

# **LBA Performance Audit Report Summary:**

Medicaid, Home Care for Children with Severe Disabilities Audit Report – April 2004

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This performance audit was conducted to determine whether (1) New Hampshire's Home Care For Children With Severe Disabilities (HC-CSD) enrollment and eligibility requirements comply with federal laws and regulations; and (2) current HC-CSD administrative rules meet the Legislative intent of State statutes.

The Medicaid program was amended with the enactment of section 134 of the Tax Equity and Fiscal Responsibility Act of 1982, also known as the Katie Beckett provision, which gives states the option of making Medicaid coverage available to children who qualify as disabled for Supplemental Security Income (SSI) under certain conditions. The Katie Beckett provision gives states the option to determine as eligible for Medicaid disabled children who are 18 years old and younger, and who live at home but would be eligible for Medicaid if living in an institution. If a state chooses this option, only the child's income and resources are counted when determining Medicaid eligibility. The Katie Beckett provision bestows the same Medicaid services as it does to any other eligible Medicaid recipient.

In New Hampshire, RSA 167:3-c, VI directs the Department of Health and Human Services (DHHS) commissioner to adopt administrative rules establishing an optional state coverage group to provide medical assistance for children under 18 years of age who are severely disabled. As a result, the DHHS created the HC-CSD Medicaid eligibility optional coverage group, which was implemented in 1989. Our audit work determined the intent of RSA 167:3-c, VI was to provide medical assistance coverage to severely disabled children under the age of 18. It is clear from State statute and Legislative history the Legislature intended the DHHS commissioner to adopt administrative rules to effectuate medical assistance coverage for severely disabled children under the Medicaid State plan. The statute provides the commissioner broad discretion to adopt rules enabling the State to provide Medicaid to children with severe disabilities, but does not include critical definitions such as what constitutes a severely disabled child.

Our report presents seven observations with recommendations. The first observation concerns the department's inability to report the number of children enrolled in HC-CSD and their associated costs in a timely, accurate, and reliable format. Four observations address federal compliance issues, while two observations address State compliance issues.

## **Observations**

### Improve Accuracy and Reliability of HC-CSD Information

The DHHS was unable to provide reliable reports for the HC-CSD eligibility option. Although DHHS provided some figures purporting the number of children found eligible through HC-CSD and related expenses, we were not confident the numbers were accurate.

### Compliance With Federal Laws And Regulations

We found some administrative rules promulgated by the department do not comply with various requirements of federal statutes and regulations. State administrative rules do not comply with federal requirements in the areas of cost effectiveness, living arrangements, and the use of disability standards. We also found State law does not comply with federal requirements to provide Medicaid services to severely disabled children 18 years old or younger.

### Compliance With State Laws And Regulations

We found most HC-CSD administrative rules expired in 2002. As a result DHHS has been making eligibility determinations without rules required by RSA 167:3-c, VI and RSA 541-A. We also found several incorrect references cited in HC-CSD administrative rules, making it difficult to understand the requirements a child must meet to be found Medicaid eligible through HC-CSD.