
Federal Update

November 2007

Draft Federal Part C Regulations

Since the public comment period for the Notice of Proposed Rulemaking (NPRM) for Part C closed July 23, 2007, there has been no official word from OSERS on a timetable for publication of the final regulations. According to staff from OSEP, over 3,000 comments were received on the NPRM.

It is not expected that the final Part C regulations will be published before the spring of 2008. State Part C lead agencies have been informed that the federal application for grants for July 1, 2008 will not be required to include revised policies and procedures in accordance with the upcoming federal regulations since they will not be available to meet that timeline.

SCHIP Reauthorization

Both the House and the Senate have passed a revised version of the State Children's Health Insurance Program (SCHIP) reauthorization bill. The bill, H.R. 3963, makes changes in response to the President's and some Republican's concerns about the previous version of the bill that the President had vetoed last month. The revised bill caps coverage at 300% of poverty, places new emphasis on verifying citizenship, and phases all adults out of coverage within one year. The Senate passed the bill by a vote of 64-30 and the House passed the bill with about 12 votes short of the number needed to override the expected Presidential veto.

The President has already indicated he will veto the bill. A delay in sending the bill to the President will allow continuation of bipartisan negotiations on a compromise bill that would achieve enough Republican votes in the House to be able to override a Presidential veto.

Despite massive advocacy efforts, the House failed to override the President's veto on the original SCHIP bill sent to him with strong bipartisan support from both the House and the Senate. The original House bill, H.R. 976, passed by a vote of 265-159 just 20 votes shy of the 2/3 majority needed to overturn the President's veto. The Senate passed the bill, S. 976, by a vote of 67-29 with the necessary 60 votes needed to override the veto.

Both versions of the bill would add \$35 billion to SCHIP over five years, funded mainly by a 61-cent per-pack increase in the cigarette tax. The President's budget recommended only a \$5 billion increase in the program. While the President has said he will agree to increases over his original request, he has indicated he will not agree to pay for SCHIP increases with an increase in the cigarette tax. About 6 million children are covered under SCHIP now and without additional funding, at least 9 states are expected to run out of SCHIP funds by March 2008.

The SCHIP program was scheduled to expire September 30, 2007 but has been extended until November 16th while negotiations continue. If both Houses of Congress can achieve support of a 2/3 majority of members present and voting on the SCHIP bill, the measure would become law despite the President's veto and without his signature.

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FY 2008 Appropriations

The House and Senate will be voting the week of November 4th on a compromise funding bill for federal fiscal year 2008 that began on October 1, 2007. The Senate passed its version of the Labor, HHS and Education appropriations bill in October and the U.S. House of Representatives passed its version of the bill in late July. The appropriations conference report was agreed to by the bipartisan group of House and Senate members. This compromise bill must be passed by both houses of Congress before it can go to the President for approval.

The President has already indicated he will veto the funding for Labor, Health and Human Services (HHS) and Education since the Congress includes \$10 billion more than his budget submitted to the Congress in February 2007. The leadership in the Congress has merged the funding for Labor, HHS and Education and the bill to fund Veteran Affairs and Military Construction into a \$715 billion appropriations bill they plan to send to the President for his consideration. There had been talk about also including the Pentagon appropriation in this bill as well but the plan was dropped due to significant concern of the Republican leadership.

The conference report for FY 2008 includes a \$10 million cut for the Maternal and Child Health Block grant, a \$32.5 million increase for the Child Care Development Block Grant (CCDBG), a \$153 million increase for the Head Start, and an increase of \$509 million in the IDEA Part B program. The details on many programs such as Part C of IDEA and the Preschool Special Education program are not available as yet. The Senate bill had included a \$13.6 million increase in Part C while the House had recommended a freeze at the 2007 level of \$436.4 million,

The federal government is currently funded through a Continuing Resolution (CR) until November 16, 2007. The CR is a stopgap measure to keep the government going while the Congress completes its work on 13 funding bills and sends them to the President to sign. It is very likely that the CR will be extended, perhaps until January 2008.

Head Start Reauthorization

There is still a possibility that the Head Start Reauthorization will be completed this session of the Congress. The House bill, H.R. 1429, the Improving Head Start Act of 2007, was approved by a vote of 365 to 48 last spring. On June 19th, 2007, the Senate unanimously approved S. 556, the Head Start for School Readiness Act.

Before the bill can be completed, a House-Senate Conference Committee will have to resolve differences in the two bills. The compromise bill must be passed by both Houses and then signed into law by President Bush. According to the National Women's Law Center, there are several key differences between the Senate and House bills:

- The House requires that by 2013, 50 percent of teachers nationwide in a center-based program will have a bachelor's degree in early childhood education (or a related field) while the Senate sets a goal—as opposed to a requirement—that by September 30, 2013, 50 percent of center-based teachers in each state will have a bachelor's degree in early childhood education (or a related area).
- The House provides \$5 million over five years for state early learning councils, while the Senate provides \$100 million over five years. The Senate increases the quality set-aside to 30 percent for FY 2008 and 40 percent for FY 2009 2012, while the House increases the quality set-aside to 60 percent.

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SCHIP continued

The current SCHIP bill includes a moratorium on publication of new Medicaid regulations until January 2010. This provision is very important to numerous state programs including Part C that are in danger of losing significant Medicaid revenue due to two proposed Medicaid regulations related to rehabilitation services, transportation and administrative claiming currently under development by the Department of Health and Human Services.

Head Start continued

- The Senate increases the quality set-aside to 30 percent for FY 2008 and 40 percent for FY 2009 2012, while the House increases the quality set-aside to 60 percent.
- The Senate makes more changes than the House in the responsibilities of Head Start Parent Policy Councils. The House retains the Policy Council's current role, except for their role in the hiring and firing of Head Start directors.
- The Senate requires programs with systemic or substantial deficiencies to re-compete to receive continuous funding, while the House establishes an expert panel to develop a process for re-competition.
- The House and Senate both increase eligibility to 130 percent of the federal poverty level, but the House allows no more than 20 percent of children served by a Head Start agency to be above the poverty level.

Meanwhile, the Administration for Children and Families has notified Head Start grantees that the federally required Fall 2007 administration of the National Reporting System (NRS) was canceled. Both the House and the Senate bill eliminate the NRS until further study and review is completed related to the assessment of young children.

ITCA will continue to monitor federal activities and provide updates to members. For additional information or to discuss these issues, please contact the Co-chairs of the ITCA Legislative Committee: Debbie Cheatham Debbie.Cheatham@odh.ohio.gov or Linda Goodman Linda.Goodman@po.state.ct.us or Sharon Walsh, ITCA Governmental Relations Consultant at