



Department of Justice, Peace and Human Development

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January 28, 2009

United States Senate
Washington, D.C. 20510

Dear Senator:

The United States Conference of Catholic Bishops has worked persistently to support and strengthen the nation's vital efforts to provide adequate and affordable health care, especially to the most vulnerable members of our society, our children. We have encouraged Congress to strengthen, expand and improve the State Children's Health Insurance Program (SCHIP). We believe Congress has a unique opportunity and the responsibility to improve the program and garner strong bipartisan support by enacting significant legislation that affirms the life and dignity of all. **Specifically, we ask to you support the amendment to codify the unborn child rule being offered by Senator Hatch.**

Congress has a moral responsibility and an unprecedented opportunity to advance a children's health initiative that expands needed coverage and respects and affirms life and dignity for all. Congress should agree on a strong and effective bill that can be enacted into law – a law that assures continued coverage for children currently enrolled in SCHIP, enrolls eligible but uninsured children as soon as possible, includes codification of the “unborn child provision” and ensures that more children are born in good health. We urge your active and strong support for a children's health bill that respects the roles of families and protects the lives and health of our nation's children. If we can be of further assistance, please do not hesitate to contact us.

Sincerely,

Most Reverend William F. Murphy
Bishop of Rockville Centre
Chairman
Committee on Domestic Justice and Human Development
United States Conference of Catholic Bishops

SCHIP and Unborn Child Coverage

* Since 1997, the State Children's Health Insurance Program (SCHIP) has provided much-needed health coverage to millions of children who otherwise would fall between the cracks of our health care system. In 2002 the Department of Health and Human Services improved this program by stating that the word "child" in the statute may include the period from conception to birth. 67 Fed. Reg. 61955, 61974 (Oct. 2, 2002), revising 42 C.F.R. § 457.10. Fourteen states have already chosen to provide health care to pregnant women and their unborn children under this regulatory option: AR, CA, IL, LA, MA, MI, MN, OK, OR, RI, TN, TX, WA, WI.

* Based on ten years of experience with SCHIP, Congress approved a bill (H.R. 976 in the 110th Congress) to amend and reauthorize this important program for five years, codifying options now allowed only by regulation or by waiver. For example, the bill codified an option (now available only by waiver) to cover adult pregnant women who are not ordinarily eligible due to age.

* However, this bill did not codify the very successful "unborn child" option now used in 14 states. It mentioned the availability of this option, but explicitly took no position on the regulation's "legality or illegality." This leaves the unborn child option in an uncertain legal situation, subject to rescission by any President or HHS Secretary, at a time when many other options are being codified and made secure for the next five years. An amendment to codify this rule, and clarify the scope of its coverage for women after delivery, failed in the Senate by one vote, 49-to-50. Later H.R. 976 was vetoed by the President, and a veto override effort fell short of the necessary two-thirds margin in the House.

* Giving states only *one* way to provide prenatal care -- by defining the pregnant woman as the patient in need of "child health assistance" -- has serious practical consequences:

- Many children will be born as U.S. citizens in poorer health (and in greater need of expensive health care) from lack of prenatal care, because their immigrant mothers were not eligible for benefits in their own name during pregnancy.

- The 14 states now forced by court orders to fund abortion on demand in their Medicaid program will be required to provide the same services to pregnant women under SCHIP. Thus they will be unable to improve their coverage for unborn children without expanding state funding for the elimination of those children. This would be tragic in a program explicitly dedicated to the lives and health of children.

* A final SCHIP reauthorization should codify the unborn child rule, so states are secure in being able to *choose* to provide life-affirming health services to needy children and their mothers without involvement in abortion. An amendment in this area should also be clear in supporting the health needs of the woman during and for 60 days after pregnancy, as long as this is consistent with the health of the child. This improvement in the bill would serve both women and children, and reaffirm SCHIP's key principle of allowing states to design children's health care programs that best serve their needs.