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Overcoming Interagency Data-Sharing Barriers:
Lessons from the Maryland Kids First Act

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Introduction

States are finding it increasingly difficult to identify uninsured children who qualify for Medicaid or the Children's Health Insurance Program (CHIP) and enroll them into these programs. These outreach and enrollment efforts are further hampered by severe recessionary budget limitations. As states have exhausted enrollment gains attained by traditional outreach methods, they are seeking new, more efficient ways to accurately target outreach and secure coverage for uninsured children. Maryland, Iowa, and New Jersey, for example, have begun to use state income tax information to identify uninsured children for targeted Medicaid and CHIP outreach. The motivation for states to seek new initiatives is partly due to provisions of the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA) [P.L. 111-3 (2009)].

To encourage the development of new outreach techniques, CHIPRA provides financial incentives for states to increase enrollment in Medicaid and CHIP. Specifically, CHIPRA offers performance bonuses to simplify the application and renewal process. These bonuses provide an enhanced Federal Medical Assistance Percentage (FMAP) to states that increase enrollment (relative to their July 1, 2008, baseline level) and implement five of eight outreach and enrollment strategies specified in CHIPRA (CMS, 2009). In Maryland, the tax-based outreach initiative satisfied one of the five requirements for earning CHIPRA performance bonus funds. Tax-based outreach initiatives require collaboration between states' Medicaid and tax agencies; these new interagency partnerships may present challenges, including the need to share data necessary for effective outreach.

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This issue brief provides an overview of strategies used to identify uninsured children who are eligible for public insurance programs. The overview is followed by an update on Maryland's tax-based outreach program, including a description of the interagency data-sharing barriers encountered and their resolutions. The brief concludes with a discussion of new data-sharing and outreach opportunities outlined in the Affordable Care Act (ACA) and lessons for other states.[1]

Strategies to Identify Eligible Children

States typically use at least four resources to identify uninsured children who are eligible for Medicaid/CHIP: traditional outreach, previous Medicaid/CHIP enrollment, pre-existing databases, and income tax forms.

Traditional Outreach. Traditional outreach strategies employ publicity campaigns that often include posters, brochures, health fairs, and electronic media advertising to encourage individuals to take affirmative steps to apply for the program (Pearson, 2007).

Previous Enrollment. Examining previous state Medicaid/CHIP eligibility data and targeting outreach to children who are disenrolled because of failure to reapply allows a state to retain these children.

Pre-Existing Databases. Federal law permits states to use pre-existing need-based program databases to determine the eligibility of uninsured children and expedite enrollment into state Medicaid/CHIP programs. This process is called express lane eligibility (ELE) (Paris & Sullivan, 2010). The need-based programs commonly used for ELE include discount school lunch and food stamp programs (such as the National School Lunch Program), the Supplemental Nutrition Assistance Program (SNAP), and the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) (Paris & Sullivan, 2010).

Several states use school lunch program databases to identify children eligible for Medicaid/CHIP. California permits children to receive temporary health coverage after they apply for the school lunch program (Children's Partnership, 2010). Similarly, Maryland enacted legislation in 2009 that requires Baltimore City Public Schools to disclose information about children participating in the school lunch program to the state's Medicaid agency (2009, Maryland Laws, Ch. 400).[2] The Medicaid agency is then required to send eligibility and enrollment information to parents/guardians of students enrolled in the school lunch program but not in Medicaid.

Other states use food stamp program databases to identify eligible children. In Louisiana, an interagency data-sharing agreement allows the state's social service agency to provide the Medicaid agency with monthly electronic lists of individuals enrolled in SNAP (Kaiser Commission on Medicaid and the Uninsured, 2010). The Medicaid agency matches these files with its enrollment data to identify children who are enrolled in SNAP but not in Medicaid. The Medicaid agency automatically enrolls these children after confirming their citizenship. Data matching between the two agencies proved to be challenging because of inconsistencies between the two databases, such as problems with dates of birth and social security numbers. This caused some Medicaid enrollees to be identified as uninsured (Kaiser Commission on Medicaid and the Uninsured, 2010). Louisiana, still working on strategies to overcome this problem, has found that manually reviewing the data prevents some of the incorrect matching (Kaiser Commission on Medicaid and the Uninsured, 2010).

In addition to school lunch and food stamp program data, Arkansas, Illinois, and Wisconsin identify children eligible for Medicaid/CHIP using data from child support en-

forcement and other need-based programs (Children's Partnership, 2010).

Income Tax Forms. Some states use tax information to identify uninsured children who might be eligible for Medicaid/CHIP. State income tax returns are used to determine family income as a percentage of the federal poverty level (FPL), and children in households with incomes below certain thresholds are considered Medicaid/CHIP-eligible. Once these children are identified, notices are mailed to their households. Iowa, Maryland, and New Jersey have pioneered tax-based outreach (Freshour-Johnston, 2010; Idala et al., 2009; Galewitcz, 2010).

Maryland's Kids First Act

Overview of the Kids First Act. Maryland's Kids First Act of 2008 established a tax-based Medicaid/CHIP outreach initiative. It required the revision of state income tax forms to include a question asking taxpayers to report the health insurance status of dependent children (2008 Maryland Laws, Ch. 692). Because Maryland offers a state-based Earned Income Tax Credit (EITC) to low-income households that supplements the federal EITC, many low-income Maryland households that are not legally obligated to do so choose to file state income tax returns (Idala et al., 2009). As a result, Maryland's tax filings are a fertile source of information on potentially eligible children. The Kids First Act further authorized Maryland's Medicaid agency, the Department of Health and Mental Hygiene (DHMH), to use this information to pursue outreach efforts to children who might qualify for Medicaid or the Maryland Children's Health Program (MCHP, Maryland's CHIP). Because the legislation did not specifically authorize Maryland's tax agency (the Comptroller's office) to share person-level tax return information, DHMH was permitted access only to aggregated information. Thus, the Comptroller's office was responsible for sending notices to taxpayers with household incomes meeting Medicaid/MCHP eligibility standards who reported on the tax return that their dependent child was uninsured.

One year after the Comptroller sent the first wave of Kids First notices to taxpayers in September 2008, more than 30,000 of Maryland's uninsured children secured coverage through Medicaid or MCHP.[3] However, the extent to which Kids First outreach activities were responsible for this is not known. Because the Comptroller could not directly share data with DHMH, there was no means of determining how many Medicaid/MCHP applications were submitted as a result of the initiative, how many children who received the Comptroller's notice were already enrolled in Medicaid/MCHP, or how many had other health insurance coverage.

2010 Legislative Changes. In April 2010, the Maryland General Assembly enacted the Kids First Express Lane Eligibility Act to address the Comptroller's inability to share taxpayer information with DHMH (2010 Maryland Laws, Ch. 734). This legislation requires DHMH and the Comptroller's office to enter into an interagency agreement permitting the sharing of state income tax return information for the purpose of Medicaid/MCHP eligibility determination. In addition to providing notice of this potential information sharing on income tax return forms, the Comptroller must include a check box allowing individuals to opt in to participate. Support from DHMH and key legislators was critical to the passage of this legislation.

Maryland Tax Form Changes. In 2008, Maryland's income tax form was changed to include a question asking taxpayers to indicate whether their dependent child had health care. The Comptroller then sent Medicaid/MCHP applications and enrollment instructions to taxpayers with eligible incomes who reported one or more uninsured dependent children. Adding the health care cover-

age question in 2008 resulted in a more accurate estimate of the target population than in 2007, when notices were mailed to all households with dependent children and with incomes in the eligible range. With this 2008 change, 294,000 fewer notices were mailed than in 2007 (Table 1).

The Maryland income tax form was modified again in 2009 to address three concerns about the 2008 form identified by the Medicaid agency and program evaluators. First, the 2008 form asked whether a dependent child had "health care," and taxpayers may have interpreted the question to mean access to medical services rather than insurance coverage. To avoid this misunderstanding, the term "health care" was replaced with "health insurance" in 2009. Second, the 2008 form did not specify a time frame for health coverage, leaving it unclear as to whether taxpayers should consider dependent coverage over the course of the entire tax year or only at the time of filing. Thus, the 2009 form was revised to ask specifically whether the depen-

dent child had insurance at the time of filing. Finally, the 2008 form did not request the age of the dependent child. This was problematic because Medicaid/MCHP eligibility is restricted to children younger than 19 years. Thus, the 2009 form was revised to ask whether a dependent child was "under age 19." These three changes allowed the Comptroller to send notices to a population more likely to benefit from the notifications, and 6,588 fewer notices were mailed in 2009 than in 2008 (Table 1).

The 2010 Maryland tax forms will include the same questions used in 2009, along with the additional check box asking for disclosure permission as discussed above. The disclosure of this information will increase efficiency by allowing DHMH to identify dependent children already enrolled in Medicaid/MCHP, further reducing overall mailing costs. This will also facilitate a more accurate evaluation of Maryland's tax-based outreach by allowing DHMH to track enrollment resulting from the initiative.

Table 1. Medicaid/MCHP Notices Sent to Maryland Taxpayers

Tax Return Questions	Number of Notices Sent to Taxpayers		
	< 116% FPL	< 300% FPL	Total
2007 Tax Return ☒ Relationship to dependent	154,709	291,881	446,590
2008 Tax Return ☒ Check if dependent is a child ☒ If dependent is a child, does child have health care? Yes or no?	62,566	89,999	152,565
2009 Tax Return ☒ Check if dependent under age 19. ☒, If dependent child is under 19, does child have health insurance now? Yes or no?	61,869	84,108	145,977
2010 Tax Return ☒ Check if dependent under age 19. ☒ If dependent child is under age 19, does child have health insurance now? Yes or no? ☒ Check here if you authorize us to share your information with the Medical Assistance Program for help finding health insurance.	NA*	NA*	NA*

*Data not available as of date of publication

The ACA: *New Tax-Based Outreach Opportunities*

Like Maryland's 2010 Kids First legislation, the ACA includes provisions designed to streamline states' Medicaid/CHIP eligibility determination and enrollment procedures by making federal tax return information available for use in state Medicaid/CHIP outreach. Section 1413 of the ACA provides for data sharing between specified federal agencies (including the Internal Revenue Service) and "applicable state health subsidy programs," such as Medicaid and CHIP.[4] Such data sharing cannot occur, however, until the administrative structures necessary to support it are in place. States are required to develop secure electronic interfaces; participate in data-exchange arrangements that provide access to "reliable, third party data"; and use such data to determine Medicaid/CHIP eligibility (ACA §1413(c)).

The ACA authorizes the Secretary of the U.S. Department of Health and Human Services to develop model data-sharing agreements and enter into agreements to facilitate data sharing, subject to privacy and data integrity safeguards specified in the ACA's amendments to the Internal Revenue Code[5] (ACA §1413(d)). Consistent with these safeguards, the U.S. Department of the Treasury is authorized to disclose to state Medicaid/CHIP agencies federal tax return data that those agencies require to support their assessment of Medicaid/CHIP eligibility. Data that may be disclosed are limited to the following: a taxpayer's identity, filing status, number of dependents claimed, modified gross income, and tax year. This information may be used only for purposes of determining eligibility for state Medicaid/CHIP programs (I.R.C. §6103(l)(21)(c)). The ACA thus provides a new method by which states will be able to access federal tax return data that are sufficient to support targeted outreach to children likely to be eligible for Medicaid/CHIP.

Lessons for Other States

The Kids First Express Lane Eligibility Act of 2010 resolved a key challenge that Maryland's tax-based outreach initiative has faced to date: interagency data sharing. For states that face a similar challenge, there are several options that may mitigate state-specific legal barriers to data sharing. The use of these options, described below, will depend on the individual state's existing laws governing tax information disclosure.

Interagency Data-Sharing Agreement Option. As a starting point, the state Medicaid and tax agencies should explore whether an interagency data-sharing agreement is feasible. The provisions of such an agreement should ensure that its scope is adequate for accomplishing the desired results. In the event that a state's tax agency perceives the state law to be inadequate for interagency tax data sharing, the state may explore a federal source of authority, such as the CHIPRA provisions discussed in the following section.

Attorney General Option. If state law does not address or is unclear as to whether the state tax agency may share taxpayer data with the state's Medicaid agency, then an interagency data-sharing agreement between the agencies may not be feasible. Under these circumstances, a formal opinion of the state's Attorney General may help clarify what data sharing, if any, the state law allows.[6]

The current Constitution of Maryland includes a clear charge to the Attorney General

to issue a written opinion when required by the legislature, the Governor, the Comptroller, or certain other state officials "on any legal matter or subject (Md. Const. Art. V, §3)." Although an opinion of the Attorney General is not binding in the context of a judicial challenge, it is an authoritative, legal analysis of existing law that state agencies should at least take into serious consideration and may even be required to follow.

Besides providing an official interpretation of state law, the formal opinion of a state's Attorney General can determine whether disclosure by the state tax agency is authorized under existing state law or CHIPRA, which states the following: "Notwithstanding any other provision of law, a Federal or State agency ... in possession of sources of data directly relevant to [Medicaid] eligibility determinations ... is authorized to convey such data or information to the State agency administering the [state's Medicaid] State plan."[7]

CHIPRA data-sharing authority limits the disclosure of taxpayer information to circumstances in which the conditions and requirements of the law are satisfied, including conditions under which the data may be collected from taxpayers and limitations on use of the data. The state tax agency must either secure the taxpayer's consent prior to disclosure (e.g., via the tax form) or provide prior notice to the taxpayer and a reasonable opportunity for the taxpayer to object. The law's disclosure authorization also requires the state tax agency to have an interagency data-sharing agreement with the state Medi-

caid agency. Such an agreement should include protections against unauthorized use of the data, ensure that federal privacy and data security requirements are met, and require that the state Medicaid agency use the data obtained under the agreement only for purposes of eligibility and enrollment.[8]

An Attorney General's opinion declaring that existing state law authorizes data sharing between the state tax and Medicaid/CHIP agencies should eliminate—or at least mitigate—any doubts the state tax agency may have.

Legislative Option. A state's legislature can enact a new law to eliminate existing impediments to the state tax agency's disclosure of taxpayer information to the state Medicaid/CHIP agency.[9] The support of key legislators and state agency officials is critically important to the passage of such legislation. New legislation should authorize or require the tax agency to:

- Develop taxpayer consent language for inclusion in future tax forms, as specified by an interagency agreement

- Develop and execute an interagency data-sharing agreement with the state Medicaid agency that fulfills the conditions under which tax information disclosure is authorized by §203(d)(1) of CHIPRA (§1942(a) and (b) of the Social Security Act)

- Share copies of consenting taxpayers' returns (or information derived from the returns) with the state Medicaid agency

Conclusion

Although provisions within the ACA and CHIPRA allow data sharing for the purposes of Medicaid/CHIP eligibility and enrollment, agency officials may still face barriers at the state level.

Maryland's Kids First Act is a step forward in implementing innovative Medicaid and CHIP outreach methods. The lack of a data-

sharing agreement between Maryland's Medicaid and tax agencies initially hindered both the efficiency of the process and the ability to evaluate Maryland's tax-based outreach. New legislation enacted by Maryland's General Assembly, however, now authorizes data sharing between the state's tax and Medicaid agencies, allowing the possibility of a full evaluation of the initiative.

Data sharing will facilitate a more thorough and accurate assessment of the effectiveness of the Kids First initiative. It will allow the state to track the households targeted for Medicaid/CHIP outreach and determine whether the mailings lead to enrollment of their dependent children. Measuring this outcome will help policymakers determine whether the Kids First initiative was a significant factor in reducing uninsurance among Maryland's children by facilitating their Medicaid/CHIP enrollment.

Overall, little information is available regarding the efficacy of using tax return information to identify and enroll uninsured children in Medicaid or CHIP. To date, few states have attempted this strategy, and those that have implemented tax-based outreach have reported problems with interagency communication and response rates to the mailings. States most likely to benefit from Maryland's experience are those that have an income tax on earnings[10] and those that offer a state EITC that provides incentives to low-income households to file returns. The lessons learned from Maryland's experience with this outreach strategy may help other states overcome interagency data-sharing barriers. Forthcoming results of Maryland's evaluation will further contribute to the evidence about tax-based Medicaid/CHIP outreach.

Endnotes

[1] The Patient Protection and Affordable Care Act, P.L. 111-148 (2010), popularly known as the "Affordable Care Act," is referred to here as the ACA.

[2] Parents or guardians may choose to opt out of this disclosure.

[3] This includes the total increase in children aged 0 through 18 years enrolled in Medicaid/MCHP between September 2008 and September 2009.

[4] As used in ACA §1413, the term ''applicable state health subsidy program'' means a state exchange program, a state Medicaid program, a state CHIP program, or a state program establishing qualified basic health plans.

[5] These safeguards are specified in I.R.C. §6103(l)(21), added to existing law by ACA §1414.

[6] Federal law allows the sharing of tax information across various federal agencies, but the issue of whether information on state tax returns may be shared across state agencies is a matter of state—not federal—law.

[7] CHIPRA §203(d)(1): Social Security Act, §1902(a).

[8] CHIPRA §203(d)(1): Social Security Act, §1902(b).

[9] If the legal impediment is found in a state's constitution, then a new state law might not be sufficient.

[10] Nine states do not have income taxes: Alaska, Florida, Nevada, New Hampshire, South Dakota, Tennessee, Texas, Washington, and Wyoming.

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