BE IT RESOLVED, That the American Bar Association supports the expansion of the Medicaid program to provide coverage for all children and all pregnant women with family incomes less than 200 percent of the federal poverty level.
THE PROBLEM AND THE NEED

In large part because of a rising tide of uninsuredness, particularly for dependent children and spouses in poor and near-poor families with working parents, maternal and child health trends in the U.S. are worsening:

- On key indicators such as rates of infant mortality, prenatal care utilization, and low-birthweight births, U.S. progress throughout the 1980s has been nonexistent or considerably slower than our rate of progress in the 1970s. For example, the tiny decline in infant mortality from 1984 to 1986 was the smallest for any two-year period since 1963-1965.

- The trends are even worse for black children. The U.S. black-white infant mortality "gap" of 2.02-to-1 in 1986 was the widest recorded disparity since reporting of these data by race began in 1940. The gap is a result of preventable cause of death. Urban black infant mortality rates are such that a black infant born in Indianapolis was more likely to die in the first year of life in 1986 than an infant born in North or South Korea.

- The slowdown in improvement in maternal and child health has left the U.S. lagging the industrial world. The overall U.S. infant mortality rate in 1986 placed it eighteenth worldwide, behind such nations as Spain, Singapore, and Hong Kong.

Much of the erosion in the health status of children and pregnant women can be attributed to the growing numbers of uninsured Americans -- now approaching 40 million, most of them from working families. The Medicaid program has undergone some modest expansion in the last five years and will soon cover all pregnant women and infants up to age 1 with family income below the federal poverty level (i.e., by July 1, 1990). In addition, states may elect to extend coverage to pregnant women and infants with family incomes up to 185% of the Federal poverty level--and ten states have already elected to do so. However, the rate of loss of private insurance has far outstripped the expansion of public insurance, making "near poor" assistance, where needed, as critical as coverage of pregnant women and infants below official poverty lines (now at $8,020 for family units of two, $10,060 for families of three, and $12,100 for families of four).

From 1980 to 1986, the proportion of medium-sized and large firms paying the full cost of the annual premium for employees' family health care coverage dropped by one-third. The Congressional Research Service
reports that virtually all of the growth in the number of uninsured Americans since 1980 is the result of declining employer-based coverage of dependents of working parents.

Nearly 12 million—one out of every five—children were completely uninsured in 1986. Among poor children, 32.4 percent had no health insurance of any type. Even among the near-poor (children in families with incomes between 100 and 200 percent of the federal poverty level), 28.7 percent were uninsured. Working is not a defense against being uninsured. More poor children in working families than in nonworking families lacked health coverage because Medicaid has failed to fill the gaps, hence the great importance of reaching the former through the "200% of Federal poverty level" standard.

In 1985, one out of four American women of childbearing age had either no insurance or insurance with no maternity care coverage.

Lack of insurance often means lack of access to health care:

- Uninsured women are about three times as likely to receive delayed prenatal care as women with private health insurance.
- In 1986, a smaller percentage of mothers received early prenatal care than in 1980.
- A smaller proportion of children were properly immunized in 1985 than in 1980.
- Low-income children are more than three times as likely as other children never to have received a preventive health exam.
- Many of the modest health objectives established as goals for the nation in 1990 by the U.S. Surgeon General in 1979 will not be met. Indeed, based on the recent trends, several of the infant mortality, prenatal care, low birthweight births, and immunization objectives will not be met for decades or even a century after 1990, unless the pace of progress is improved.

Our nation needs healthy children to keep strong and to compete in the world marketplace. Our society is aging rapidly and is increasingly dependent on high productivity from future generations to meet its economic needs and shoulder its public responsibilities. A national investment in health care for children and pregnant women will save our society money. The question is not whether the nation can afford such reforms but whether the nation can afford not to enact them. The first-year costs alone of caring for low-birthweight infants whose condition could have been prevented if the nation had met the Surgeon General's 1990 low-birthweight objective will exceed $6 billion by the year 2000. The cost of
lifetimes of treatment and lost earnings for disabled children whose conditions could have been prevented dwarf the cost of Medicaid expansion for initiatives such as that proposed in this recommendation.

- Children who receive ongoing preventive pediatric care through programs such as Medicaid have fewer health problems than those who do not and have annual health care costs nearly 10 percent less than children who do not receive preventive care.

- Each $1 spent to immunize a child can save more than $10 by reducing preventable childhood illness and disability.

- Children born to women who do not receive prenatal care are three times more likely to die in infancy than if the mother receives comprehensive care. Babies whose mothers receive inadequate care also are at greater risk of being born at low birthweight, with increases in likelihood of such permanent lifelong disabilities as cerebral palsy, retardation, autism, and vision and learning disabilities.

PAST ASSOCIATION POLICY ACTION

In February 1984, the Association adopted a resolution urging all members of the legal profession to respond to the needs of children; the issues then presented for action specifically included the implementation of statutory and programmatic resources to meet the health and welfare needs of children (Approved, House of Delegates; February 1984). The report accompanying the resolution noted the fact that children are often without many of the basic necessities of life, such as adequate food, shelter, and medical care.

The recommendation presented here is precisely the type of initiative encouraged by the 1984 resolution. Now, 5 years later it will not fall on deaf ears. The Omnibus Budget Reconciliation Act of 1989 took a giant step forward when it provided for mandatory Medicaid coverage up to 133% of poverty levels for pregnant women and children up to age 6 commencing in Spring of 1990. Legislation contemplating further movement to the 200% levels of this recommendation was introduced in the last session of the 101st Congress (with 60 House sponsors) and will undoubtedly be reintroduced in the coming second session of the 101st Congress.

The expansion of the Medicaid program to assure coverage for children and pregnant women with family incomes of less than 200% of the federal poverty level addresses the fundamental right of children to be born healthy and have access to medical care at the most formative stages of their lives and the responsibility of the nation to maximize the basic health and fitness of future generations to meet the social and economic challenges that lie ahead.
Respectfully submitted,

MICHAEL E. BARBER,  
Chairperson  
Section of Family Law

RICHARD K. DONAHUE,  
Chairperson  
Section of Individual Rights and Responsibilities

WALTER H. WHITE  
Chairperson  
Young Lawyers Division

February 1990
1. **Summary of Recommendation**

Resolves that the American Bar Association urge the expansion of medical and health assistance benefits under the Medicaid program to provide coverage for all children and all pregnant women with family incomes less than 200% of federal poverty levels.

2. **Approval by Submitting Entity**

This recommendation was approved by the Council of the Section of Individual Rights and Responsibilities at its Spring meeting in Washington, D.C. in May, 1989 and was subsequently approved by the Council of the Family Law Section in August of 1989 and the Executive Council of the Young Lawyers Division in October of 1989.

3. **Previous submission to the House or relevant Association position.**

The Association has a strong role as an advocate for the needs of children and in 1984 approved a resolution urging "implementation of statutory and programmatic resources to meet the health and welfare needs of children." By adopting a resolution which specifically reaches out to poor and "near poor" children whose futures are most threatened by a lack of access to health care, the Association is continuing to strengthen that tradition.

4. **Need for Action at this Meeting.**

Early action is desirable so that the Association will be able to speak out on and endorse several anticipated legislative proposals for expansion of Medicaid coverage in the directions indicated by the recommendation.
5. Status of Legislation

Federal legislation to provide mandatory phased-in Medicaid coverage up to 200% of poverty levels for pregnant women and infants was introduced in the 101st Congress with more than 60 sponsors (H.R. 1573). Other legislation was included in the omnibus budget reconciliation bill approved in November 1989, which expanded Medicaid eligibility to 133% of poverty levels for pregnant women and children up to age 6, effective April, 1990. It is anticipated that legislation providing for coverage up to the 200% level (and similar forms of expansion beyond presently authorized family income coverage levels) will be re-introduced in the second session of the 101st Congress.


None.

7. Disclosure of Interest. (If Applicable)

N/A

8. Referrals.

A copy of this recommendation and report was mailed to the chairs and staff liaisons of all ABA Sections and Divisions on December 15, 1989.

9. Contact Person. (Prior to Meeting)

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10. Contact Person. (Who will present the report to the House)

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