Department of Health and Human Services

OFFICE OF INSPECTOR GENERAL

MARYLAND DEPARTMENT OF HUMAN RESOURCES

CHILD SUPPORT ENFORCEMENT MEDICAL SUPPORT

JANET REHNQUIST
Inspector General

OCTOBER 2001
A-03-01-00217

DEPARTMENT OF HEALTH & HUMAN SERVICES
OFFICE OF INSPECTOR GENERAL
OFFICE OF AUDIT SERVICES
150 S. INDEPENDENCE MALL WEST
SUITE 316
PHILADELPHIA, PENNSYLVANIA 19106-3499

OCT 30 2001

Emelda P. Johnson, Secretary
Maryland Department of Human Resources
Saratoga State Center
311 West Saratoga Street
Baltimore, Maryland 21201-3521

Dear Secretary Johnson:

This final audit report presents the results of an Office of Inspector General (OIG), Office of Audit Services (OAS), limited scope review to identify and evaluate the processes and procedures to ensure that the non-custodial parents' (NCP) obligations are determined and met as primary payers before public funds are used to cover their children's medical needs as required by Section 466(a)(19) of Title IV-D of the Social Security Act.

Based on our review, we found that:

- Maryland has promulgated State laws and regulations relative to children's medical support that appear to comply with Section 466 (a)(19) of Title IV-D of the Social Security Act. In the past, Maryland has reported low compliance in the area of securing and enforcing medical support. However, the State has implemented positive actions to establish policies and procedures to ensure that NCPs are covering their children's medical insurance needs to the extent they are able.

- The contractor that performs child support functions in Baltimore City and Queen Anne's County has implemented policies and procedures that appear to comply with Section 466 (a)(19) of Title IV-D of the Social Security Act and Maryland State laws and regulations. However, contractor internal controls were not sufficient to identify and prevent the use of an unauthorized review and modification procedure for child support orders that conflicted with the contractor's authorized procedure.

- Maryland's Child Support Enforcement System (CSES) has been revised to meet the requirements for Personal Responsibility and Work Opportunity Act (PRWORA) certification. Our tests disclosed that child support orders in CSES

are automatically processed with a medical support clause to enable the State to meet the PRWORA requirement that all child support orders include a provision for health care coverage of the child.

- ☞ Maryland does not have legislation granting a decision maker, such as a Maryland judge, the authority to order the NCP to contribute toward the State cost of providing coverage under Medicaid as recommended by the Medical Child Support Working Group (Working Group). This authority is not required by Federal legislation. However, the authority, if granted, would ensure that the NCPs' obligations are met as a primary payer before public funds are used to cover their children's medical needs. We did not quantify prospective Medicaid savings to be attained by implementing this Working Group recommendation due to Maryland's past low medical support compliance which has been addressed in Maryland's recent statewide self assessment.

- ☞ Within the Maryland Department of Human Resources (DHR), the Child Support Enforcement Administration (CSEA) has convened a workgroup to specifically address medical support issues with the focus on providing solutions to questions and problems. We believe that CSEA's workgroup is a valuable asset that may provide innovative ideas related to children's medical support.

We recommend that DHR:

1. Require the contractor responsible for child support services in Baltimore City and Queen Anne's County to implement internal controls to ensure that all policies and procedures in use are authorized prior to implementation.

2. Consider implementing policies and procedures including the proposal for legislation that would allow a decision maker such as a Maryland judge to order NCPs to contribute toward the State cost of providing coverage under Medicaid.

3. Notify the HHS Administration for Children and Families (ACF) of innovative ideas and problem solutions related to children's medical support resulting from CSEA's medical support workgroup for possible broadcasting as a best practice.

By letter dated October 10, 2001, DHR responded to a draft of this report. The DHR agreed with our recommendation that CSEA require the contractor to implement internal controls to ensure that all policies and procedures in use are authorized prior to implementation. The DHR also agreed to notify the Department of Health and Human Services of innovative ideas and recommendations resulting from CSEA's Medical Support Workgroup. However, DHR believed that considering a proposal to allow a decision maker to order NCPs to contribute to the cost of their children's medical support would be counter-productive and cited several reasons for their position. We have summarized DHR's response and our comments after the

Conclusions and Recommendations section of this report and have attached DHR's letter as an appendix to this report.

BACKGROUND

The DHR is the State's primary human services agency that provides a variety of ongoing, temporary or short term programs to Maryland's citizens. The DHR programs include the Child Support Enforcement (Title IV-D) Program, administered by DHR's CSEA. Services available through Title IV-D include paternity establishment, support establishment (including medical support), parent location, securing support from parents who live in other states, support payment enforcement, and review and modification of support orders. Pursuant to legislation enacted by the General Assembly of Maryland, the State privatized Title IV-D services in Baltimore City and Queen Anne's County in 1996.

The Omnibus Budget Reconciliation Act (OBRA) of 1993 requires State Child Support Enforcement (Title IV-D) agencies to include medical support in the establishment of all child support orders. The OBRA also requires states to have laws in place prohibiting health insurance providers from denying enrollment under a parent's health coverage because the child (1) was born out of wedlock, (2) was not claimed as a dependent on parent's income tax form, or (3) does not live with the parent or is outside the insurer's service area.

In 1996 Congress passed PRWORA which required that all child support orders include a provision for health care coverage of the child. This Act provided the states' Title IV-D agencies with the authority to notify the NCPs' employers to directly enroll the child in a health plan. Federal law requires that parents provide health insurance if the insurance is available through employment at reasonable cost. Unless the custodial parent and children have evidence of health insurance, the Title IV-D agency, in cases which involve families eligible for Medicaid, shall petition the court or administrative authority to include health insurance that is available to the NCP at reasonable cost in a new or modified court or administrative order for child support. Title 45 of the Code of Federal Regulations (CFR) 303.31 specifies that health insurance is considered reasonable in cost if it is employment related or other group health insurance regardless of the service delivery mechanism. Under existing Federal legislation, NCPs do not have to provide medical insurance for their children if the cost is unreasonable. As a result, many of these children receive medical care under the Medicaid program.

As part of the Child Support Performance and Incentive Act of 1998 (CSPIA), Congress created the Working Group. The Working Group was charged with identifying barriers to effective medical support enforcement and developing recommendations that address the following areas:

- Assess the National Medical Support Notice (NMSN)
- Identify the Priority of Withholding from an Employee's Income, Including Medical Support Obligations

- Coordinate Medical Child Support with Medicaid/State Children's Health Insurance Program (SCHIP)
- Examine Alternates to a Medical Support Model Focused Exclusively on the Non-custodial Parent's Employer-Provided Health Plan
- Evaluate the Standard for "Reasonable Cost" in Federal Law
- Recommend Other Measures to Eliminate Impediments to Medical Support Enforcement

Recommendation 19, Part A of the Working Group's report states that ***"States should grant authority to the decision maker to order the noncustodial parent to contribute toward the State cost of providing coverage under Medicaid and SCHIP. Provided, however, no contribution should be ordered from any noncustodial parent whose net income (as defined by the State to determine Medicaid eligibility) is less than 133 percent of poverty."*** In the report, the Working Group states that ***"... while it may be unreasonable to expect the parent to pay the full premium for available private coverage in some cases, it is not unreasonable to expect the parent to contribute something towards public coverage."***

OBJECTIVE

The objective of our limited scope review was to identify and evaluate the processes and procedures to ensure that the NCPs' obligations are determined and met as primary payers before public funds are used to cover their children's medical needs as required by Section 466(a)(19) of Title IV-D of the Social Security Act.

SCOPE AND METHODOLOGY

To accomplish the objectives of our review we:

- ☞ Interviewed Maryland CSEA personnel;
- ☞ Reviewed CSEA controls designed to ensure that NCPs are covering their children's medical insurance needs to the extent they are able;
- ☞ Reviewed relevant Federal and State laws and regulations concerning children's medical support enforcement;
- ☞ Reviewed Maryland's Child Support Enforcement self assessments for Federal Fiscal Year (FFY) 1999 and FFY 2000;

- ☞ Obtained an understanding of the CSES system;
- ☞ Performed sample child support calculations using Maryland's child support guidelines; and
- ☞ Reviewed and evaluated Maryland's statistics related to the percentage of Medicaid recipients receiving fee for service or managed care services.

We performed our review from January through May 2001 at Maryland's CSEA office in Baltimore, Maryland and the Region III ACF office in Philadelphia, Pennsylvania.

RESULTS OF REVIEW

Maryland Medical Support Enforcement Laws, Policies and Procedures

Maryland has promulgated State laws and regulations relating to children's medical support that appear to comply with Section 466 (a)(19) of Title IV-D of the Social Security Act. Although Maryland has reported low compliance in the area of securing and enforcing medical support in the past, the State has implemented positive actions to establish policies and procedures to ensure that NCPs are covering their children's medical insurance needs to the extent they are able.

In its FFY 1999 and 2000 Self Assessment Reports, Maryland reported that it was not compliant with the criterion of securing and enforcing medical support orders. Some of the problems noted during the FFY 2000 Self Assessment were failure to petition the court for medical care provisions, failure to enforce medical care provisions when ordered and available, and failure to review the availability of medical insurance. In response, the CSEA is implementing the following corrective actions:

- Developing a report that identifies all cases with health insurance withholding orders that do not have the health insurance indicator coded with health insurance as having been obtained. Personnel will review the report, pursue cases where health insurance was not obtained and reconcile those cases that have not yet been determined for health insurance.
- Establishing procedures to ensure that the medical support code is updated at the receipt of any new order regardless of whether or not there is a change in medical support. This will ensure that medical support is routinely addressed.

- Assigning personnel to specifically work on medical support orders only.
- Conducting training that demonstrates the techniques and processes that must be followed to secure and document medical insurance availability.
- Ensuring that all information pertaining to health insurance is recorded on the CSES.

We were unable to determine whether improved results have been realized in the area of securing and enforcing medical support orders because implementation of the corrective action is recent and on-going and insufficient data was available for a comparative assessment.

Use of Unauthorized Review and Modification Procedure in Baltimore City

The contractor that performs child support functions in Baltimore City and Queen Anne's County has implemented policies and procedures that appear to comply with Section 466 (a)(19) of Title IV-D of the Social Security Act and Maryland State laws and regulations. However, contractor internal controls were not sufficient to identify and prevent the use of an unauthorized review and modification procedure that conflicted with the contractor's authorized procedure.

As part of our audit we reviewed the current contractor's policies and procedures used in Baltimore City. During our evaluation of the review and modification process, we identified a support order review and modification procedure in use that was not authorized by the contractor. The unauthorized procedure was more restrictive than the contractor's approved procedure in granting a review and/or modification to a support order requested by a custodial parent or NCP.

The contractor's authorized policy states that,

> ***"When the CSE agency conducts the review at 36 month intervals, the state guidelines are applied based on the current financial status of both parties. After applying the guidelines, if the support amount results in a 25% change, the CSE agency will pursue a modification of the order. If the 25% threshold is not met, the CSE agency can pursue a modification at its discretion."***

This procedure is consistent with Federal and State regulations. The wording of the unauthorized procedure, however, was more restrictive. It stated that,

> ***"The suggest* [sic] *amount has to increase or decrease by 25% of what the current support is presently...if it doesn't increase or decrease by 25% it is rejected and a letter needs to be sent out to the person who requested the modification."***

As a result, contractor personnel in Baltimore City who followed the unauthorized procedure automatically rejected custodial parents' and NCPs' requests for review and modification to support orders because a required threshold percentage was not met. Had contractor personnel followed the authorized procedure, they could have used their discretion to authorize review and modification to support orders. As soon as we notified the contractor of the unauthorized procedure, the contractor discontinued its use.

Maryland's Child Support Enforcement System (CSES)

The CSES is Maryland's automated Child Support Enforcement system used by CSEA personnel to input and track case information, including insurance data. The CSES is Family Support Act (FSA) certified and has been revised to meet the requirements for PRWORA certification. It has over 16 interfaces with other systems, including but not limited to the State Title IV-A Agency, the National Directory of New Hires, and the State Motor Vehicle Administration. These interfaces enable CSEA to track NCPs' receipt of benefits, employment and health insurance status and residences. Our tests disclosed that child support orders in CSES are automatically processed with a medical support clause which enables the State to meet the PRWORA requirement that all child support orders include a provision for health care coverage of the child.

Non-Custodial Parent Contributions Toward Medical Support

Maryland does not have legislation granting a decision maker, such as a Maryland judge, authority to order the non-custodial parent to contribute toward the State's cost of providing coverage under Medicaid as recommended by the Working Group. This authority is not required by Federal legislation. However, the authority would ensure that the NCPs' obligations are met as primary payers before public funds are used to cover their children's medical needs.

We believe that Maryland should consider implementing policies and procedures that would allow a Maryland judge the authority to order the NCP to contribute toward the State cost of providing coverage under Medicaid. As of October 2000, Maryland placed approximately 300,000 of its children (95 percent) under Medicaid managed care which has fixed monthly individual premiums. The use of fixed premiums makes the implementation of such a recommendation feasible because the NCP's contribution could also be fixed based on the premium amount and the NCP's ability to pay. We did not quantify prospective Medicaid savings to be attained by implementing this Working Group recommendation due to Maryland's past low medical support compliance.

As part of our review we evaluated whether ordering non-custodial parents to contribute to State Medicaid managed care premiums, as recommended by the Working Group, would materially

affect a custodial parent's cash support from the NCP. In order to determine the effect on the custodial parent's cash support, we used Maryland's child support guidelines to calculate cash support for a custodial parent when the NCP was required to contribute to the State's Medicaid managed care premium and compared the amount to the cash support required when the NCP was not required to contribute to the State Medicaid managed care premium. Our review showed that a custodial parent's cash support was not materially affected by requiring the NCP to contribute to State Medicaid managed care costs.

Best Practice - CSEA Medical Support Workgroup

The Maryland CSEA has convened a workgroup to specifically address medical support issues with the focus on providing solutions to questions and problems. The work performed by the workgroup will take place from September 2000 through February 2001 followed by system changes, statewide training, and re-focusing of work in the medical support area. The goals of the workgroup include:

- Redesigning the flow of Title IV-D cases for more effective management
- Redesigning CSES computer screens and fields to capture information about custodial parents' insurance and public insurance
- Consideration of a policy change to allow for a preference for custodial parents' coverage when both the custodial parent and NCP have insurance available
- Defining "reasonable cost" for purposes of enforcing orders for medical support
- Providing for the implementation of the NMSN.

We believe that CSEA's workgroup is a valuable asset that may provide innovative ideas related to children's medical support.

CONCLUSIONS AND RECOMMENDATIONS

Maryland has promulgated State laws and regulations relating to children's medical support that appear to be in compliance with Section 466 (a)(19) of Title IV-D of the Social Security Act and has implemented positive actions to establish policies and procedures to ensure that NCPs are covering their children's medical insurance needs to the extent they are able. However, contractor internal controls were not sufficient to identify and prevent the use of an unauthorized review and modification procedure that conflicted with the contractor's authorized procedure in

Baltimore City. In addition, we noted that Maryland does not have legislation granting a decision maker such as a Maryland judge authority to order the non-custodial parent to contribute toward the State cost of providing coverage under Medicaid as recommended by the Medical Child Support Working Group. Finally, the work performed by Maryland CSEA's medical support workgroup may result in innovative ideas in children's medical support that should be reported to ACF.

We recommend that DHR:

1. Require the contractor responsible for child support services in Baltimore City and Queen Anne's County to implement internal controls to ensure that all policies and procedures in use are authorized prior to implementation.

2. Consider implementing policies and procedures including the proposal for legislation that would allow a decision maker such as a Maryland judge to order NCPs to contribute toward the State cost of providing coverage under Medicaid.

3. Notify ACF of innovative ideas and problem solutions related to children's medical support resulting from CSEA's medical support workgroup for possible broadcasting as a best practice.

DHR Response and OIG Comments

By letter dated October 10, 2001, DHR responded to a draft of this report. The DHR agreed with our recommendation that CSEA require the contractor to implement internal controls to ensure that all policies and procedures in use are authorized prior to implementation. The DHR also agreed to notify the Department of Health and Human Services of innovative ideas and recommendations resulting from CSEA's Medical Support Workgroup. However, DHR believed that allowing a decision maker to order NCPs to contribute to the cost of their children's medical support would be counter-productive. The DHR believed that the recommendation exceeds the present requirements of Federal law and regulation, is not based on consensus and is generally not endorsed by the Child Support Enforcement commmunity. The recommendation, if implemented, would decrease the basic income of the NCP, thereby contributing to the NCP's poverty without increasing the well being of the children.

We believe that DHR's proposed actions to monitor the contractor's policies and procedures and DHR's willingness to share information with the Federal Office of Child Support Enforcement are positive actions that will promote better child support enforcement actions both statewide and nationally. We also continue to believe that our recommendation to consider legislation to promote increased participation by NCPs toward their children's medical needs is both proper and growing in participation by jurisdictions who are faced with increased costs. We do not agree with DHR's position that increased NCP participation would be counter-productive since the entire philosophy of child support is to increase the NCP's participation, especially if the

NCP is able to pay. If it is determined that the NCP cannot pay, the State will continue to pay the costs of medical care. However, DHR is not availing itself of an opportunity to impose a reasonable assessment from the NCP who is able to pay. Nevertheless, our recommendation does not force DHR to do anything beyond consideration of this position.

*** *** ***

Final determination as to actions taken on all matters reported will be made by the HHS action official named below. We request that you respond to the HHS action official within 30 days from the date of this letter. Your response should present any comments or additional information that you believe may have a bearing on the final determination.

In accordance with the principles of the Freedom of Information Act, 5 U.S.C. 552, as amended by Public Law 104-231, HHS/OIG Office of Audit Services reports are made available to members of the public to the extent information contained therein is not subject to exemptions in the Act. (See 45 CFR Part 5.)

To facilitate identification, please refer to Common Identification Number A-03-01-00217 in all correspondence relating to this report.

Sincerely yours,

David M. Long

David M. Long
Regional Inspector General
for Audit Services

Direct Reply to HHS Action Official:

Grants Officer
Administration for Children and Families, Region III
U. S. Department of Health and Human Services
Suite 864, The Public Ledger Building
150 S. Independence Mall West
Philadelphia, PA 19106-3499

State of Maryland
Department of Human Resources

OCT 24 2001

Maryland's Human Services Agency

Parris N. Glendening
Governor
Kathleen Kennedy Townsend
Lt. Governor
Emelda P. Johnson
Secretary

October 22, 2001

Mr. David M. Long
Regional Inspector General for Audit Services
Department of Health & Human Services, Region III
150 S. Independent Mall West, Suite 316
Philadelphia PA 19106-3499

Dear Mr. Long:

Please find attached a copy of the letter dated October 10, 2001 regarding the REVIEW OF MARYLAND CHILD SUPPORT ENFORCEMENT MEDICAL SUPPORT, and a copy of the envelope that it was housed in before mailing on October 10th. The US Postal Services sent this correspondence back to the Child Support Enforcement Administration marked "Return to Sender – Attempted Not Known." Additionally, a copy of the letter was faxed to your office today at this number 215-861-4541. Please accept my apologies for the delay.

Sincerely,

FOR

Teresa L. Kaiser,
Executive Director
Child Support Enforcement
Administration

Attachments:

cc: David Lett, Regional Administrator, Region III, ACF
Lois Y. Whitaker
Chris Hart
Jeanne King
Jerry Steele

TLK:bmp

State of Maryland
Department of Human Resources

Maryland's Human Services Agency

Parris N. Glendening
Governor
Kathleen Kennedy Townsend
Lt. Governor
Emelda P. Johnson
Secretary

October 10, 2001

Mr. David M. Long
Regional Inspector General for Audit Services
Department of Health & Human Services, Region III
100 S. Independent Mall West, Suite 316
Philadelphia PA 19106-3499

Dear Mr. Long:

The Maryland Department of Human Resources (DHR) and the Child Support Enforcement Administration (CSEA) are pleased to provide you with our response to the Audit Draft Report No. A-03-01-00217 entitled "REVIEW OF MARYLAND CHILD SUPPORT ENFORCEMENT MEDICAL SUPPORT."

We have enclosed comments on the draft Report's findings, and added statements for inclusion in the final report. If you have any additional questions or need additional information, please contact Teresa L. Kaiser, Executive Director, CSEA at 410-767-7043.

Sincerely,

Emelda P. Johnson
Secretary

Enclosure

Cc: David Lett, Regional Administrator, Region III, ACF
Lois Y. Whitaker
Teresa L. Kaiser
Chris Hart
Jeanne King

DEPARTMENT OF HUMAN RESOURCES (DHR)
CHILD SUPPORT ENFORCEMENT ADMINISTRATION (CSEA)
Responses to DHHS/OIG Draft Report No. A-03-01-00217, Titled
"REVIEW OF MARYLAND CHILD SUPPORT ENFORCEMENT MEDICAL SUPPORT"

RECOMMENDATIONS:

We recommend that CSEA:

1. *Require the contractor responsible for child support services in Baltimore City and Queen Anne's County to implement internal controls to ensure that all policies and procedures in use are authorized prior to implementation.*

2. *Consider implementing policies and procedures including the proposal for legislation that would allow a decision-maker such as a Maryland judge to order NCP's to contribute toward the State cost of providing coverage under Medicaid.*

3. *Notify the HHS Administration for Children and Families (ACF) of innovative ideas and problem solutions related to children's medical support resulting from CSEA's medical support workgroup for broadcasting as a best practice.*

DHR/CSEA Response:

1. We agree that CSEA require the contractor in Baltimore City and Queen Anne's County to implement internal controls to ensure that all policies and procedures in use is authorized prior to implementation. The Child Support Enforcement Administration is currently reviewing all internal procedures in use in Baltimore City and Queen Anne's County to insure compliance with the Child Support Enforcement Administration's policy and procedures. A Quality Assurance Unit reviews cases to monitor for compliance with policy and procedures and reports to Project Manager. Corrective action is implemented when a problem is identified.

2. Your recommendation for legislation coupled with policy and procedures to implement a form of cost recovery from non-custodial parents whose children have medicaid coverage is troubling. It exceeds the present requirements of federal law and regulation. In addition, it goes beyond the scope of the jointly developed Federal Child Support Strategic Plan currently in effect. The development of laws and regulation in the child support area has become a cooperative and collaborative process that if not strictly consensus based, follows open dialogue among the partners. Your recommendation lacks the benefit of such a process or consensus.

The Medical Support Workgroup Recommendations have received only limited endorsement by the child support community. Many child support professionals have concerns with the current recommendations. The National IV-D Directors Association, The National Child Support Enforcement Association and Eastern Regional Interstate Child Support Association have passed resolutions regarding medical support in light of these concerns. To date, no federal legislation has been introduced to enact the recommendations into law due to the fact that there is no consensus. To recommend passage of legislation to a state while the debate over the issue is in progress is not helpful. Federal legislation could be passed that addresses the matter of co-pays in a manner inconsistent with your recommendations.

A major concern to states at present, is the issue of large arrears due for child support. In discussing this issue in various forums, we note that certain cost recovery policies, currently in effect in some states, such as recovery of birth costs, increase arrears. This does not increase our ability to collect money from low-income obligors. In fact, our own research into Maryland arrears indicates that non-custodial parents who earn less then $20,000 owe 60% of the arrears annually. These parents are already struggling to satisfy their current child support obligation. Increasing the hardship to these low income wage earners by adding a charge for a medicaid cost recovery, adds new problems. In many of these cases, the family would qualify for medicaid if the parents were married. Historically, the child support program was a cost-recovery program. With the implementation of welfare reform and the child support strategic plan, the mission of child support has changed to family self-sufficiency.

Your recommendation, if implemented, would decrease the basic income of the non-custodial parent, thereby contributing to his poverty without increasing the well being of his children.

Therefore, we disagree with this recommendation.

3. The administration will gladly notify the Department of Health and Human Services, Office of Inspector General, of the innovative ideas and recommendations the result from CSEA's Medical Support Workgroup.