid worker or anyone in the Division of Child Support Enforcement. No proof is required, although an investigator from the Division of Child Support Enforcement may conduct an investigation in order to locate documents (such as police reports) or otherwise confirm that the threat exists. Ultimately, though, if no threat can be confirmed, the applicant's word is sufficient.

Standard "good cause" claims in Arizona also do not require proof: if a parent indicates that she wants to file a claim of good cause, the claim is keyed into the Medicaid worker's computer and the Division of Child Support does not even learn about the case. The parent will sign a claim form but will not be required to locate documents or other evidence of good cause. According to a policy staff person in child support: "There is often extreme embarrassment in these cases and no proof of what went on. We tend to err on the side of — if mom's scared, mom's scared and that's the end of it."

Requiring Fathers to Reimburse Medicaid for Prenatal and Birth Costs

In 1990, Congress observed that applying child support requirements to pregnant women applying for Medicaid would "discourage many of them from seeking benefits that would give them access to early prenatal care."[1] To support the public health goal of reducing infant mortality, Congress exempted pregnant women from medical support cooperation requirements.

Nevertheless, a number of state and county child support enforcement agencies continue to require women to cooperate in obtaining medical support for prenatal and birth costs. They can do this legally if they do not require the woman to cooperate until *after* the baby is born. In 2000, the Congressionally-mandated Medical Support Working Group noted that this practice "clearly runs counter to the intent of Congress in removing the child support cooperation requirement from the [Medicaid] program. Furthermore, there is some evidence that this practice is once again causing mothers to forgo prenatal care. From the mother's point of view, it is irrelevant when the state pursues support. If there is a concern about cooperation, that concern will be just as real after the birth as before it."[2]

Two of the states in the present study attempt to recover medical costs from unwed fathers after a women enrolled in Medicaid gives birth. In Wisconsin, women receive a letter from their county child support office, either during their pregnancy or shortly after the baby is born, seeking information to locate the father. Some Wisconsin counties assert that they are able to require pregnant women to cooperate, although law prevents them from sanctioning the Medicaid benefits of women who do not cooperate.

Local Medicaid staff in Wisconsin report that women have many concerns about what will happen to their partners, such as how much the father might owe. Many such questions must be referred to a child support worker, with whom some women are reluctant to meet. Mothers may decide instead to give up Medicaid coverage. As one supervisor explained: "Some moms have told us that they think the dad will try to get custody if they do this [birth cost recovery]. Something like 10 to 15 percent of pregnant women that we know of decide not to get Medicaid when they learn about this. It could be higher; I don't think it's lower."

The most obvious result of discouraging women from securing medical coverage is to create the potential for tragic health consequences. Other negative consequences include the financial toll on low-income fathers and their families. Many live with the mother of their children, and the repayment of prenatal and birthing costs is taken from funds that could be used to support the family. Though the $18 million Wisconsin gains each year from its policy is no doubt useful to the state, it comes at an incalculable cost, as Congress recognized when it exempted pregnant women from medical support requirements.

[1] H. Rep. No. 101-881, 101st Cong., 2d Sess. 106-07, reprinted in 1990 U.S. Code Cong. & Admin. News 2017, 2118-19.
[2] Page 3-30.

3. To implement the medical support requirement, Medicaid staff must sometimes judge whether a parent has "sufficiently" complied—a judgment some are neither trained to make nor comfortable making.

Medicaid agencies in the states studied do not collect data on the number of parents who are denied or lose eligibility on account of their failure to provide information on the non-custodial parent. It is likely, however, that these numbers vary significantly not only from state to state, but within individual states and offices, as there is often no clear protocol.

When forms about the non-custodial parent are submitted to Medicaid but there is some question about whether enough information has been provided, Medicaid staff or supervisors may find themselves making eligibility decisions with little to guide them. Although state policy manuals explain relevant statutes and regulations, in the end, many of these decisions are judgment calls, in which a caseworker must determine whether a parent is providing "all the information she has."

Some Medicaid workers interviewed by the Center expressed confidence in their ability to make this assessment; others were more ambivalent. A supervisor with almost 30 years in Medicaid described his discomfort in detail: "We are at a little bit of a loss with how to do this. This process where they involve medical support is very old school, very detailed questioning, family stuff. We've moved away from this kind of personal questioning in Medicaid, and we're not even trained to do this anymore."

Interviews with local Medicaid caseworkers revealed that clear criteria for evaluating information on the non-custodial parent can be elusive. In one state, for example, staff in different counties had sharply varying perspectives about how strictly they should interpret instructions to parents to fill out the information on the absent parent "completely and accurately." The Medicaid policy manual in this state says: "The . . . Child Support Referral Form, must be completed as thoroughly as possible and forwarded to [child support] for each Medicaid eligible child for whom there is an absent parent."

Completely filling out that particular form would require providing the non-custodial parent's driver's license number, last known employer's address and telephone number, the name and address of the last school attended, any police or armed services records, and the name, address, and telephone number of the non-custodial parent's mother and father. Three staff in different counties in this state offered these comments on how they decide when the form is sufficiently complete:

"As long as there is an answer for every blank," the form is acceptable.

"If they don't have enough information, they won't be eligible. But name and some previous address, that's enough for me."

"Our current regs say, just get whatever it is they have, even it's if just a name."

Policy staff in this state indicated that in the past, there had been questions regarding whether applicants were filling out the form truthfully, and that local staff had felt they "couldn't force the issue." Local workers were then informed by the policy office that they could contact the Medicaid applicants to obtain additional information if they found problems with the form that was submitted.

4. Although children's eligibility is legally protected, parents may not realize this, as some of the information they receive is misleading.

As noted earlier, federal law ensures that a child remains eligible for Medicaid even if a parent does not cooperate with medical support requirements. The Centers for Medicare and Medicaid Services (formerly the Health Care Financing Administration) issued a number of policy clarifications on medical support from 1999 to 2002, each of which emphasized this point.[34]

States in this study typically distinguish between parents' and children's eligibility somewhere in the application materials from the Medicaid agency. However, the materials that the parent receives later in the process, either from the child support agency or the Medicaid agency, generally fail to make this distinction. For example:

- None of the states includes information about children's eligibility on the supplemental forms requesting information on the non-custodial parent. Some states include this information on the good cause notice, but some do not.

- None of the sample letters and notices from state child support agencies includes information about the protection of children's eligibility. In fact, these notices and letters often imply that children's eligibility will be in jeopardy if a parent fails to cooperate. Some typical language from different states' notices is listed below.

  "An appointment has been scheduled for you at _____on_____. The purpose of this appointment is to gather information to establish paternity. . . . Failure to keep this appointment may result in further legal action. . . . Noncooperation may result in a loss of public assistance benefits."

> "If you and your children receive [Medicaid only], federal law says you must help the county child support agency. You must help establish paternity, collect medical payments, and/or establish court-ordered dependent health and dental insurance coverage."

One of the local eligibility offices interviewed for this report described a process that involved "pending" (holding over) children's eligibility until the parent's materials on cooperation had arrived — indicating that parent requirements were "spilling over" to children's eligibility. Advocates in several states said that children's applications were occasionally denied because of parental non-cooperation.

5. Medicaid applications in two of the five states provide insufficient information about the assignment of rights and medical support requirements generally. Most of the states provide insufficient information about the good cause exemption in application materials.

Three questions shaped our review of the extent to which sufficient information was provided:

- What do parents learn about medical support and Medicaid from the application?
- What information about the non-custodial parent do parents need to provide on the application?
- What do parents learn about the good cause exemption from the application?

What do parents learn about medical support and Medicaid?

Since the Medicaid application provides parents with their first official information about Medicaid, it is important that requirements be described accurately. Parents need to know that children's eligibility is not affected by cooperation with medical support but that parents' eligibility is contingent upon cooperation.

In addition, parents should be told that they are assigning their rights to medical support to the state and that this gives the state the right to collect and retain any medical support that is owed to the custodial parent. The application should explain that either an insurance company or an individual (such as the non-custodial parent) could be pursued by the state for payment of medical support. Parents also should be informed that child support enforcement services are free to Medicaid beneficiaries.

The following table summarizes the facts on medical support in the five states' applications and instructions.[35]

What Do Parents Learn from the Application/Instructions?	AZ	CT	MN	SC	WI*
Child support enforcement services are free to Medicaid recipients				Y	
Assignment of rights to medical support is required	Y	Y	Y	Y	
Definition or explanation of assignment of rights	Y	Y	Y		
Assignment of rights can result in a non-custodial parent's liability**	Y		Y		
Cooperation is required for parents' eligibility	Y	Y	Y		Y*
Cooperation is not required for children's eligibility	Y	Y	Y		
Cooperation is not required for pregnant women's eligibility		Y			

*In Wisconsin, a notice of assignment is sent out after the application is received. Neither the application instructions nor the notice of assignment distinguishes between parents' and children's eligibility in describing the cooperation requirement.
** A non-custodial parent may be liable for medical support even if he does not have access to insurance. States that do not explain this possibility mention only insurance companies as likely to be liable for medical bills. See the section "You Can't Run and Hide Anymore" in this report for additional explanation.

In Wisconsin, which requests information on the non-custodial parent but does not explain that failure to provide this information will not affect children's Medicaid eligibility, eligible children could miss out on coverage if their parents are confused or uneasy about the request. In South Carolina, the state does not address the medical support issue on the application, but instead sends a follow-up letter to all single parents, requesting completion and return of a "Medical Support Referral Form." Neither the letter nor the referral form includes an explanation of the medical support requirement, and neither document distinguishes between parents' and children's eligibility. Parents who want to apply only for their children in South Carolina may decide not to do so after concluding, erroneously, that this form is required for children's eligibility.

What does the application ask about the non-custodial parent?

All of the states except South Carolina request information about the non-custodial parent on the application. If custodial parents do not have this information, lack certain pieces of it, or are unclear about why the state needs the information, they may be discouraged from submitting an application. If they leave the request blank, their application may be delayed or denied. States requesting this information on the application should explain why the information is needed and provide some guidance about what to do if the information is not available.

State	What information about the non-custodial Parent is requested on the application?	Is there an explanation of request?	Any instructions if parent doesn't have all the information?
Arizona	Name, address, phone number	Yes	No
Connecticut	Name, address, and name, address and phone number of the non-custodial parent's employer	Yes	No
Minnesota	Name	Yes	No
South Carolina	None	N/A	N/A
Wisconsin	Name, Social Security number, date of birth, date parent left household, reason parent left household, date of last contact with parent	Yes	Yes

What Do Parents Learn About Good Cause from the Application?

The table below summarizes the facts about the good cause exemption that are presented in the five states' Medicaid applications and application instructions. The state Medicaid agency is responsible for good cause determinations. Supplemental materials were not included as sources for this table, since they are not part of the standard application packet. These materials are, however, critical components in the good cause process, and are discussed later.

What do parents learn about the good cause exemption?	AZ	CT	MN	SC	WI
A good cause exemption exists	Y	Y	Y		
Definition of good cause or list of qualifying situations	Y	Y	Y		
Instructions on how to obtain good cause					

Most mail-in applicants need to learn about the good cause exemption from the application materials because it is the only contact they may have with the Medicaid agency. In Wisconsin, this would be impossible, as good cause is not mentioned, and yet custodial parents are asked to supply information on the non-custodial parent on the application. Assuming a parent in need of a good cause exemption submitted her application anyway, Wisconsin's county offices would mail her a notice of assignment and a good cause claim form. They would also mail her an informative brochure titled "Cooperation and Good Cause: Medicaid and Child Support." The brochure clearly explains cooperation, the child exemption, and good cause.

In South Carolina, neither the requirement nor the exemption is discussed on the application. Notices and letters sent from South Carolina's Medicaid agency after the application is submitted also do not mention good cause. All information about good cause is communicated orally, according to policy staff in South Carolina, which means it is unlikely that any mail-in applicants could learn about the exemption.

Application materials in the other three states include good cause information. Connecticut's application includes a checkbox for parents who need the exemption; the Medicaid agency sends parents who checked the box a good cause application.[36] Arizona and Minnesota define good cause, but do not provide instructions on how to begin a claim.[37] For instance, Arizona's application states: "You may claim good cause for not providing information or proof [about the non-custodial parent] if you can show that it could result in physical or emotional harm to you or to the child." This is helpful, but there is no guidance about how to file a claim or what to do with the application. This puts the parent who might need good cause at a distinct disadvantage in finishing the application. Should a custodial parent leave the absent parent section of the application blank? If she does, will her application be delayed? What about her children's applications? It is unclear what a parent concerned about domestic violence would or should do with these applications.

"What is Assignment of Rights"

Because Medicaid is intended as the health care payer of last resort, Medicaid beneficiaries are required to assign their medical support rights to the state. This allows the government to collect and retain any medical support owed to the beneficiary from an insurance company or individual (such as a non-custodial parent), with or without the custodial parent's cooperation.

Although this study did not investigate how often states choose to pursue child support without the custodial parent's cooperation, some state Medicaid policy manuals explicitly note the possibility. The Connecticut Uniform Policy Manual, for instance, says the state "Can continue to pursue paternity and/or support without the participation of the caretaker, if such action can be taken without risk of harm to the caretaker or child."

Child support staff from several states indicated that if sufficient information were obtained without cooperation from the custodial parent, medical support might be pursued. One supervisor explained: "You can't run and hide anymore. It's the computer age — if we can get any information on him, such as a birth date or social security — then we're going to the county attorney to get authority to pursue establishment of a medical support order."

Are custodial parents applying for Medicaid aware that the state may pursue non-custodial parents for medical support? Three of the five states in this study do not mention this possibility in their application.

In Wisconsin, one of the two surveyed states that does mention this possibility, applicants still might not understand the consequences of assigning their medical support rights to the state. The Wisconsin application does not explain assignment, but a document mailed to applicants after the application is submitted reads: "I understand that signing an application for Medicaid gives the State of Wisconsin the right to collect and keep payments for any medical expenses incurred by me or on behalf of my child(ren) covered by Medicaid made under court order or by an insurer."

States that pursue even a small number of medical support cases without the cooperation of the custodial parent need to ensure that applicants understand the consequences of the assignment. Application forms should convey the serious legal implications while improving the probability that applicants will read and understand the message. For example: "I understand that by accepting Medicaid for myself or my child(ren), I am allowing the state to be paid by any insurance I may have. I am also allowing the state to get and keep either insurance payments or money from an individual, such as an absent parent, who is responsible for my child(ren)'s medical expenses."

Requiring Non-Custodial Parents to Pay for Medicaid or SCHIP

A few states attempt to increase the financial gain from the medical support requirement by requiring non-custodial parents without health insurance to reimburse the state for part or all of the cost of Medicaid or SCHIP coverage for their children. This policy may seem attractive to states seeking to improve their medical support collections and close budget gaps. The Health and Human Services Office of the Inspector General recently conducted studies in eight states of the potential for recouping some of the state's Medicaid costs for children in single-parent families through obtaining contributions toward the cost of coverage from the children's non-custodial parent. Some states agree and some disagree with the OIG estimates.

Requiring cash contributions is likely to intensify dilemmas already familiar to child support professionals, such as tradeoffs made between cash payments and medical support. It also can create a situation in which a state charges non-custodial parents more for their child's Medicaid or SCHIP coverage than the custodial parent would be required to pay for that same coverage under federal law. In Minnesota, for instance, non-custodial parents are charged a presumptive minimum of $50 a month for their children's coverage, even though the lowest-income custodial parents in Minnesota pay nothing to enroll their children in Medicaid. Such practices raise equity issues: *non-married parents could end up paying for coverage that they would not be required to pay for if they were married.*

VI. Conclusion

The procedures documented by the present study are replete with eligibility risk points — moments when parents are likely to lose or fail to obtain health coverage because they cannot fulfill the state's medical support requirements. Multi-page documents requiring such items as the social security number and driver's license number of a former partner or partners, names and locations of his parents, and his former or current employer could easily cause a parent to conclude that the Medicaid eligibility process is too difficult to pursue. She might not be able to fill out the form, or she might apply and leave blanks, thus rendering the forms incomplete and possibly her and her family unenrolled.

Many parents' attempts to gain self-sufficiency are undermined because their lives do not conform to eligibility categories, rules, and procedures for public benefit programs. Medicaid has been improving its accessibility to families, yet medical support requirements such as those found in the states studied remain an exception to this progress.

Cooperation for Medicaid applicants means not only more paperwork, which is discouraging enough, but also irresolvable conflicts. Some women, faced with the requirement that they list the times and places where they had sexual intercourse, might decide that dignity and privacy are worth more than health coverage. Some parents might be unable to secure child care, to take time off from work for meetings and hearings, or to find necessary transportation. In these cases, health coverage, as important as it is, might have to be forfeited.

This study was not able to follow individuals as they wrestled with their decisions, but a comment from a local caseworker provides insight. Describing the women who regularly visited her outstationed Medicaid eligibility office, this caseworker explained that when younger mothers found out about the cooperation requirement, they usually decided to forgo Medicaid. These mothers often have a bond to the father, she said, and are less likely to have serious medical problems. They choose to go without preventive health care. Older mothers — those in their 30's with diabetes and hypertension — often realize that their precarious health leaves them no choice but to cooperate. Contrary to accepted principles of preventive care, Medicaid policy here encourages eligible, high-risk women to wait until their health deteriorates before they enroll and seek medical care.

VII. Recommendations

1. Congress should give states the flexibility to provide Medicaid coverage without imposing medical support requirements.

Congress should eliminate the current, outdated medical support requirement and replace it with a requirement that parents of children enrolled in Medicaid and SCHIP be informed that free services are available to them from their state's child support enforcement agency. Giving states the flexibility to limit their pursuit of medical support to cases in which custodial parents express an interest in receiving these services would be reduce the burden of cases that are unlikely to produce results. It would also remove an unnecessary barrier to families seeking Medicaid coverage.

2. States should simplify administration of the medical support requirement and the Centers for Medicare and Medicaid Services should assist states in designing systems so that Medicaid applications are not delayed or denied.

Medicaid and child support agencies should collaborate in designing a process with the following elements:

- Parents applying for Medicaid should be informed that child support services are a free benefit for Medicaid recipients.
- Forms should request only necessary information.
- Information on the non-custodial parent should be collected only after the Medicaid application is approved and only by the child support agency.
- Parents who want child support services should be able to indicate their interest on the Medicaid application and receive priority service from the child support agency. For an explanation of priority service and sample questions to ask in a streamlined process, see Appendix A: Simplifying Cooperation Procedures.

Parents not receiving priority service should not be sanctioned if they have not provided information on the non-custodial parent.

3. All materials and notices sent to parents on the cooperation requirement should note that a parent's failure to cooperate does not affect a child's eligibility for Medicaid coverage.

States need to ensure that both the Medicaid agency and the state child support enforcement agency clearly state that a child remains eligible for Medicaid even if

the parent does not comply with medical support requirements. This message should be included in every communication regarding medical support from both state agencies.

4. Descriptions of the assignment of rights should be clarified and should include the possibility that a non-custodial parent could be pursued for medical support.

Because Medicaid is intended as the health care payer of last resort, Medicaid beneficiaries are required to assign their medical support rights to the state. States need to ensure that applicants understand the serious legal consequences of assignment. Application forms should convey the legal implications while improving the probability that applicants will read and understand the message. Parents should be told that they are "assigning their rights" to medical support to the state and that this gives the state the right to collect and retain any medical support that is owed to the custodial parent. As the term "assignment of rights" may be unclear, the application should explain that either an insurance company or an individual (such as the non-custodial parent) could be pursued by the state for payment of medical support.

5. The good cause process should be simplified and state requirements for verification should be eliminated.

Requirements to obtain notary signatures, collect official proof of a violent threat, or appear for a personal interview are unnecessary and deter women at risk from obtaining the exemption that they need. States need to design processes to protect the identity of parents who wish to pursue support despite a threat (the "yellow light" procedures described in the report) and to reduce the burden on parents who need a good cause exemption. "Yellow light" protections should be incorporated into each state's good cause process to allow parents the option of pursuing child support and protecting their own safety. A parent's sworn statement that she fears for her safety or her child's safety should be sufficient evidence for a good cause exemption.

6. States requiring a cash contribution to Medicaid or SCHIP from a non-custodial parent should ensure that the following criteria are met:

- Non-custodial parents should never pay more for children's coverage than custodial parents are permitted to pay according to Medicaid and SCHIP rules.
- Non-custodial parents should never pay more than 5 percent of gross income for Medicaid or SCHIP coverage for their children. Once premiums, deductibles, and cost sharing exceed this amount, all charges should stop for the year.

- Children's cash support should not be reduced because the non-custodial parent is making a cash contribution to Medicaid or SCHIP.

7. Congress should ensure that state policy is consistent with the 1990 decision to exempt pregnant women from medical support requirements by prohibiting states from pursuing fathers for repayment of Medicaid-covered prenatal and birth expenses.

The most obvious result requiring fathers to repay Medicaid for prenatal and birth expenses is to create the potential for tragic health consequences. Other negative consequences include the financial toll on low-income fathers and their families. Many fathers live with the mother of their children, and the repayment of prenatal and birthing costs is taken from funds that could be used to support the family. Because the recouping of Medicaid costs from low-income non-custodial fathers discourages low-income pregnant women from seeking prenatal care, Congress should prohibit state child support enforcement agencies from recovering birth and prenatal costs paid by Medicaid from non-custodial parents.

Endnotes:

[1] Medical support is usually a component of a broader child support order, but parents enrolling in Medicaid can opt for the state child support enforcement agency to restrict the order to medical support.
[2] Elaine Sorenson and Chava Zibman, *To What Extent Do Children Benefit from Child Support*? Discussion paper 99-11 in Assessing the New Federalism: An Urban Institute Program to Assess Changing Social Policies 6 (2000) at www.urban.org.
[3] Matthew Lyon, *Characteristics of Families Using IV-D Services in 1997*, May 2002 (Table 3B) aspe.hhs.gov/hsp/CSE
[4] Jessica Pearson and Esther Ann Griswold, *Child Support Policies and Domestic Violence*, Public Welfare, 1997.
[5] Pearson, 1997.
[6] Pearson, 1997.
[7] Connecticut does not have a limit on time; Arizona does not require proof.
[8] Medical support is usually a component of a broader child support order, but parents enrolling in Medicaid can opt for the state IV-D agency to restrict the order to medical support.
[9]A parent who wants help with child support can receive it at no cost from the state child support enforcement agency, if the parent and/or children are enrolled in Medicaid. This situation is different from a parent who is proceeding with medical support as a condition of obtaining Medicaid.
[10] Elaine Sorenson and Chava Zibman, *To What Extent Do Children Benefit from Child Support*? Discussion paper 99-11 in Assessing the New Federalism: An Urban Institute Program to Assess Changing Social Policies 6 (2000) at www.urban.org.
[11] Matthew Lyon, *Characteristics of Families Using IV-D Services in 1997*, May 2002 (Table 3B) aspe.hhs.gov/hsp/CSE
[12] Laura Wheaton, The Urban Institute, *Non-Resident Fathers: To What Extent Do They Have Access to Employment-Based Health Insurance*, U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation, June 2000.
[13] Wheaton, 2000.
[14] Kaiser, 2004 Health Employer Benefits Survey, conducted by the Health Research and Educational Trust.
[15] Lyon, (1999), 4.
[16] *21 Million Children's Health: Our Shared Responsibility: The Medical Child Support Working Group's Report* to the Secretaries of the Department of Health and Human Services and the Department of Labor, June 2000.
[17] Maureen Walker and Robert Plotnick, "*A Failed Relationship? Low-income Families and the Child Support Enforcement System*" Focus, 21, no.1, (Spring 2000).
[18] National Women's Law Center and the Center for Fathers, Families and Public Policy, *Family Ties: Improving Paternity Establishment Practices and Procedures for Low-Income Mothers, Fathers, and Children*, 2001, p. 10.
[19] These requirements do not affect divorced parents, as the divorce decree will generally include a medical support order. If the divorced parent wants to apply for Medicaid, she will already have complied with medical support requirements.
[20] "Acknowledged" and "Adjudicated."
[21] A survey of barriers to the Medicaid application process found that almost three-quarters of the families of the families that were unsuccessful cited "difficulty gathering all the required papers" as an important reason they were unable to complete the application process. See Michael Perry, Susan Kannel, R. Burciaga Valdez and Christina Chang, *Medicaid and Children Overcoming Barriers to Enrollment: Findings from a National Survey*, The Kaiser Commission on Medicaid and the Uninsured, January 2000.
[22] There are no national data on how many mothers need to establish paternity. Rates vary significantly by locality and state-to-state. *See Child Support Enforcement and Fragile Families*, Fragile Families Research Brief, Bendheim Thomas Center for Research on Child Well Being, Princeton University and Social Indicators Survey Center, Columbia University, April 2003, No. 15.
[23] Fragile Families Research Brief, No. 15.
[24] Unless the form is completed at the child support enforcement agency, which will provide a notary.

[25] *Barriers to Applying for Child Support Services: Custodial Parents Speak Out in Focus Groups*, U.S. Department of Health and Human Services, Office of Child Support Enforcement Services, retrieved at http://www.acf.dhhs.gov/programs/cse/new/csr9904.htm#9904h on April 14, 2004.
[26] Jessica Pearson, Nancy Thonnes, and Esther Ann Griswold, *New Approaches to Self-Sufficiency and Safety in Public Assistance and Child Support Agencies*: Preliminary Findings from Three Demonstration Projects, Center for Policy Research, 2000.
[27] Jessica Pearson and Esther Ann Griswold, *Child Support Policies and Domestic Violence*, Public Welfare, 1997.
[28] Pearson, 1997.
[29] Connecticut does not have a limit on time; Arizona does not require proof.
[30] South Carolina Dept of Social Services Medicaid Policy Manual, 2.07.05
[31] Jessica Pearson and Esther Ann Griswold, *Child Support Policies and Domestic Violence*, Public Welfare, Winter 1997/
[32] Department of Health and Human Services, Office of Child Support Enforcement, *Making Child Support Safe*: http://www.acf.dhhs.gov/programs/cse/pubs/reports/mpr8548300/ch01.html
[33]Department of Health and Human Services, Office of Child Support Enforcement, *Making Child Support Safe*.
[34] See, for example, Centers for Medicare and Medicaid Services, Fact Sheet #5, Medicaid and SCHIP and Medical Child Support Enforcement, modified May 30, 2002, www.cms.hhs.gov/schip/chfsce.asp
[35] With the exception of good cause.
[36] The Connecticut good cause application is designed for TANF applicants (the TFA program in CT) and does not mention Medicaid or children's eligibility rules. This is discussed in the good cause section of this report.
[37] Minnesota does provide detailed information on good cause later in the process, after the application is received.

Appendix A

How to Streamline Cooperation Procedures in Your State

States should consider streamlining administration of medical support cooperation procedures for two reasons:

1. Burdensome procedures may deter eligible parents, and even prevent their children, from enrolling in Medicaid; and

2. Streamlined procedures, such as those described below, will allow states to administer the requirement more efficiently, by targeting those cases most likely to produce results.

State Medicaid Agencies: Simplify the Application for Medicaid

Collect only necessary information

It is not necessary to collect information on the non-custodial parent at the time of the parent's application for Medicaid, even if the custodial parent is applying for coverage for herself. At the time of application, the state need only obtain the parent's agreement to cooperate in establishing paternity and medical support, which can be secured through a simple statement on the application form. As described below, states can also ask parents if they are interested in receiving expedited IV-D services—and the IV-D agency can prioritize their cases accordingly.

Clarify parent obligations and children's eligibility

Since the Medicaid application is a parent's first official information about Medicaid, it is important that medical support requirements are accurately described. Parents need to know:

1. That child support enforcement services are free to Medicaid beneficiaries;
2. That children's eligibility is not affected by parental cooperation with medical support;
3. That parent eligibility is contingent upon cooperation;
4. That parents are assigning their children's rights to medical support to the state and that this assignment gives the state the right to collect and retain any medical support that is owed to the custodial parent. The application should explain that either an insurance company or an individual (such as the non-custodial parent) could be pursued by the state for payment of medical support.

State Child Support Enforcement Agencies

Prioritize cases of parents who want support

Many state IV-D agencies categorize child support cases based on the likelihood of collection—an anticipated performance matrix—and set priorities for service accordingly. By analyzing past performance according to case characteristics, IV-D agencies can determine where their efforts are likely to yield results and target scarce resources effectively.

For instance, a priority level of "one" for a case might indicate that the case file contains all the necessary information, whereas a lower priority level of, for instance, "ten" might indicate that the case file contains no usable information and the case is considered essentially unworkable. Priorities need to be established within the parameters set by federal law for case processing, e.g. cases must be opened within 20 days of being received.[1]

Many parents seeking Medicaid also want child support services. These parents will cooperate with the IV-D agency's requests for information, and their cases are more likely to produce a child/medical support order than the cases of parents who do not want the services. Prioritizing Medicaid cases could improve the efficiency of medical support efforts and provide faster service to parents who most want it.

Medicaid and Child Support Enforcement Agencies:

Medicaid and child support agencies need different strategies to deal with three types of cases:

1. Parents who are eager to obtain child support enforcement services now, and would like to work with the IV-D agency as soon as possible on establishing a child support case:
   In order to simplify administration, the Medicaid application should permit parents to indicate whether they are interested in getting IV-D services "quickly."
2. Parents who have already established child support cases with the state IV-D agency:
   A mechanism—preferably automated—should allow the Medicaid agency to identify which parents have already established cases with the state IV-D agency
3. Parents who are willing to cooperate for the sake of obtaining health insurance, but are not interested in rapid processing of their child support case:
   This interest—in expediting a child support case—should be distinguished from consent to cooperate, which is necessary for eligibility.

The state IV-D agency should prioritize those families who need and want child support. This approach will allow families who need and want child support services to get help

[1] This description drawn from specific state examples in NCSL brief: http://www.ncsl.org/programs/cyf/PerformIB.htm.

quickly, and will minimize Medicaid sanctions for eligible parents who have reasons not to want child support.

Sample Simplified Questions on Medicaid Support
State Medicaid Application for Parents and Children

Medical Support Section

The state can assist you in establishing paternity and getting child and medical support for the children in your care. Do you want these services quickly?

____Yes

____No

If you said yes, please provide some information on the non-custodial parent. Please provide as much information as you have.

Child's Name
Non-custodial parent's name
Non-custodial parent's address
Non-custodial parent's social security number
Non-custodial parent's telephone number

Please provide this information for each child for whom you seeking support. **You do not have to provide any of this information at this time. You may be asked to provide this information later, but you do not ever have to provide it if you have a good reason.** A good reason includes a fear of harm to you or your children.

Appendix B

Questions and Answers on Federal Requirements

Requirements of the State

1. Is the state required to provide child support enforcement services to Medicaid recipients free of charge?

Yes. The state must provide child support enforcement services to each child for whom Medicaid is provided. (42 USC Section 654 (4) (A).

2. Is the state required to refer parents seeking or receiving Medicaid to the state child support enforcement agency?

No. State Medicaid agencies are not required to refer any Medicaid applicants or recipients to state child support enforcement agencies. (CMS Fact Sheet # 5, modified 5/02)

3. Is the state required to pursue medical support from an absent parent?

Yes. States must identify and pursue third party liability, including medical support, whether or not an applicant actively cooperates. (CMS Fact Sheet # 5, modified 5/02).

4. Is the state required to include medical support in a child support order?

Yes. State child support guidelines must provide for the children's health care needs, through health insurance coverage or other means. 45 CRR 302.56 (c)(3)

5. Is the state required to terminate Medicaid benefits if a parent does not cooperate with the state child support enforcement agency?

Yes. The state Medicaid agency must deny or terminate eligibility for any applicant or recipient who refuses to cooperate, unless cooperation has been waived (as in good cause). However, pregnant women in the poverty-level category and parents receiving transition medical assistance may not be sanctioned for non-cooperation. (42 CFR 433.148)

6. Which state agency is responsible for evaluating good cause?

Child support law gives the states the option to allow the Medicaid agency to make this determination or to give the task to the child support enforcement agency (IV-D agency). However, the Medicaid statute and regulations require the Medicaid agency to make this determination. (42 USC § 654(29)(A)(i). Id. §1396k(a)(1) and 42 CFR §433.147(c))

7. Which state agency is responsible for determining whether a parent is cooperative?

The IV-D agency is responsible for making an initial cooperation determination and then periodically redetermining whether a parent is cooperating "in good faith." (42 USC §654(29)(A).)

Requirements of Parents

1. Is the parent required to assign children's rights to medical support to the state?

Yes. The Medicaid agency must require anyone receiving Medicaid to assign his or her rights to medical support to the state. Children cannot legally assign their rights, so the parent is responsible for the assignment. (42 USC § 1396 (a) et seq.)

2. How does a parent execute the assignment of children's rights to medical support?

Federal law requires states to have laws in effect which automatically assign rights to payment from third parties to the state. States also have the option to have applicants and recipients expressly assign rights to medical support and payment from the state. If a state uses automatic assignment of rights, it must inform the individual.

3. Is the parent required to cooperate in obtaining medical support for the children from the non-custodial parent?

Yes. The Medicaid agency must require the parent to cooperate in establishing paternity and identifying and providing information to assist in pursuing third parties, including non-custodial parents, for medical support. However, pregnant women in the poverty-level category and parents in families receiving transitional medical assistance cannot be required to cooperate. (42 CFR 433.145 and 147)

4. Is the child's eligibility contingent upon the parent's cooperation with the state child support enforcement agency?

No. Children remain eligible regardless of parent cooperation with child support enforcement. (42 CFR 433.148 (b) (1) (2))

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