

# Health Law PA News

Newsletter of the Pennsylvania Health Law Project

Harrisburg Philadelphia Pittsburgh

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

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## Rendell Proposes Health Reform for FY 2007-08 Budget

The federal government has cut funding to state Medicaid programs and the Bush Administration is proposing further cuts next year. States are responding by raising revenues, cutting services, reducing payments to providers, or cutting eligibility rolls. Governor Rendell has proposed a wholesale overhaul to the healthcare system in his FY 2007-08 budget proposal which holds the line against cuts to eligibility and services for the poor and would extend health insurance to adults who don't currently qualify. A common theme in the budget proposal is reallocation of resources. This can be seen in proposals to rebalance the long term living and other systems by shifting dollars from institutional to community based settings. And, it can be seen in the Prescription for

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### State Proposes Termination of Voluntary HealthChoices

As part of the proposed budget, the Pennsylvania Department of Public Welfare included a plan to end the HMO option for physical health in the 26 counties that have both Access Plus and managed care plans. All of the consumers with a physical health managed care organization in those counties would be transitioned into Access Plus. This would not be a reduction or change in MA benefits or eligibility, only a change in how consumers access their benefits. This would affect about 70,000 consumers. The current proposed start date is July 2007.

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## Cover All Kids Takes Effect on March 1, 2007

On March 1, 2007, Pennsylvania expanded its CHIP program to make health insurance available to virtually all children who are citizens or in a qualified immigrant status. CHIP provides free or low-cost comprehensive health insurance through private insurance companies to children under age 19 whose families have low-income but do not qualify for Medical Assistance. The initiative is called Cover All Kids.

### Here's how it works:

- Children in families under 200% of the Federal Poverty Limits (about \$41,300 for a family of 4) will qualify for CHIP with no monthly premiums. These children will also have no copays for services.
- Children in families from 200% to 300% of the Federal Poverty Limits (about \$41,300 to \$61,950 for a family of 4) will qualify for CHIP with a monthly premium from \$38 to \$60 per month. These children will have reduced-cost copays (such as \$6 for a generic medication and \$10 for a specialist visit).
- Children in families over 300% of the Federal Poverty Limits (about \$61,950 for a family of 4) will still qualify for CHIP for a monthly premium of \$150, if they do not have other coverage which is affordable and available. These children will have copays (such as \$10 for a generic medication and \$25 for a specialist visit).

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## Peer Support Services and Mobile Mental Health Treatment Finally Approved by CMS!

OMHSAS Deputy Secretary Joan Erney was pleased to announce good news to members of the Consumer Subcommittee in February and to members of the OMHSAS Advisory Committee on March 1<sup>st</sup>. The Good News: On February 21<sup>st</sup>, OMHSAS received word that Peer Support Services and Mobile Mental Health Treatment were approved by the Centers for Medicare and Medicaid Services as Medicaid reimbursable services in Pennsylvania, with an effective date of November 1, 2006. Committee members, consumers, families and all those supporting a consumer-driven, recovery-focused mental health system in PA were very pleased to hear this news.

As reported in previous newsletters, Peer Support Services are peer-to-peer, person-centered and recovery focused mental health services for adults 18 and older, provided by individuals who have utilized the behavioral health system. Peer Support provides a range of services based on the needs of the individual that can include, advocacy, education, the development of natural resources, crisis support, linkage to other services, and support of work or other meaningful activities of the person's choosing.

Mobile Mental Health Treatment (MMHT) will provide an array of services for adults and older adults who have barriers to, or have been unsuccessful with, traditional outpatient mental health treatment. The array of services provided include: evaluations; individual, family or

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## Increase in 2006 – 2007 Person/Family Directed MH/MR Support Waiver Cap

On July 1, 2006, the Centers for Medicare and Medicaid services (CMS) approved the Office of Developmental Programs (formally named Office of Mental Retardation) request for an amendment to the Person/ Family Directed Support (P/FDS) Waiver, allowing ODP to raise the individual annual cost of waivers or waiver cap imposed in the P/FDS Waiver.

Effective July 1, 2006, the approved P/ FDS Waiver amendment increases the Commonwealth's cost limit on an individual's annual cost of waiver services or waiver cap from \$22,083 to \$22,525 for 2006-2007. (Source of Information: OMR Bulletin Number 00-06-12). For more information about this bulletin you may visit: <http://www.dpw.state.pa.us/General/Bulletins/003673169.aspx?BulletinDetailId=1528>

PHLP staff are available in Southwestern and Southeastern PA to conduct trainings on Part D to help social service agencies and their clients navigate the Part D system. Trainings focus on the rights that dual eligibles have under Part D and the appeals and grievance processes that are available to all Part D enrollees.

To learn how to help get your clients' needs met through Medicare Part D, contact the PHLP HELPLINE to schedule a training (1-800-274-3258 voice or 1-866-236-6310 TTY). Please let us know if you require any special accommodations for persons with hearing and/or vision needs.

## Renewal of Pennsylvania's Consolidated Home and Community-Based Service Waiver.

The Centers for Medicare and Medicaid Services (CMS) approved the Office of Medical Retardation's (OMR) application for a five year renewal of the Consolidated Home and Community-Based Services Waiver effective December 23, 2006.

The waiver, authorized under the provisions of §19 of the Social Security Act, will enable the Commonwealth to provide the following services:

- Home and Community Services,
- Day and Residential Habilitation Expanded 1 consisting of Pie-Vocational,
- Supported Employment, and Educational Services
- Environmental Adaptations,
- Transportation,
- Transitional Work Services,
- Home Finding Services,
- Homemaker/Chore Services,
- Adaptive Appliances,
- Respite Care, Visiting Nurse and Therapies.

The waiver is limited to individuals with mental retardation aged 3 and over who would otherwise require the care of intermediate care facility for the mentally retarded. For more information about this waiver you may visit:

<http://www.dpw.state.pa.us/General/Bulletins/003673169.aspx?BulletinDetailId=4048>

Please stay tuned for more news and updates on MR related news & information in future PHLP newsletters.

## Medical Assistance Covers Cervical Cancer Vaccine

Have you, or someone you know, tried to get the new vaccine against cervical cancer, and been told that it is not covered by your insurance? The vaccine, whose brand name is Gardasil® offers protection against human papilloma virus, or HPV, the most common sexually transmitted disease in the United States. HPV causes genital warts, but some strains of HPV also cause cervical cancer. The vaccine protects against 90% of the strains causing warts, and 70% of the strains causing cancer.

The vaccine has been out since June of 2006, and is recommended to be given routinely at age 11-12. For young women who are currently older than that, it is recommended for girls and women up to age 26.

The good news is that Medical Assistance in Pennsylvania is covering the vaccine. If you have Medical Assistance, and been told that it is not covered, here are some helpful facts to share with your medical provider:

- If you are 18 years old or under, the vaccine is covered under a federal program known as Vaccines for Children. Your doctor's office needs to obtain the vaccine from the Vaccines for Children program, usually through a city or county health department.
- If you are 19 to 26, the vaccine is covered under your medical benefits and not under your pharmacy benefits if you have any Medical Assistance HMO except Gateway. That means the doctor's office needs to buy the vaccine, give it to you, and

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## The State of SCHIP Nationally

The Federal State Children's Health Insurance Program (SCHIP), which provides significant funding to Pennsylvania's CHIP program, expires this year. Few question the help it has provided states for insuring uninsured children and most believe it should be reauthorized. The Bush Administration has proposed extending the SCHIP program for another 5 years. The issue making national news, however, is the amount of money the Bush Administration's 2007-08 proposed budget would allocate to SCHIP.

Over its ten years, SCHIP has insured more than 4 million low-income children. Many more children would qualify but are not enrolled. In Pennsylvania alone, some 55,000 children are eligible but not enrolled in the SCHIP program. Additionally, Pennsylvania has just begun a significant expansion of its CHIP program so as to make all children eligible to enroll, regardless of income.

The Bush Administration has proposed funding for the SCHIP program at far less than it would cost to maintain the existing numbers of enrollees, some \$7 billion less than it would cost for states to continue to cover those lower-income children they have already enrolled. The move comes at a time when many states have been looking at both increasing outreach initiatives to capture children already eligible as well as expanding eligibility so no child should go without insurance.

If additional funds are not provided,

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## **Alert: Immigrant Women Being Denied Breast & Cervical Cancer Coverage**

PHLP has recently learned of a number of cases of immigrant women being denied eligibility for the Breast and Cervical Cancer Prevention and Treatment (BCCPT) program. BCCPT is a Medicaid category providing treatment for uninsured women diagnosed with breast or cervical cancer. Like other Medicaid categories (such as Health Horizons or Healthy Beginnings), immigrants in a non-qualified status can only temporarily enroll in the BCCPT category of Medicaid through the "Emergency Medical Assistance" program. Recently however, various County Assistance Offices (especially in the Philadelphia area) were provided inaccurate information saying that BCCPT was not available for immigrants through Emergency Medical Assistance. This is wrong!

Immigrants are eligible for BCCPT through Emergency Medical Assistance, just as they would be for other optional categories of Medicaid the state covers. This has been Pennsylvania's policy since the BCCPT program began, and CMS confirmed this fact when it first offered the optional category of Medicaid coverage. Advocates should be on the look-out for immigrants being denied access to BCCPT through Emergency Medical Assistance, and report any such cases to PHLP immediately.

Contact Leonardo Cuello at [LCUELLO@PHLP.ORG](mailto:LCUELLO@PHLP.ORG) to report BCCPT EMA denials, and for further information and resources about BCCPT EMA eligibility.

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bill Medicaid or your Health-Choices plan. It also means that you are eligible for the vaccine even if your Medical Assistance benefit package does not include pharmacy benefits. The Pennsylvania Department of Public Welfare has told plans they must cover the vaccine. Access Plus also covers the vaccine. Gateway covers the vaccine under their pharmacy benefits and you should check with your provider if you have Gateway.

- If you are uninsured, you can check with your local city or county health department to determine if they have vaccine available.

If you are over 26, and want the vaccine, you will need to speak with your doctor. It is not currently covered by insurance for that age group.

If you have private insurance, you will need to check with your insurance company and your doctor. Some insurance companies are reimbursing physician offices less than the cost of the vaccine, and offices are not carrying Gardasil.

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

**If so, contact Jennifer Nix at [jnix@phlp.org](mailto:jnix@phlp.org) to change the way you get the Health Law PA News!**



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Pennsylvania initiatives involving reducing costs in the healthcare system by improving the quality of care and reducing opportunities for insurers to game the system.

### **Cover All Pennsylvanians - CAP**

As we reported in the January edition of the Health Law PA News, the budget includes more details on how the Governor would make health care available to virtually all Pennsylvanians. The details of how the Cover All Pennsylvanians program would look remain as reported in our January edition (and can be found on our website at [www.phlp.org](http://www.phlp.org)). The funding mechanisms for the CAP program for 07-08 would be as follows:

- Tobacco Settlement Funds: \$31.3m
- Community Health Reinvestment: \$52.2m
- Federal Medicaid \$104m
- Small employer premiums \$ 0.7m
- Enrollee cost sharing \$68.0m
- Employer Fair Share Assessment of 3% of payroll \$60.4m

This funding is based on a projected starting date of January 1, 2008.

### **Medicaid and other DPW Proposals**

In addition to proposed expansion of the availability of health insurance, the Governor does not propose cuts to Medicaid services or eligibility. He proposes to achieve cost savings by restructuring portions of the Medicaid program. The Department of Public Welfare would move Medical Assistance recipients from voluntary managed care programs into fee-for-service in July, at a savings of \$23.2 million. Medicaid pharmacy services would be carved out of managed care in October to save a projected \$45.2 million. This is a proposal that the Governor made last year, and which the legislature rejected.

The Administration would increase funding of services for persons with autism, mental retardation, and behavioral health needs, among others. DPW is creating a new Office of Developmental Programs, to replace the Office of Mental Retardation. Within that office will be a new Bureau of Autism. The Governor proposes a \$2 million increase in the state autism appropriation. Work on an Autism waiver would continue, and 100 adults would be served through a "Prepaid Inpatient Health Plan," a form of managed care.

An additional 3,428 persons would get a variety of community based mental retardation services, including, in state funds:

- \$4.9 million for group home residential services to 204 persons
- \$8.6 million for non-group home residential services for 759 persons
- \$6.4 million for non-residential supports for 1,592 persons
- \$3.2 million for day activities for 800 graduates of special education programs
- \$2.0 million for 73 persons aging out of EPSDT
- \$1.2 million for changing needs of persons in the waiver

The state would provide respite for families of 2000 children with behavioral health needs, and move 200 people out of state hospitals. A 3% cost of living adjustment (COLA) for MR community providers would cost \$24.3 million, and a 3% COLA for MH Community Service providers would cost \$15.9 million. Additionally, peer support services and mobile mental health treatment would now be available to consumers with behavioral health needs.

### **Paying for the Health Care Initiative**

It is unclear how much of the Medicaid and other DPW budget initiatives depend on passage of various revenue enhancement meas-

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ures, such as the proposed 1% increase in the state sales tax. However, the Budget Secretary has stated that there is an \$840 million shortfall in general fund revenues, some of which would pay for these proposals.

### **Long Term Care and Services**

The administration is creating a new Office of Long Term Living, jointly overseen by the Department of Public Welfare and the Department of Aging, to coordinate and more effectively oversee the long term living services and programs (including the HCBS waivers traditionally administered by Aging and those traditionally administered by offices within DPW). The Governor also announced an ambitious plan to achieve a 50-50 split between institutional and community based care within the next 4 years. To this end, the Governor proposes to invest \$12.7 million to expand home and community based services to individuals by opening up 2,200 slots for individuals in the Aging Waiver, while serving 595 more persons with disabilities in the Attendant Care waiver and 405 additional persons in the OBRA and Independence Waiver. He would invest \$3.7 million in domiciliary care and other alternative residential options, as well as \$3.8 million to strengthen the Nursing Home Transition program, to help 700 additional nursing home residents return to their communities. The state would spend \$4.7 million for conversion of nursing facility beds to other uses. Nursing homes would receive a 2% increase in rates.

The Administration will seek to pass an assisted living bill. Such legislation could fill the current void between per-

sonal care homes on the one hand, which have minimal standards, receive no Medicaid funding and are prohibited from admitting persons who need the nursing home level of care, and nursing homes on the other hand, which have significantly higher standards and attract a large share of the Medical Assistance budget.

### **Health Department to Ensure Hospitals Live Up to Community Benefit Requirements and to Reach Underserved Populations**

Secretary of Health Calvin Johnson, MD announced that as part of the Prescription for Pennsylvania, the state would develop standardized Community Benefit criteria and reporting requirements to assure that hospitals that receive tax exemptions and other benefits provide a substantial community benefit. The state would also develop standardized hospital fair billing and collection criteria, as well as hospital admission criteria. The state also intends to develop criteria to ensure that large capital health investments meet regional needs and are affordable. DPW announced a proposed 2% increase in hospital rates, along with no change to medical education reimbursement or shift of disproportionate share funds.

Dr. Johnson announced a proposed \$5.4 million investment to expand access in underserved rural areas through the use of community health centers, mobile wellness clinics and other means. He said the Council on Health Literacy would use \$719,000 to “promote better communication that will help people learn how to take care of themselves.” He would also spend \$1 million to increase the number of health professionals equipped to address the needs of racial and ethnic minorities.

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CHIP offers extensive coverage, including prescriptions, check-ups, immunizations, emergency care, hospitalizations, specialists, dental, vision, and more!

Here's how to apply:

- Go to the CHIP website and complete an on-line application: [www.chipcoverspakids.com](http://www.chipcoverspakids.com) or
- Call the CHIP Helpline at 1-800-986-KIDS and enroll over the phone, or
- Call the CHIP Helpline at 1-800-986-KIDS and request CHIP send you an application you can submit by mail

If you have problems applying or for further information contact the PA Health Law Project Helpline at 1-800-274-3896.

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states will be forced to consider whether to reduce CHIP eligibility, cap enrollment, eliminate benefits, increase beneficiary cost-sharing, cut payments to providers, or come up with the funds through taxes or by taking the money from another program. This issue is playing out in Congress right now. Stay tuned to our website [www.phlp.org](http://www.phlp.org) for updates.

Please note that Pennsylvania is proceeding with its planned expansion of CHIP to all of Pennsylvania's children, as described on page 2, all uninsured children should be referred to apply for the CHIP program!

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group therapy; and medication visits. These services are provided to consumers in their home or in a community setting of their choice such as a senior center or church.

MMHT can be immediately provided by any licensed psychiatric outpatient clinic enrolled in the MA Program. Each psychiatric outpatient clinic already enrolled in the MA Program has been automatically authorized to provide MMHT. The MMHT Bulletin, Number 08-06-18, can be found on the DPW website at [www.dpw.state.pa.us/General/Bulletins/003673169.aspx?BulletinDetailId=1537](http://www.dpw.state.pa.us/General/Bulletins/003673169.aspx?BulletinDetailId=1537).

OMHSAS expects the final Peer Support Services Bulletin and Provider Handbook pages will be available in the near future. These documents will contain guidance on enrollment, billing, payment and programmatic reviews. Providers who will be able to demonstrate compliance with the requirements set forth in the final Peers Support Services Bulletin will be eligible to provide these services. Until the Bulletin is released and providers can show compliance, these services will not be available to consumers who may need them.

OMHSAS plans to offer several one-day technical assistance sessions across the state to help prepare stakeholders and providers. Presentations regarding Peer Support Services are also scheduled to occur at the PA Association of Psychosocial Rehabilitation conference in State College on April 10<sup>th</sup>-12<sup>th</sup> and the Case Management conference on June 26<sup>th</sup>-June 28<sup>th</sup>.



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The state expects to save about \$23 million dollars this year by this transition. About \$10 million is one-time only savings resulting from the switch from up-front managed care payments to fee-for-service payments which are post-service.

Eligibility for MA would not change, nor would the package of benefits that consumers are entitled to. However, some of the HMOs offer extra benefits such as eye-glasses, lower copayments or the waiver of service limits that apply under the fee-for-service program. Enrollment in behavioral health managed care would remain the same. Because consumers would be transitioned to Access Plus, they would still have a PCP, a primary care practitioner, which they would have to go for a referral to most specialists, except in an emergency.

The Consumer Subcommittee of the Medical Assistance Advisory Committee has voiced concerns and raised questions about the proposal. Consumers generally feel that offering consumers choice is a good thing, which promotes healthy competition between the plans and the Access Plus systems. Since there is very little switching of members across systems, it appears that most consumers are happy with their current plan.

Although there appears to be a high degree of overlap between the networks of the HMOs and Access Plus, the rights of consumers who cannot find a participating specialist, dentist, or other provider appears different under the two programs. HMO licensure rules permit consumers to go out of network, including to a non-Medicaid provider, if their needs cannot be met in-plan. DPW's fee-for-service rules do not extend this right, though DPW has

indicated that it will look at whether fee-for-service rules can be changed to help individual consumers address problems of network adequacy.

In response to complaints that consumers would lose access to additional benefits if the HMO option were eliminated, DPW has stated that the plans have cut back the extra benefits over time. The Department also contends that the HMOs are not as cost-effective as AccessPlus, but instead services a healthier population at a greater cost.

The overwhelming majority of the 70,000 affected consumers are members of either Gateway or Unison Health plans. The impacted counties are:

- Bedford
- Blair
- Bradford
- Cambria
- Carbon
- Clarion
- Clearfield
- Columbia
- Crawford
- Erie
- Forest
- Franklin
- Jefferson
- Lackawanna
- Luzerne
- Mercer
- Monroe
- Montour
- Northumberland
- Pike
- Schuylkill
- Somerset
- Sullivan
- Susquehanna
- Warren
- Wyoming

As we go to press, DPW has delayed its plan to freeze enrolments into HMOs in the 26 counties until it can review the situation. This was in response to inquiries from legislators, health care providers and consumers. Unfortunately, some consumers were left with the impression that they would lose their Medical Assistance eligibility, which is completely incorrect. Consumers with questions should call PHLP at 1-800-274-3258/ 1-866-236-6310 TTY.

## **Announcing PHLP's New "Refer the Uninsured" Project**

The Pennsylvania Health Law Project is presently seeking funding for a new initiative called the "Refer the Uninsured Project". Through this initiative we ask all our partners and colleagues to refer their uninsured clients, patients, consumers, and family members to the Pennsylvania Health Law Project Helpline at (800)274-3258 or (866) 236-6310 TTY.

**Our staff will:**

- Screen all callers for any possible insurance or free healthcare services currently available to uninsured.
- Capture each caller's circumstances and contact information for direct outreach upon any health insurance expansion (including the passage of Cover All Pennsylvanians) that would provide the uninsured individual with insurance coverage.

**PLEASE REFER YOUR UNINSURED CLIENTS TO OUR STAFF FOR THIS INITIATIVE!**

### **Pennsylvania Health Law Project**

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