

The Finkenauer-Buchanan 'CARING for Kids Act:

Protecting the Health of 10 Million Children



The Children's Health Insurance Program (CHIP) quietly goes about its business and provides comprehensive, effective, pediatric-focused health care for 10 million children in this country.¹ It is the definition of a success story, and yet, CHIP's future is always tenuous. CHIP is the only federal health insurance program subjected to expirations, funding cliffs, the need for offsets, and threats of "political hostage-taking" simply to maintain the status quo. The continuation of CHIP requires "an act of Congress," a phrase that is often used as a metaphor to describe something that is difficult to accomplish.

Reps. Abby Finkenauer (D-IA) and Vern Buchanan (R-FL) have introduced H.R. 6151, the "Comprehensive Access to Robust Insurance Now Guaranteed (CARING) for Kids Act," to protect the health coverage of 10 million children enrolled in CHIP now and into the future.

The Finkenauer-Buchanan legislation would permanently authorize:

- » CHIP's health coverage and contingency funding;
- » the Express Lane Eligibility option;
- » outreach and enrollment grants;
- » pediatric quality standards;
- » CHIP's maintenance of effort (MOE) requirement; and,
- » the qualifying states option, which provides financial support to states that expanded children's coverage prior to the enactment of CHIP in 1997.

H.R. 6151 would improve the health coverage of America's children by:

- » Protecting the health coverage of 10 million children;
- » Ensuring fairness to children so that CHIP is no longer the only federal health insurance program subjected to repeated expirations, funding cliffs, the need for offsets to simply maintain the status quo, and "political hostage-taking" of the program;
- » Protecting children's health coverage from becoming "collateral damage" due to possible changes to CHIP's scoring by the Congressional Budget Office (CBO) and Joint Committee on Taxation (JCT) caused by the Texas v. Azar lawsuit or changes to the Affordable Care Act (ACA) passed by Congress² that might make it nearly impossible to extend CHIP in the future;
- » Allowing advocates and experts to shift their focus to important issues facing at the federal and state levels, such as infant mortality, mental health, substance abuse, diabetes, asthma, oral health, and racial disparities, rather than working on extensions to simply maintain the status quo; and,
- » Allowing states to pursue innovation and improvements to children's health coverage rather than having to work on state-by-state contingency plans related to CHIP's repeated scheduled expirations.³

Background: Children's Health Coverage Has Been Repeatedly Put at Risk

Despite strong bipartisan support in Congress and overwhelming public support, CHIP has come to the brink of elimination numerous times in its 23-year history. H.R. 6151 would protect CHIP and the health coverage of 10 million children by eliminating the unnecessary congressionally imposed expiration of the program that threatens the health of millions of children.

CHIP advocates also point out that making the program permanent is a matter of fairness to children. No other federal health insurance program – not Medicare, Medicaid, veterans’ health care, TRICARE, tax credits for private health insurance, or the Federal Employees Health Benefits Program – is subjected to such arbitrary expirations. When deadlines have been missed and even when CHIP was extended at the last minute, children, families, and state programs have suffered.

At various times throughout CHIP’s history, states have been required to draw up plans to potentially freeze children’s health enrollment, impose waiting lists, find money from other sources in case CHIP ran out of money, or devise plans to shut down the program entirely. In the early years, this was due to funding shortfalls within the state programs or by the federal government.

In November 2003, Kaiser Family Foundation (KFF) reported that six states (Alabama, Colorado, Florida, Maryland, Montana, and Utah) had imposed enrollment freezes. KFF explained, “Now, children who have been found eligible for coverage are being left uninsured. Whether they are being placed on [CHIP] waiting lists or are being turned away to reapply at some future date, their families are left to grapple with the hardships they confront when they cannot obtain the medical attention their children need.”⁴

Over the years, Congress has improved the financing structure of CHIP. Consequently, since 2007, the threats to children’s health coverage have largely come from lapses in CHIP’s authorization. For example, during the most recent expiration of CHIP’s authorization and funding in 2017, several states sent letters to their CHIP families advising them that CHIP coverage might end and encouraging them to seek out alternatives because there was “no guarantee” that Congress would extend the program.⁵

The uncertainty caused by Congress’s failure to extend CHIP funding in a timely manner has repeatedly created anxiety and grave concern for many families. In November 2017, a little more than a month after Congress had failed to extend CHIP’s funding past the September 30th deadline, Myra Gregory described the threat that the CHIP funding expiration posed for her 11-year-old son Roland, who was diagnosed with lung cancer earlier that year. In her editorial in the *St. Louis Post-Dispatch*,⁶ Gregory described the frustration and desperation CHIP’s expiration had placed on her family. She wrote:

I understand that our society is divided right now. I understand that Republicans and Democrats can have honest differences of opinion. What I cannot understand is how the U.S. Congress could make the health security of kids like Roland a guessing game, and their lives bargaining chips. Watching my baby fight for his life this past year has been agonizing. I’ve held him in my arms while he cries in pain, I’ve experienced anxiety and stress I thought I would never overcome, and I have had to have conversations with Roland’s younger brothers that no child should have to have. I have always known that our situation could get worse, but I never imagined that Congress would be an obstacle in my son’s battle with cancer.

Such unnecessary crises could be averted in the future with the passage of H.R. 6151, the CARING for Kids Act, introduced by Reps. Finkenauer and Buchanan.

CHIP Is a Bipartisan Success Story

When CHIP (originally called the State Children’s Health Insurance Program or SCHIP) was created in 1997 with bipartisan support from Democratic President Bill Clinton and Republican Speaker of the House Newt Gingrich, it was intended to address the crisis in which 15 percent (nearly 1 in 6 children) of the nation’s children lacked health care coverage.

In 1991, a report by the bipartisan National Commission on Children entitled *Beyond Rhetoric: A New American Agenda for Children and Families*, highlighted the crisis. Commission Chairman and Senator Jay Rockefeller wrote:

Perhaps no set of issues moved members of the National Commission on Children more than the

wrenching consequences of poor health and limited access to medical care. In urban centers and rural counties, we saw young children with avoidable illnesses and injuries, pregnant women without access to prenatal care, families whose emotional and financial resources were exhausted from providing special care for children with chronic illnesses and disabilities, and burned-out health care providers asked to do more than is humanly possible.

If this nation is to succeed in protecting children's health, there must be a major commitment from families, communities, health care providers, employers, and government to meet children's basic health needs and to ensure that all pregnant women and children have access to health care.⁷

CHIP was designed as a bipartisan compromise to provide health coverage for those who earn too much to qualify for Medicaid but lack affordable health insurance options to purchase on their own. Through the leadership of Chairman Rockefeller (D-WV) and Senators Orrin Hatch (R-UT), Edward Kennedy (D-MA), John Chafee (R-RI), Bob Graham (D-FL), John Breaux (D-LA), William Roth (R-DE), and Daniel Patrick Moynihan (D-NY) in the Senate, CHIP was established with the goal of dramatically cutting the number of uninsured children in America.⁸

By every measure, CHIP has been an enormous success story, as it has worked in tandem with Medicaid to reduce the number of uninsured children in this country by two-thirds. By providing pediatric-focused health coverage to millions of children, CHIP played a significant role in ensuring that 95 percent of children in America had health insurance coverage by 2016.⁹

CHIP remains a popular, cost-effective public-private partnership that, after 23 years of proven success, would benefit from being made permanent by H.R. 6151. The bill would ensure the pediatric-centered health coverage of 10 million children is protected and allow states to focus on improving coverage rather than repeatedly planning for possible expirations.

In its early years, there were some important issues related to CHIP's financing that needed to be repeatedly addressed due to funding shortfalls that occurred in various states. However, CHIP's fundamental structure has been operating well throughout its history and its financing structure has been stabilized and has operated well for the past decade.¹⁰

The most significant threat to the program's well-being and the health of the 10 million children the program serves is that it is temporary and frequently requires the proverbial and difficult "act of Congress" just to maintain the continuation of the status quo. As Michael Hiltzik of the *Los Angeles Times* explains, the "main problem facing CHIP" today is the need for "making it permanent." He adds, "Under current law, the program has to be reauthorized every few years."¹¹

The Finkenauer-Buchanan bipartisan legislation would end this problem.

In contrast to all other federal health insurance programs that are permanent, CHIP's authorization is temporary.¹² During the last few extension battles, it has been widely recognized that there is widespread bipartisan agreement and overwhelming public support for CHIP, but disagreements over issues like funding offsets or political disagreements on issues unrelated to CHIP, such as Medicare, the federal budget, and DREAMers, were the barrier for Congress to act in a timely manner.¹³

Paradoxically, the fact that CHIP is wildly popular has led to its uncertainty because some outside groups and politicians have attempted to drag CHIP into unrelated continuous political debates. As a result, children's advocates have repeatedly called for "CHIP to not be used as a bargaining chip."¹⁴

During the debate over the last extension, CHIP funding was set by Congress to expire on September 30, 2017. Lawmakers had to pass three separate funding extensions and reach agreement on a final budget deal to ensure CHIP's ultimate reauthorization on February 9, 2018 – more than four months or 132 days later.¹⁵

The program's expiration and delay in its extension occurred despite: (1) 88 percent of American voters saying

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in November 2017 that reauthorizing CHIP funding should be a top or important priority of President Trump and Congress¹⁶; and, (2) dire warnings about the negative consequences that failure to extend CHIP would have on coverage.¹⁷

Linda Nablo, the chief deputy director of the Virginia Department of Medical Assistance Services explained, “CHIP is being used as a pawn in larger debates and negotiations. It has fallen victim to the dysfunction and partisanship in Congress.”¹⁸

According to the Congressional Research Service (CRS), over its 23-year history, CHIP has needed at least 25 different laws to either address funding shortfalls in the early years or to simply extend the program in the last 13 years, including four in 2017-2018.¹⁹

This has had real consequences. First, it creates anxiety and stress to families and children, which was highlighted earlier by Myra Gregory. At that time, Alabama CHIP Director Cathy Caldwell described the calls that her employees were receiving from worried families, “Our phones are ringing off the wall. We have panicked families wondering what in the world they have as options.”²⁰

Pediatricians were deeply concerned as well. According to Dr. Todd Wolynn, a pediatrician from Pittsburgh, “It crushes me to think we’re in an environment where kids’ health is up for debate — that this somehow got tossed into the wrangling. There are kids on protocols and regimens and treatment plans, and their families have got to try to figure out, what are we going to do?”²¹

And finally, in the face of CHIP’s potential expiration, many states suspended back-to-school outreach and enrollment activities, and instead, were required to spend time planning for the program’s possible demise.²² Consequently, after 21 years of continuous declines in the number of uninsured children since CHIP was first enacted, the expiration and delay in CHIP’s extension in 2017 helped lead to the first increase in the percentage of uninsured children in decades.

The Finkenauer-Buchanan bill (H.R. 6151) would ensure that children’s health coverage is never threatened in this way again. The 10 million children that rely on CHIP for their health insurance coverage deserve at least that much.

Why CHIP Matters

Here is why CHIP is an essential source of coverage for children in America and why Congress should act to make it permanent and protect the health of children:

- » **CHIP works for children:** CHIP, in tandem with Medicaid, helped cut the uninsured rate of children by two-thirds since its enactment in 1997 through 2017. Currently, nearly 10 million children receive health coverage through CHIP.
- » **CHIP benefits are comprehensive and pediatric-focused:** CHIP, by definition, is pediatric-focused. The program’s benefits and services are designed to best serve children. Therefore, CHIP goes above and beyond many private insurance plans in addressing the unique needs of children.

For example, Medicaid and CHIP cover a comprehensive set of benefits for children, including dental care, physical, occupational, and speech and language therapies, and developmental screenings that are pediatric-specific but often excluded or severely limited in private health insurance or the ACA Marketplace. As Timothy Jost explains in Health Affairs, “[The Centers for Medicare and Medicaid Services or CMS] also found that the benefit packages in CHIP plans are generally more generous for child-specific services, such as dental, vision, or habilitation services, and for children with special health care needs than those offered by [qualified health plans or QHPs in the Marketplace].”²³

- » **CHIP provider networks are pediatric-appropriate:** States have almost two decades of experience ensuring that CHIP plans offer provider networks that are pediatric-focused, including access to pediatricians, pediatric specialists, children’s hospitals, community health centers, and school-based health providers. These providers have expertise in meeting the unique and special health care needs of children, including an understanding of physiological, developmental and epidemiological differences. While private employer and ACA Marketplace health plans also cover children, pediatric care is a small share of the plan enrollees and so the provider networks are simply not designed with the needs of children in mind in the same way they are in CHIP.²⁴
- » **CHIP coverage is far more affordable for families and children than alternatives:** CHIP provides strong financial protections for low-income children and families and limits on overall out-of-pocket costs to no more than five percent of income with most states adopting limits well below the five percent cap. In fact, comparisons by the CMS and independent actuaries of CHIP to ACA Marketplace or private sector coverage have found that CHIP is far more affordable than any alternatives.

As Jost points out, “The differences found can be quite dramatic. In Washington state, for example, the plan actuarial value for the QHP was 48 percent while the actuarial value for the CHIP plan was 100 percent; premiums plus cost sharing for the QHP was \$1969, for the CHIP plan \$252.” The Medicaid and CHIP Payment and Access Commission (MACPAC) found similar results that added comparisons to employer-sponsored insurance.²⁵

- » **CHIP is cost-effective for taxpayers:** If CHIP were to expire, families would need to enroll their children in either ACA Marketplace health plans or private employer coverage, which have weaker benefits, weaker pediatric provider networks, and are less affordable. The uninsured rate for children would rise. Furthermore, according to the Congressional Budget Office (CBO), CHIP is cost-effective for taxpayers.

In fact, according to CBO, retaining health coverage for the millions of children enrolled in CHIP is more cost-effective against the alternatives for children. According to estimates by CBO and JCT, “Extending funding for CHIP for 10 years yields net savings to the federal government because the federal costs of the alternatives to providing coverage through CHIP (primarily Medicaid, subsidized coverage in the marketplaces, and employment-based insurance) are larger than the costs of providing coverage through CHIP during that period. . . The agencies estimate that enacting such legislation [to extend CHIP for 10 years] would decrease the deficit by \$6.0 billion over the 2018-2027 period.”²⁶

- » **Without CHIP, many children would lose coverage altogether:** In 2014, MACPAC estimated that a significant number of children enrolled in separate CHIP coverage would be ineligible for coverage in ACA Marketplace plans. The primary reason is that children are generally only eligible for ACA coverage if a parent is not offered what is defined as affordable health coverage through their employer.

Unfortunately, the affordability test deems employer coverage is “affordable” if an employee’s out-of-pocket premiums for self-only coverage would account for no more than 9.5 percent of a family’s income. The cost of coverage for the entire family, including children, is not considered and so is referred to as the “family glitch.” Consequently, a high percentage of children currently enrolled in CHIP would be otherwise ineligible for ACA subsidies and even those that are eligible would find such coverage less affordable. MACPAC also points out that a large percentage of those covered through the “unborn child” option by 16 states, including Arkansas, California, Illinois, Louisiana, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, Oklahoma, Oregon, Rhode Island, Tennessee, Texas, Washington, and Wisconsin in CHIP would lose coverage.²⁷

- » **CHIP is popular among the American public:** The American people overwhelmingly support CHIP's continuation. In a 2012 election-eve poll by Lake Research Partners, support among voters for extending CHIP was at 83-13 percent, including 86-10 percent among women and 75-21 percent among Republicans. In a May 2014 poll conducted by American Viewpoint, voters favored extending funding for CHIP by a 74-14 percent margin, including 66-19 percent among Republicans. In a 2017 poll by the Kaiser Family Foundation, voters expressed support for reauthorizing CHIP's funding being a top or important priority by President Trump and Congress by a margin of 88-9 percent.²⁸
- » **Fairness dictates that CHIP should no longer be treated as a second-class health coverage program:** CHIP is the only federal health insurance program subjected to potential expirations, funding shortfalls, required offsets just to maintain the status quo, and potential "hostage-taking." Child advocates argue that it is only fair that CHIP and the health coverage of 10 million children be treated the same as that for the millions of people receiving health care from Medicare, Medicaid, the Veterans Administration, TRICARE, or the Federal Employees Health Benefits Program (FEHBP).
- » **States have almost two decades of bipartisan success with CHIP:** CHIP is a federal-state partnership designed to give governors broad flexibility in administering their programs. The federal government provides enhanced matching payments to states to operate their CHIP programs. On average, the federal government picks up 70 percent of program costs. In order to participate in CHIP, states must meet minimum benefit requirements. CHIP's unique structure has helped states manage the costs of uncompensated care while reducing the number of uninsured kids and improving health outcomes. CHIP has been a success story for states and children alike.

The Bipartisan Budget Act of 2018 and the Finkenauer-Buchanan Legislation

The Bipartisan Budget Act of 2018 made the following changes to CHIP and CHIP-related provisions:

- » **Reauthorization of and Extension of CHIP Funding and the CHIP Enrollment Contingency Fund Through FY 2027**
- » **Reduction in the Enhanced Federal Matching Rate:** A reduction in the 23 percentage point increase or bump in the federal matching rate to states that had been included in the Affordable Care Act for CHIP to the regular CHIP matching rate. The "23 percentage point bump" is reduced by half, or by 11.5 percentage points, in FY 2020 and is ended in FY 2021.
- » **Extension of Express Lane Eligibility:** An extension of Express Lane Eligibility authority for states to continue to use data from other agencies to help streamline and simplify eligibility determinations, enrollment, and renewals through FY 2027.²⁹
- » **Extension of the Maintenance of Effort (MOE):** An extension of the MOE requirements to maintain coverage of children through FY 2027 with an adjustment beginning in FY 2019 whereby the MOE would apply only to children in families with income below 300 percent of the federal poverty level (FPL).
- » **Extension of Outreach and Enrollment Grants:** An extension of \$12 million in annual funding for outreach and enrollment grants³⁰ through FY 2027 with additional language that adds parent mentors as eligible for such funding and that any income or stipend that a parent were to receive through this grant would not be considered in Medicaid eligibility determinations.

- » **Extension of the Pediatric Quality Standards:** \$15 million in annual funding provided through FY 2027 to carry out specified pediatric quality measurement activities, including maintenance of a pediatric core quality measure set, identification of measure gaps, and the development of pediatric measures.
- » **Extension of the Qualifying States Option:** 11 states had expanded Medicaid eligibility for children prior to the enactment of CHIP in 1997 but enhanced matching dollars were initially only eligible to those states that expanded coverage prior to the enactment of CHIP and were explicitly grandfathered in by the original bill.

As a result of legislation introduced by Sen. Jeff Bingaman (D-NM) and included in the State Children's Health Insurance Program Allotments Extension Act (P.L. 108-74) and Technical Corrections with Respect to the Definition of Qualifying States (P.L. 108-127), the states of Connecticut, Hawaii, Maryland, Minnesota, New Hampshire, New Mexico, Rhode Island, Tennessee, Vermont, Washington, and Wisconsin were also allowed to receive the CHIP enhanced federal medical assistance percentage (FMAP) for the cost of Medicaid-covered children in families with income above 133 percent of the federal poverty level (FPL). The qualifying states option was extended through FY 2027.

The bipartisan legislation (H.R. 6151) by Reps. Finkenauer and Buchanan would permanently authorize CHIP, the Express Lane Eligibility option, the MOE, outreach and enrollment grants, pediatric quality standards, and the qualifying states option so that children and families, health care providers, and states would no longer have to worry about threats to the health coverage of the 10 million children served by CHIP.

ENDNOTES

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