

# Health Law PA News

Newsletters of the Pennsylvania Health Law Project

Harrisburg Philadelphia Pittsburgh

Statewide Help Line: 1-800-274-3258 / TTY: 1-866-236-6310

On the Internet: [www.phlp.org](http://www.phlp.org)

Volume 13, Number 5

September 2010

## New Charity Care Rules In Effect

*Pennsylvania's hospital charity care policies were recently made much more consumer-friendly by (i) a new state policy bulletin and (ii) certain provisions of the Affordable Care Act, the federal health care reform legislation enacted earlier this year. Hospital charity care includes free and discounted health care and services.*

### State Policy Bulletin on Charity Care

On August 30, 2010, the Department of Public Welfare (DPW) published a policy bulletin that clarifies how hospitals must operate their charity care policies in order to receive partial state reimbursement. See [Medical Assistance Bulletin 01-10-24](#). Each year, Pennsylvania distributes tens of millions of dollars in tobacco settlement monies to hospitals in exchange for the provision of uncompensated care.

The new policy bulletin establishes strong charity care standards by clarifying: (i) what hospitals have to do to publicize their charity care plans; (ii) what information hospitals can and cannot use in determining eligibility; and (iii) how hospitals have to assist patients in applying for public insurance and charity care.

Under the new charity care bulletin, Pennsylvania hospitals enrolled in the Medical Assistance (MA) program must now do the following:

- Post notices, in plain language, about the availability of charity care in multiple places in the hospital, on discharge paperwork and bills, and on their websites;
- Provide detailed information about charity care to patients upon request;
- Make eligibility decisions using only the information collected in the bulletin's model application (or less);
- Make eligibility decisions without considering available credit, credit score, or non-liquid assets, such as a person's house, vehicle, and retirement accounts;
- Help patients apply for Medical Assistance and have the appropriate doctor's forms completed;
- Help patients apply for charity care; and
- Refrain from pursuing collections on unpaid bills until after helping patients apply for MA and charity care.

This new policy bulletin will en-

*(Continued on Page 2)*

### INSIDE THIS EDITION

PA Fair Care Still Has Open Spots	2
KMPH Enrollment Suspension Lifted!	3
Gateway Withdraws From Most Voluntary Managed Care Counties	3
Federal Health Care Reform: New Insurance Reforms (With Chart)	4
PHLP Hosts HCR Forum: What's In It For Kids?	6
Medicare 2011 Plans Announced	6
UPDATE: PA's Health Care Reform Implementation Advisory Committee	7

sure that patients know that charity care is available, curb hospital abuses, and make the charity care application process more transparent and standardized. The bulletin is the result of nearly three years of advocacy by Pennsylvania Health Law Project, Community Legal Services, Philadelphia Unemployment Project, and PA ACORN. This advocacy was generously supported by Community Catalyst.

Patients and consumer advocates who find a hospital that is not complying with these rules are encouraged to report this to DPW's Bureau of Program Integrity at 1-866-DPW-TIPS. Individuals with charity care problems can also call PHLP's Helpline at 1-800-274-3258.

### **Hospital Requirements under the Affordable Care Act**

The recently enacted federal health care reform legislation also placed a number of new requirements on non-profit hospitals, including new rules that relate to charity care. In exchange for tax-exempt status, the Affordable Care Act requires that non-profit hospitals develop a written charity care policy. This charity care policy should include, at a minimum:

- whether the hospital provides free or discounted care;
- the eligibility criteria for assistance;
- the basis for calculating the amounts charged to patients;
- information on how to apply for assistance;
- steps the hospital might take if a bill is not paid; and
- measures to widely publicize the charity care policy.

The Affordable Care Act (ACA) also places certain other requirements on non-profit hospitals. First, hospitals must limit what they charge patients who qualify for a hospital's charity care policy to the amounts generally billed insured patients. Second, hospitals are prevented from engaging in "extraordinary collection actions" until

they have made a reasonable effort to determine whether or not a patient is eligible for charity care. Lastly, non-profit hospitals have to conduct a community health needs assessment every three years. The federal Internal Revenue Service is charged with ensuring that non-profit hospitals comply with these conditions of 501(c)(3) status.

Neither the state policy bulletin nor the requirements imposed by the Affordable Care Act require hospitals to set specific eligibility levels for charity care (e.g., an income limit of 200% FPL). Nonetheless, each set of standards strengthens charity care as a safety net resource available to

## **PA Fair Care Still Has Open Slots**

**The Pennsylvania Insurance Department reports that it has approved 1700 applications for October 1<sup>st</sup> enrollment in PA Fair Care, and that it is still enrolling eligible individuals.** PA Fair Care is the health insurance program for uninsured adults with pre-existing conditions. It is operated by the state and funded by the Affordable Care Act, the federal health care reform legislation enacted earlier this year. The program has a monthly premium of \$283.20 per month and has certain co-pays and co-insurance. To qualify for PA Fair Care, an individual must (i) have been uninsured for at least six months, (ii) have a qualifying pre-existing condition, and (iii) be a citizen or national of the United States, or lawfully present in the United States.

As we discussed in the July issue of *Health Law PA News*, funding is limited for PA Fair Care and the state will initially limit enrollment to 3500 individuals and later expand to approximately 5600 individuals. Applicants are enrolled on a first-come, first-served basis.

For more information or to apply, visit [www.PAFairCare.com](http://www.PAFairCare.com) or call 1-888-767-7015.

## **Keystone Mercy Health Plan Enrollment Suspension Lifted as of October 1<sup>st</sup>!**

Effective October 1, 2010, Medical Assistance (MA) consumers in Southeast PA can once again choose to enroll in Keystone Mercy Health Plan (KMHP). As we reported in our January newsletter, the Department of Public Welfare (DPW) suspended new enrollments into KMHP for a six-month period, beginning April 1<sup>st</sup>. DPW supported the suspension citing a need to allow new MA Managed Care Organizations in Southeast PA to build membership and to more evenly distribute the HealthChoices membership since KMHP had disproportionately higher enrollment compared to other plans in the area.

The end of the enrollment suspension means new MA enrollees and current MA recipients in other plans can now choose to enroll in KMHP. Consumers who enrolled in KMHP prior to October 15, 2010 will have an effective date of November 1, 2010.

If you have any questions about your health plan choices, contact PA Enrollment Services at 1-800-440-3989. Please contact PHLP's Helpline at 1-800-274-3258 if you have any problems enrolling in KMHP after October 1<sup>st</sup>.

## **Gateway Withdrawing from Most Voluntary Managed Care Counties**

Gateway Health Plan terminated its plan in all Voluntary Managed Care counties except for Blair and Erie Counties effective 9/30/2010. All 14,500 affected individuals were notified of this plan termination in July and told about their options for ongoing coverage ([1] picking another voluntary managed care plan where available or [2] enrolling in ACCESS Plus). Any Gateway member who failed to act was enrolled with ACCESS Plus as of October 1<sup>st</sup>.

Gateway continues to operate a mandatory managed care plan in the HealthChoices Southwest and Lehigh-Capital regions as well as a voluntary plan in Blair and Erie Counties as mentioned above.

Individuals who were impacted by the Gateway termination and who are having trouble accessing health care services are encouraged to call PHLP's Helpline at 1-800-274-3258.

**Please support PHLP by making a donation through the United Way of Southeastern PA. Go to [www.uwsepa.org](http://www.uwsepa.org) and select donor Choice number 10277.**

# Federal Health Care Reform: New Commercial Insurance Reforms

September 23, 2010 marked the six month anniversary of the federal Patient Protection and Affordable Care Act (PPACA). A number of important patient rules became effective on that date and provide added protections and options for individuals, children and families.

Some of the provisions apply to all group plans (plans offered through an employer) and others take effect when someone signs up for a new plan either through their employer or as an individual purchaser. One important note: group or individual health plans that were in place on March 23, 2010 are not required to adopt all of the provisions listed below. These are referred to as “grandfathered” plans.

Provision	Federal Requirement	Applies to grandfathered group plans?	Applies to grandfathered individual plans?
Guaranteed coverage for children under 19	Health plans cannot deny coverage or benefits to children under 19 because they have a pre-existing health condition. Insurers can charge a higher premium. Child-only plans on the individual market can establish an open enrollment period.	Yes	No
Dependents under 26 can be covered under a parent's plan	Requires plans that cover dependents to extend coverage to age 26 beginning with the next plan year after September 23, 2010. (This means the option may not begin until the next open enrollment period.)  Dependents must not be able to obtain coverage through their own employment. Plans must notify subscribers of the option, provide an open enrollment period, cannot charge more for the older dependents than for other dependents. Plans can raise the overall premium for family coverage and establish premium tiers (self, self plus one, family coverage).	Yes	Yes
Preventive care without cost-sharing	Requires new health plans to cover a recommended list of preventive services, including the Bright Futures schedule for well-child visits, with no co-payments or other cost sharing when the care is obtained in-network.  Cost and benefit levels for follow up care are not guaranteed.	No	No

Provision	Federal Requirement	Applies to grand-fathered group plans?	Applies to grand-fathered individual plans?
No lifetime benefit limits	Health plans cannot impose a lifetime dollar limit on essential benefits.  “Essential benefits” should be defined in a way consistent with the health reform bill. Plans can impose non-monetary limits (such as the number of doctor visits).	Yes	Yes
Restrictions on annual benefit limits	Imposes new restrictions on annual limits on essential benefits (see above). Starting in September of 2010, plans cannot impose an annual limit that is less than \$750,000. In 2011, less than \$1.25 million In 2012 and 2013, less than \$2 million By 2014, plans cannot impose any annual limit.	Yes	No
Choice of provider	Allows a woman to go directly to her OB/GYN without a referral. Allows enrollees to choose their own and their child’s primary care provider from the network of participating doctors and pediatricians.	No	No
No prior authorization for emergency services	Eliminates prior authorization requirements for plans that cover emergency services, even when someone goes out-of-network. Plans cannot charge more for out-of-network emergency care than they would for in-network emergency care.	No	No
Right to internal and external appeals	Requires plans to establish first level, internal appeals and second level, external appeals administered by an independent third party.	No	No
Prohibits rescission of policies	Stops health plans from rescinding (or retroactively canceling) coverage unless the enrollee intentionally committed fraud or misled the insurer.	Yes	Yes

Adapted from *September 23 Health Care Reforms: Making Insurance Work for Children and Families*, Dawn C. Horner and Sabrina Corlette, Georgetown University Health Policy Institute.

## PHLP Hosts Meeting on Health Care Reform: What's In It for Kids?

On September 23, PHLP hosted a meeting for children's advocates, health insurers, state agencies and offices, rural health advocates, physical and behavioral health care providers, child welfare and early childhood program staff to discuss the impact of federal health care reform on Pennsylvania's children and their families. Shelby Gonzales from the Center on Budget and Policy Priorities provided an overview of the Patient Protection and Affordable Care Act, with specific attention to the sections affecting children and their families. Ann Torregrossa, the Director of the Governor's Office of Health Care Reform, provided information on Pennsylvania's implementation plans and current activities.

The meeting focused on the importance of children's health and the need to promote the specific needs of children in the implementation of federal reform. Examples included:

- Children's preventive care visits and immunizations are remarkably different from adult preventive care;
- In certain income groups, children's coverage may be separated from parent coverage;
- Children's behavioral health services are often delivered through family therapy;
- Children in out-of-home placement or in the juvenile justice system will have very specific needs and transition requirements.

The group discussed the opportunities and challenges ahead, particularly the transition in gubernatorial administrations. PHLP will continue to convene those interested in these issues through conference calls and face-to-face meetings. For more information contact Ann Bacharach, Special Projects Director, [abacharach@phlp.org](mailto:abacharach@phlp.org), 215-625-3596 x 101.

## Medicare 2011 Plans Announced

Medicare has announced the 2011 Prescription Drug Plans (PDPs) and Medicare Advantage Plans (including Special Needs Plans for dual eligibles). In 2011, there will be 38 PDPs available, fewer than the 52 currently available in 2010. 12 PDPs will be zero-premium for individuals with the full low-income subsidy (there are currently 10 zero-premium plans). PHLP will soon have the 2011 zero-premium plan list available on our website ([www.phlp.org](http://www.phlp.org)). There are also changes to Medicare Advantage Plans and Special Needs Plans for dual eligibles available in each county.

**All Medicare beneficiaries need to pay attention** to the information they receive from their current plan to understand whether their plan will continue to operate next year and whether there are any changes to the plan's costs and coverage. All Medicare Plans (including Prescription Drug Plans) are required to send 2011 plan information to current members by October 31<sup>st</sup>. Individuals can compare 2011 plan options using [www.medicare.gov](http://www.medicare.gov) starting October 15, 2011. The Medicare & You 2011 Handbook, which lists all the Part D Plans available in Pennsylvania, will be mailed to all beneficiaries in early November. The Medicare Annual Open Enrollment Period begins November 15, 2010 and ends December 31, 2011. Individuals who need assistance with 2011 plan options can contact APPRISE at 1-800-783-7067. Individuals who have both Medicare and Medical Assistance who need help can contact PHLP's Helpline at 1-800-274-3258.

**Do you currently get the Health Law PA News through the mail? Would you like to get these newsletters by e-mail?**

**If so, contact [staff@phlp.org](mailto:staff@phlp.org) to change the way you get your PHLP newsletters!**

## UPDATE: PA's Health Care Reform Implementation and Advisory Committees

As announced in an earlier newsletter, through an Executive Order Governor Rendell created two state groups to implement federal health care reforms: a Health Care Reform Implementation Committee (Implementation Committee) of cabinet-level officials from health and human services agencies and a Health Care Reform Advisory Committee (Advisory Committee), comprised of the same officials as well as stakeholder representatives and experts. The Advisory Committee also includes members of the legislature from both the Republican and Democratic parties.

Since June, the Advisory Committee has met monthly to review and comment on the health care reform strategic plan developed by the Implementation Committee, identify best practice models, and provide input to the Implementation Committee on the issues it is examining. In September, the Advisory Committee created three subcommittees, each charged with identifying and developing guiding principles in three areas: enrollment and access, exchange, and other critical issues. These subcommittees will report on the principles they established at the November Advisory Committee meeting.

*The Advisory Committee's meetings are open to the public. The next meeting is October 15<sup>th</sup> from 2 pm until 4 pm. All three subcommittees will meet earlier that day. Additional Advisory Committee meetings are scheduled for November 10<sup>th</sup> and December 15<sup>th</sup> from 10 am until noon. All meetings will be held in the Board Room of the Pennsylvania Housing and Finance Authority, 211 North Front Street, Harrisburg, PA 17101-1406.*

## Medicare Improves Coverage of Prevention and Wellness

As of 1/1/2011, Medicare recipients will have no out-of-pocket costs for most Medicare-covered preventive services and for smoking cessation counseling services. Currently, individuals have to pay Part B cost-sharing (including the deductible and 20% coinsurance) for these services. Also starting January 1<sup>st</sup>, Medicare will cover an annual wellness visit at no cost.

Please see our upcoming October Senior Health News for more information about the changes to Medicare's coverage of preventive services. E-mail [staff@phlp.org](mailto:staff@phlp.org) to be added to the Senior Health News mailing list or access the newsletter on our website at [www.phlp.org](http://www.phlp.org).

# Upcoming PHLP Trainings on Medicare 2011

January 2011 brings Part D changes as well as changes to the Medicare program as a result of Health Care Reform. Come to a training to learn about these topics and others: ***Part D costs and options in 2011, Changes to Medicare's coverage of preventive services, and Changes to Medicare enrollment periods.***

<p><b><u>October 28, 2010-9:30-11:30am</u></b> Butler County Library Meeting Room-Lower Level 218 N. McKean St. Butler, PA 16001</p>	<p><b><u>November 2, 2010-1:30-3:30pm</u></b> Allegheny General Hospital, Magovern Conference Center-Snyder Auditorium 320 East North Ave. Pittsburgh, PA 15212</p>
<p><b><u>November 4, 2010 9:30-11:30</u></b> Westmoreland County Area Agency on Aging 200 S. Main Street Greensburg, PA 15601</p>	<p><b><u>November 9, 2010-9:30-11:30am</u></b> Philadelphia Bar Association 1101 Market Street, 11th Floor Philadelphia, PA 19107</p>

Contact PHLP's HELPLINE at 1-800-274-3258 or e-mail [staff@phlp.org](mailto:staff@phlp.org) to RSVP.

## Pennsylvania Health Law Project

The Corn Exchange  
123 Chestnut St., Suite 400  
Philadelphia, PA 19106