



## Bush-era Medicaid Policies on Children's Mental Health Continue, Despite Obama's Rollback



**SUMMARY:** Under President George W. Bush, the Centers for Medicare and Medicaid Services (CMS) restricted states' ability to cover several Medicaid mental health services used heavily by foster children. Despite President Obama's withdrawal of the Bush policies upon taking office, their implementation has continued into his term, due to a combination of incomplete reversals of Bush policy by CMS and ongoing state momentum in implementing the outdated policies. As a result, nonprofit Medicaid providers are facing restrictions that threaten their ability to provide vital health services to children most in need. Additional congressional action may be required to firmly establish states' prerogative to cover and bill for therapeutic services in the manner of their choice.

### KEY FINDINGS:

- **States Continue "Unbundling" Therapeutic Services.** In response to actual or anticipated guidance from CMS, many states have continued the Bush-era policy of unbundling payments for therapeutic treatment programs. These programs for foster children typically provide a wide range of medical treatments and other supports that are "bundled" into a single package and paid for by states on a daily per-child basis, using funds drawn from Medicaid and other public assistance programs. "Unbundling" is a Bush-era policy in which the Medicaid treatment portions of these programs were removed from the comprehensive package and broken down into discrete services, often billable in 15-minute intervals rather than the previous daily rate. Unbundling had the effect of eliminating Medicaid reimbursement for crucial health services needed by foster children. Twelve of the nineteen states interviewed for this study reported they had unbundled payments or were in the process of doing so. The continuation of this policy has resulted in funding cuts to therapeutic and rehabilitative services and closures of TFC and residential programs providing children's mental health services.
- **States Continue Reducing or Eliminating Therapeutic Foster Care and Other Therapeutic Services.** Often in conjunction with unbundling, states have continued with the Bush-era policy of restricting therapeutic foster care (TFC) by eliminating the Medicaid treatment portions of their child welfare programs. At least six of the states interviewed had removed therapeutic treatment services from the scope of their TFC or residential programs; nearly all states expressed concern that TFC programs could be cut or eliminated if CMS continues implementing the Bush-era policies. In states where the changes have already been put into effect, they have resulted in closures of TFC and residential programs providing children's mental health services, decreased integration of care for children in the child welfare system, poorer health outcomes for children, and increases in community violence.
- **Tens of Thousands of Children Nationwide Risk Losing Access to Services.** The Foster Family-based Treatment Association estimates that 50,000 children per year are served in therapeutic foster care. Thousands of additional children are served in therapeutic residential treatment programs. Given the evidence of service reductions and poorer health outcomes for children in states where unbundling has already been implemented, the Alliance for Children and Families estimates that tens of thousands of additional children could be affected if implementation of the Bush policies continues.

### RECOMMENDATIONS:

- CMS should consider issuing written guidance to states confirming that the Bush policies will be reversed and that therapeutic foster care may be covered by Medicaid.
- Congress should consider amending federal Medicaid law, through health reform, to explicitly include TFC as an allowable service under the rehabilitative option.
- Congress should consider passing the Medicaid Services Restoration Act (S. 1217). This bill creates a new category of medical assistance under Medicaid for TFC and allows states to select their own "reasonable" payment methodologies, including daily bundled rates, for rehabilitative and TCM services.

For more information, contact Rebecca Farley, Policy Analyst, at [rfarley@alliance1.org](mailto:rfarley@alliance1.org) or (202) 429-0400x19. A copy of the report is available at [http://www.alliance1.org/Public\\_Policy/Health/Bush\\_era.pdf](http://www.alliance1.org/Public_Policy/Health/Bush_era.pdf)