

Congress of the United States

Washington, DC 20515

April 17, 2002

The Honorable Tommy G. Thompson
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, SW
Washington, D.C. 20201

Dear Secretary Thompson:

Lead poisoning is one of the most insidious and harmful of childhood conditions. Acute toxicity can cause seizures and death, and chronic exposure is associated with developmental delay and delinquent behavior.¹

Despite these risks, we have just learned that the Centers for Medicare and Medicaid Services (CMS) has developed a proposal to abandon its policy of requiring that children in Medicaid be screened for lead poisoning. This proposal would turn the decision to screen over to states. What CMS is considering would also undermine the work of a federal advisory committee preparing recommendations on this very issue.

The proposal, which we have learned has not yet obtained final approval, threatens to put the health of tens of thousands of children at risk. We are writing to urge you to block this idea from advancing any further. Any changes made to lead poisoning prevention policy should be made with the agreement of experts consulted by the Centers for Disease Control and Prevention. It should not be made over their objections.

In recent years, evidence has mounted that lead poisoning is a serious problem affecting hundreds of thousands of children in the Medicaid program. The General Accounting Office has estimated that 535,000 children covered by Medicaid have elevated blood lead levels.² This corresponds to nearly one in every ten enrollees between one and five years of age. According to GAO, children in the Medicaid program represent approximately 80% of the children in the United States with blood lead levels over 20, which is associated with adverse effects on learning.³

¹Herbert Needleman, Julie A. Riess, Michael J. Tobin, Gretchen E. Biesecker, and Joel B. Greenhouse, *Bone Lead Levels and Delinquent Behavior*, *Journal of the American Medical Association*, 363-369 (Feb. 7, 1996).

²General Accounting Office, *Medicaid: Elevated Blood Lead Levels in Children*, 10 (February 1998).

³*Ibid* at 4.

Because lead poisoning is concentrated among children covered by Medicaid, the CDC's Advisory Committee on Childhood Lead Poisoning Prevention (ACCLPP) in December 2000 endorsed continued universal screening for lead poisoning in the Medicaid program.⁴ This policy is reflected in the state Medicaid manual, which requires states to screen all enrollees with a blood lead test at 12 and 24 months of age.⁵

Compliance with this policy by the states has been spotty. Many children on Medicaid do not receive the blood lead testing that they are entitled to under federal law. GAO found that about four in five children on Medicaid had not received appropriate screening tests and estimated that more than 350,000 children on Medicaid had undetected high lead levels.⁶ Rather than address this gap in access to care, however, CMS has developed a proposal to relax the requirement for screening.

The Social Security Act requires that Medicaid cover "laboratory tests (including lead blood level assessment appropriate for age and risk factors)."⁷ According to information we have obtained from CMS, the proposal under consideration would turn the decision over to states as to which children have "risk factors." Not only would there be no federal standard for universal screening, but there also would be no strong federal oversight requiring states to justify their abandonment of universal screening. While the proposal would encourage states to consult with public health departments, housing authorities, and professional groups in setting policy, states would not be required to obtain their agreement.

The major problem with this proposal is that it could lead tens of thousands of children who need lead testing to lose access to this vital service. States would be able to cut Medicaid costs simply by defining large groups of children as not in need of lead screening. This is not a hypothetical risk. Funds now spent to identify children with lead poisoning will make an appealing target for budget-cutters in states facing fiscal crises.

⁴Advisory Committee on Childhood Lead Poisoning Prevention, *Recommendations for Blood Lead Screening of Young Children Enrolled in Medicaid: Targeting a Group at High Risk*, MMWR, 5 (Dec. 8, 2000).

⁵Center for Medicare and Medicare Services, *State Medicaid Manual*, 5-15 (September 1998)

⁶General Accounting Office, *Medicaid: Elevated Blood Lead Levels in Children*, 10 (February 1998).

⁷42 U.S.C. 1396d.

The proposal would also circumvent a process within HHS that is developing criteria for determining if there are any children on Medicaid who do not need to be screened for lead poisoning. This process is being managed by ACCLPP, the advisory committee of lead poisoning experts that has served CDC for over a decade. In April 2000, at the request of then-Secretary of HHS Donna Shalala, ACCLPP began to develop criteria for state waivers from the universal screening requirement. At the time, Secretary Shalala correctly promised that “HCFA will not issue any waivers until the criteria are developed.”⁸

At the March 12, 2002, meeting of ACCLPP, committee members apparently learned of the CMS proposal to end the universal screening requirement. According to minutes of the meeting, “many ACCLPP members expressed concern that the current Administration will most likely endorse a new policy of more flexibility to states and less federal oversight.”⁹ The minutes indicate that the committee objected to this new policy and made plans to write you to express its desire to complete its recommendations before any new policy is considered.

We urge you to stop the CMS proposal from taking effect. It is premature, and it could jeopardize the health of tens of thousands of children. It also undermines your personal commitment to fighting lead poisoning. In testimony before the Subcommittee on Health of the House Energy and Commerce Committee on April 26, 2001, you described a Wisconsin lead initiative that “gave young people, especially minorities . . . an opportunity to lead . . . successful lives instead of having lead poisoning.”¹⁰ Just last month, HHS sent a press release touting its lead initiatives, including its goal that “all Medicaid-eligible children should receive a blood lead screening test at ages 1 and 2 as well as lead poisoning treatment and follow-up services.”¹¹

⁸Letter from Secretary of HHS Donna E. Shalala to Susan K. Cummins (Apr. 4, 2000).

⁹Advisory Committee on Childhood Lead Poisoning and Prevention, *Draft Record of the Proceedings*, (Mar. 12, 2002).

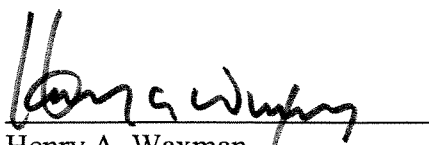
¹⁰Subcommittee on Health, Committee on Energy and Commerce, *Priorities of the U.S. Department of Health and Human Services Reflected in the Fiscal Year 2002 Budget*, 45 (Apr. 26, 2001).


¹¹Department of Health and Human Services, *HHS Helps in Efforts to Eliminate Childhood Lead Poisoning*, HHS Fact Sheet, <http://www.hhs.gov/news/press/2002pres/lead.html> (Mar. 4, 2002).


The Honorable Tommy G. Thompson
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Page 4

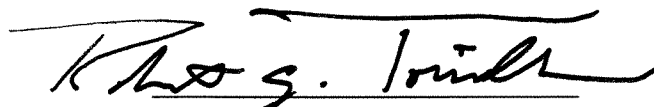
We have had a long interest in the problem of childhood lead poisoning and would like to work with you and ACCLPP on this important public health issue. As a first step, we hope you will be able to respond to the concerns raised in this letter by May 1, 2002.

Sincerely,


Henry A. Waxman
U.S. House of Representatives


Jack Reed
United States Senate


Robert Menendez
U.S. House of Representatives


Robert G. Torricelli
United States Senate