

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
601 East 12<sup>th</sup> Street, Suite 235  
Kansas City, Missouri 64106



**Division of Medicaid and Children's Health Operations**

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November 16, 2010

Barbara Langner, Ph.D.  
Director of Medical Policy  
Kansas Health Policy Authority  
Landon State Office Building  
900 SW Jackson, Room 900N  
Topeka, Kansas 66612

Dear Dr. Langner:

Thank you for your November 24, 2009 letter concerning Kansas' ability to comply with section 403 of the Children's Health Insurance Program Reauthorization Act (CHIPRA) of 2009. Section 2103(f) of the Social Security Act (the Act), as amended by CHIPRA section 403, requires State Children's Health Insurance Programs (CHIP) to apply a number of Medicaid managed care provisions to CHIP health plans. The Centers for Medicare & Medicaid Services (CMS) issued a State Health Official (SHO) letter on August 31, 2009 to provide general guidance on the implementation of Section 403 of CHIPRA.

Children's Health Insurance Programs operating a managed care delivery system must comply with section 2103(f) of the Act with respect to all managed care contracts entered into or renewed as of July 1, 2009. Section 3(b) of CHIPRA provides that the Secretary of Health and Human Services may extend the date by which a State must implement any provision if the Secretary determines that State legislation is required in order for a State's CHIP plan to be in compliance with the provision. The August 31, 2009 SHO letter requested that States requiring legislation notify the CMS regional office as soon as possible.

Your November 24, 2009 letter explained that State legislation will be required in order for Kansas to meet the disenrollment requirement. Section 1932(a)(4) requires States to assure that individuals have the right to disenroll from a managed care entity. Children eligible under the child health plan must have the ability to receive CHIP health care benefits through alternate means. Kansas currently uses one managed care organization (MCO) to deliver care to CHIP eligibles residing in the western region of the State. In our discussions with your staff, we understand that there is a total membership of only about 2,000 children in this thirty county area which would not support a second MCO. Your letter indicated that Kansas intended to offer a State run, fee-for-service alternative in the western region and that State legislation would be necessary to accomplish this because current State law requires CHIP to be administered through a managed care delivery system.

The Kansas Health Policy Authority (KHPA) has notified CMS that it presented testimony explicitly identifying the requirements of CHIPRA Section 2103(f) on December 17, 2009 to the Joint Committee on Health Policy Oversight, February 3, 2010 to the Senate Ways and Means Committee, and on March 2, 2010 to the House Social Service Budget Committee. Despite these efforts, the State Legislature did not choose to introduce legislation to address this issue during its 2010 session.

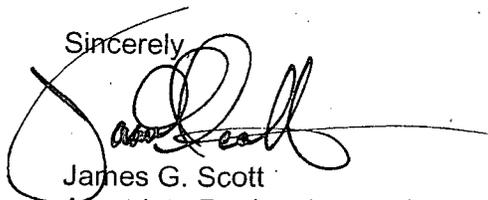
I am sending this letter to reiterate the need for the State to make a good faith effort to comply with the CHIPRA Section 2103(f) requirements. I encourage KHPA to do this by continuing to pursue modification of State law during the 2011 legislative session. As you know, Section 3(d)(2) of CHIPRA provides that federal financial participation (FFP) shall not be denied to a State which makes a good faith effort to comply with the requirements prior to the issuance of any guidance or regulations implementing the provisions in question.

We encourage Kansas to continue monitoring this managed care entity's network adequacy considering CHIP enrollment, expected utilization of services and panel restrictions in areas where there are limited providers. We appreciate Kansas taking the necessary actions to promote access and choice within the plan.

In addition, I invite you to share with CMS any additional challenges that compliance with CHIPRA Section 2103(f) poses to Kansas. CMS would be interested to learn of any difficulties the State expects to encounter in complying with the managed care disenrollment requirements in rural and frontier areas. CMS is particularly concerned that abruptly changing the State's enrollment practices for these families may cause disruptions or gaps in health care coverage. We appreciate Kansas taking the necessary actions to minimize disruption of coverage for these families while waiting for enabling legislation.

If you have questions concerning this letter, please contact Michelle Opheim or Megan Buck, Division of Medicaid and Children's Health Operations at (816) 426-5925.

Sincerely,

A handwritten signature in black ink, appearing to read "James G. Scott", with a long horizontal line extending to the right.

James G. Scott  
Associate Regional Administrator  
for Medicaid and Children's Health Operations

cc: Christiane Swartz