



## Department of Justice, Peace and Human Development

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January 14, 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.

We strongly support significant increased funding to provide health care coverage to millions more low-income children, reducing the number of uninsured children by nearly half. The legislation should maintain and expand coverage, reduce enrollment barriers, and expand outreach.

We are convinced the bill should also be improved in ways that will strengthen and increase support for SCHIP. In 2002, the Department of Health and Human Services improved SCHIP by allowing states to interpret the word "child" in the statute to include the period from conception to birth. Thirteen states (AR, CA, IL, LA, MA, MI, MN, OK, RI, TN, TX, WA, WI) have already chosen to provide health care to pregnant women and their unborn children under this regulatory option (Congressional Research Service, *Revised Memorandum on Estimates of SCHIP Child and Adult Enrolees*, 5/30/08).

It would be important and very helpful if the renewal of SCHIP were improved by codifying this option in health care for the pregnant mother and her child in the womb. This move would allow states to retain choice and flexibility in how best to provide essential health services to pregnant women and children. Access to prenatal care will allow more children to be born in good health, without a need for more extensive and expensive medical intervention. States will be able to choose improved coverage for unborn children and their mothers, without being required to expand state funding for abortions which would be especially tragic in a program dedicated to the lives and health of children. We will work throughout the legislative process to urge the addition of this crucial and necessary provision. We also support efforts at state and federal levels to insure that the state SCHIP plans do not promote or fund abortion or ignore parental rights to secure needed health care for their children in ways that do not violate their moral or religious convictions. This is an issue of equity as well as human life and freedom of conscience.

We also support coverage for legal immigrant children and legal immigrant pregnant women by allowing states to cover children regardless of their date of entry into the country. During the immigration debate we heard much about how legal immigrants came "the right way" and enrich and contribute to our economy and society. Restoration of health coverage access to legal

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immigrants is the right thing to do, and has been supported by members of Congress from both parties.

Catholic teaching affirms the sanctity of human life from conception to natural death and the inherent dignity of every human being. We insist that access to adequate health care is a basic human right, necessary for the development and maintenance of life and for the ability of human beings to realize the fullness of their dignity. A just society protects and promotes fundamental human rights and dignity, with special attention to the basic needs of children and the vulnerable, including the need for safe and affordable health care. Our laws and programs should not arbitrarily exclude a whole sector of children, namely the unborn and their mothers.

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,

A handwritten signature in black ink, appearing to read "W. F. Murphy". The signature is written in a cursive style with a small cross at the beginning.

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. Thirteen 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, RI, TN, TX, WA, WI.

\* Based on ten years of experience with SCHIP, Congress approved a bill (H.R. 976) to amend and reauthorize this important program for the next 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 12 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.