



# SENIOR HEALTH NEWS



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## Governor's Proposed 2010-2011 Budget Increases and Expands Aging and Long-Term Living Services

On Tuesday February 9<sup>th</sup>, Governor Rendell announced his proposed budget for FY 2010-2011. The following are some highlights regarding Pennsylvania's aging and long term living services available in the state.

**Merging the Department of Aging and the Office of Long Term Living:** The Governor is again proposing legislation to merge the existing Department of Aging and the Office of Long Term Living (OLTL) into a new Department of Aging & Long Term Living. OLTL was created in 2007 and is managed by both the Department of Public Welfare (because it oversees many Home and Community Based Services Waivers programs and the MA nursing facility programs which are the ultimate responsibility of DPW as the single state Medicaid agency) and the Department of Aging. Similar legislation was introduced and passed by the House last year but was never acted on by the Senate.

**Additional Slots Added to Several HCBS Waivers and Other Programs:** The proposed budget contains funding to allow modest growth in the Home and Community Based Services (HCBS) waiver programs administered by OLTL. The following are the number of additional slots proposed for the next FY:

Aging (PDA) Waiver - 1,692	Attendant Care - 660	LIFE - 680
CommCare - 108	Independence - 636	Act 150 - 120

**Expenditures Related to Assisted Living Residences:** Final assisted living regulations have yet to be issued by OLTL that will govern the licensing of assisted living residences in the state. After those regulations become final (see assisted living update on the next page), OLTL plans to seek approval from the Centers for Medicare & Medicaid Services (CMS) for an assisted living waiver that would allow the state to pay for some services assisted living residents receive. To that end, the proposed budget includes 279 slots for a new assisted living waiver as well as funding to hire eight additional staff to support assisted living licensure activities.

**The PACE/PACENET Program:** Under the Governor's Proposed Budget, the PACE and PACENET programs will be able to provide assistance to 4,000 additional seniors who are age 65 and older. In addition, PACE/PACENET has requested federal approval to join a purchasing pool with 11 other states to negotiate rebates with pharmaceutical companies on brand-name drugs. If approved, PACE projects it will save \$15 million in the next fiscal year.

## Medicare Terminates Its Contract with Fox Insurance Company

On March 9<sup>th</sup>, the Centers for Medicare & Medicaid Services (CMS) announced the immediate termination of its contract with Fox Insurance Company which offered Medicare Prescription Drug Plans in Pennsylvania and 20 other states. The contract termination quickly followed a marketing and enrollment suspension placed on Fox Insurance Company by CMS at the end of February. CMS has taken these actions because of significant problems experienced by members trying to access medications resulting from Fox's failure to follow Medicare Part D rules. Specifically, Fox failed to comply with rules around transition coverage of medications for new members, failed to meet appeal deadlines, and failed to cover medications in classes of drugs specifically required to be included in every Part D plan's formulary-including drugs used to treat HIV/AIDS, cancer, and seizure disorders. Fox Insurance Company also imposed utilization management (i.e., prior authorization) requirements CMS had not approved. Fox's failure to follow Medicare rules and policies delayed members' ability to access medically necessary drugs and posed a serious risk to the health and safety of their members.

In Pennsylvania, Fox offered a zero-premium Part D plan for individuals who qualify for the full subsidy – the Fox Value Plan. This plan was also a PACE/PACENET partner plan for 2010.

**As of March 10<sup>th</sup>**, the more than 123,000 Fox Part D Plan members nationwide are enrolled into LI-NET for temporary prescription coverage (see the previous edition of the newsletter and our website, [www.phlp.org](http://www.phlp.org), for more information on LI-NET). All Fox Part D plan members, even those without the Low-Income Subsidy (LIS), can use LI-NET to get their medications and will only pay the reduced LIS co-pays. These individuals will have until April 30<sup>th</sup> to enroll in a new Part D plan. Individuals who fail to enroll in a new plan by that date will be randomly auto-enrolled into another Part D plan by Medicare for coverage starting May 1<sup>st</sup>.

Members of Fox Value Plan in PA who are have questions about the termination, who have trouble getting their medications under LI NET, or who need help choosing and enrolling into another Part D Plan are encouraged to contact our HELPLINE at 1-800-274-3258.

## Assisted Living Update: Final Form Regulations To Be Released Spring 2010

The final form assisted living regulations will be issued by the Office of Long Term Living (OLTL) no later than May 2010. PHLP has been leading the Pennsylvania Assisted Living Consumer Alliance (PALCA), a collaboration of consumers, family members, and local and statewide organizations that have united to advocate for safety, freedom of choice and strong legal standards for residents in assisted living facilities across the state. Since its formation in 2008 with the generous support of The Pew Charitable Trusts, PALCA has worked to ensure that the consumer voice is heard and considered in the development of assisted living licensure requirements. PALCA is advocating for the establishment of standards that define and regulate assisted living facilities – in particular, standards relating to residents' rights; staff qualifications, training, and resident ratio requirements; physical site design; fire and safety codes; aging in place considerations; consumer choice, control, and autonomy; and meaningful enforcement mechanisms.

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OLTL will send their final form regulations to the Independent Regulatory Review Commission (IRRC) as well as to the Standing Committees in the House and Senate seeking their approval of the regulations. The public as well as interested stakeholders can still try to influence the regulatory process at this stage by providing input and comment to the IRRC and/or the Standing Committees. Once approval of the regulations is obtained, OLTL will then submit the regulation to the Attorney General for review for form and legality. After the Attorney General's review is complete, the regulations will be published in the *Pennsylvania Bulletin* as final rulemaking and will become effective six months after the date of publication.

Future newsletters and the PALCA Web site ([www.paassistedlivingconsumeralliance.org](http://www.paassistedlivingconsumeralliance.org)) will have PALCA's analysis of the final form regulations.

## Integrated Care Initiative Postponed Indefinitely

Since the publication of our last newsletter, where we reported the postponement of the Integrated Care Initiative until January 2011, PHLP has learned that the state's Office of Long Term Living (OLTL) is now postponing implementation indefinitely. Integrated Care Initiative (ICI) is the name the state gave to its plan to contract with Medicare Advantage Special Needs Plans to provide Medical Assistance healthcare and long term living services to their dual eligible enrollees in addition to the Medicare-covered services the Plans already provide.

In a January 2010 letter to stakeholders, Michael Smith, Director of OLTL's Bureau of Community Development, stated ICI's postponement was necessary because "information technology interfaces could not be completed in time to commence the program on January 1, 2011." OLTL plans to continue developing and refining the procedural and operational details needed for ICO; however, the decision on if and when ICI is implemented will be up to the next Governor's Administration.

## HIV Screening Now Covered By Medicare

The Center for Medicare and Medicaid Services (CMS) has decided that HIV screening is now a covered benefit for Medicare recipients. Under the recently passed Medicare Improvements for Patients and Providers Act of 2008 (MIPPA), CMS can now add such screening to Medicare's list of covered preventive services, if certain conditions are met, without needing Congressional authorization.

AIDS is diagnosed when an HIV-infected person's immune system becomes severely compromised or a person becomes ill with an HIV-related infection. Of the more than one million people estimated to have the HIV infection in the US, the Centers for Disease Control and Prevention has estimated that about a quarter of them do not realize they are infected. Without treatment, AIDS develops within 8 to 10 years. While there is presently no cure for HIV, screening can help identify infected patients so that they can receive medical treatment that could help delay the onset of AIDS for years.

Medicare will cover HIV screening for individuals who are at increased risk—including pregnant women and beneficiaries of any age who voluntarily request the screening. According to the US Department of Health and Human Services, an estimated 19% of US residents diagnosed with AIDS are age 50 and older. Medicare's coverage of HIV screening is an important step toward protecting Medicare beneficiaries from the life-threatening complications of HIV and AIDS, and allows Medicare to take a more active role in encouraging beneficiaries to obtain preventive services.

More information about Medicare's new HIV screening benefit is available in CMS' final decision memorandum. Read the Memorandum online at <http://www.cms.hhs.gov/mcd/viewdecisionmemo.asp?id=229>.

## VA Health Care Enrollment Restrictions Relaxed for Middle-Income Veterans

The U. S. Department of Veterans Affairs (VA) has eased income restrictions on enrollment in the VA health care system. Given the high demand for VA health care services, the VA manages that demand by putting veterans into “priority groups” that dictate which veterans can access health care services. Veterans are placed in priority group 8 when they do not have a service-connected disability or special authority based on military service, and their income exceeds a geographic income threshold.\* Since 2003, the VA has suspended enrollment of priority group 8 veterans into the VA health care system; however, as a result of regulations that went into effect June 15, 2009, the VA is now enrolling priority group 8 veterans whose income exceeds the VA’s geographic income threshold by 10 percent or less. This change allows approximately 266,000 additional veterans across the country to access the VA health care system.

**\*Please note:** Veterans with a service-connected disability, combat veterans within five years of discharge, and other specified categories of veterans **are not affected** by this enrollment change because they are eligible for VA health care regardless of income.

In Pennsylvania, the VA’s geographic income thresholds for a veteran without dependents range from \$28,850 to \$41,600, depending on the county of residence. Veterans can determine if they are eligible for VA health care under the new enrollment changes using the VA’s online calculator at <http://www4.va.gov/healtheligibility/apps/enrollmentcalculator/> or by calling 1-877-222 VETS (8387). Veterans can apply for enrollment in the VA health care system by mail or at any VA clinic or medical center. Veterans residing in Pennsylvania who are having problems accessing care through the VA health care system should call PHLP’s toll-free Helpline at 1-800-274-3258.

## New Hurdle for Veterans Applying for Medicaid

Veterans applying for state-offered public benefits must now, as a condition of eligibility, pursue any potential entitlement to federal veteran’s benefits. Through Act 54 of 2009, the General Assembly changed Pennsylvania’s Public Welfare Code to require the Department of Public Welfare (DPW) to determine whether an applicant for Medical, Cash, or Energy Assistance is a veteran, and to require applicants who are veterans to contact a Veterans Service Officer to determine their eligibility for veteran’s benefits.

Act 54 requires DPW to create a standard form by which veterans can prove compliance with this new requirement. DPW is required to provide benefits to eligible individuals while they are in the process of verifying their veteran status.

Though Act 54 became effective as of its enactment on December 17, 2009, PHLP is not aware of any action being taken by DPW to date to implement the Act. Advocates and applicants who know of applications or services being delayed because of this new requirement are encouraged to contact PHLP at 1-800-274-3258.

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## COBRA Premium Subsidy Extended

The passage of a recent law extends the help available to people who lost their job and who decide to purchase health insurance through COBRA. The Department of Defense Act of 2010 made two important changes to the COBRA subsidy program:

- 1) It extended the period of eligibility for the COBRA premium subsidy by an extra two months. If someone lost her job due to an "involuntary termination" **before February 28, 2010**, she may be eligible for a subsidy to cover 65% of the COBRA premium. Prior to this change, the eligibility for the COBRA premium subsidy ended December 31, 2009.
- 2) The subsidy is now available for an additional six months, bringing the total subsidy period to 15 months. Prior to the change, the subsidy was only available to individuals for a 9 month period.

To qualify for the COBRA premium subsidy, an individual must be eligible for COBRA continuation coverage (the employer must have 20 or more employees\*, the employer must continue to offer group coverage, and the individual must have been covered by the employer's group plan before her job termination). In addition, an individual must have a "qualifying event," such as an involuntary termination or reduction in hours, that causes her to lose her group health plan.

*\*Note: In PA, employees of smaller businesses with 2-19 employees may also be eligible if their employer offered group health coverage.*

COBRA generally provides up to eighteen months of guaranteed health coverage, during which an individual is required to pay the full premium amount at the employer's group plan rate and a 2% administrative fee.

Employers are required to notify all workers who had a COBRA qualifying event between Septem-

ber 1, 2008 and February 28, 2010 about the premium subsidy and to provide these workers with the necessary application forms. For workers who lost their COBRA premium subsidy after nine months, the employer must tell them they can receive another six months of help. If a person has a qualifying event after February 17, 2009, then notice of COBRA election rights as well as information about the subsidy must be sent by the employer within 44 days. These individuals will only get one opportunity to enroll in COBRA.

See PHLP's website ([www.phlp.org](http://www.phlp.org)) for a detailed fact sheet about the extension of the COBRA subsidy. You can also contact the Department of Labor, Employee Benefits Section at (866) 444-3272 or visit their website: [www.dol.gov/COBRA](http://www.dol.gov/COBRA) and <http://www.dol.gov/ebsa/faqs/faq-cobra-premiumreductionEE.html>.

**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.**

The 2009 Federal Poverty Guidelines remain in effect for income-based programs (such as Medical Assistance and the Medicare Part D Low-Income Subsidy Program) until the updated 2010 guidelines are published. In previous years, the Guidelines were updated in February, and sometimes as early as January. However, the US Department of Health and Human Service (HHS) issued a notice in the Federal Register on January 22, 2010 stating that the 2010 guidelines would not be published prior to March 1<sup>st</sup>. It is not yet known how soon after March 1<sup>st</sup> the new guidelines will be published.

We will post information about the updated 2010 Federal Poverty Guidelines on our website, [www.phlp.org](http://www.phlp.org), when the information becomes available.

# **Substance and Medication Abuse/Misuse in Older Adults and Elder Abuse**

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