

Health Law PA News

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PHLP NAMES LAVAL MILLER-WILSON EXECUTIVE DIRECTOR

Laval Miller-Wilson, a Senior Attorney at Juvenile Law Center (JLC) in Philadelphia, will join the Pennsylvania Health Law Project (PHLP) as Executive Director. He replaces Michael Campbell, who recently accepted a teaching position at Villanova University Law School and who co-founded PHLP with Ann Torregrossa. Ms. Torregrossa served as the program's first Executive Director.

PHLP, a statewide public interest law firm founded in 1988, advocates to increase and improve health care for working and unemployed low-income people, the elderly, and persons with disabilities. In addition to policy work, PHLP provides free legal services and advocacy to Pennsylvanians having trouble gaining access to publicly funded health care coverage or services. PHLP has offices in Philadelphia, Pittsburgh and Harrisburg. It is a strong voice for those in greatest need of quality health care in Pennsylvania.

"The Board and staff are excited to begin this new chapter in PHLP's story," said Dana Breslin, PHLP's Board President. "This is a perfect fit and we are quite pleased to have Laval join our fight for health justice. He is an outstanding advocate, an innovative leader, and a greatly respected member of the public interest community. At JLC he led the same advocacy strategies as PHLP: statewide direct services, education and information, litigation, and policy improvement. His work in obtaining needed health services for his clients has instilled a deep understanding and commitment to overcoming the many barriers to health care."

Miller-Wilson, who will assume his role at the beginning of February, said "I look forward to leading this extraordinary health advocacy group at a time of great opportunity on the horizon to finally solve the larger health care crisis that has caused so many to suffer due to a lack of income and health insurance as well as cutbacks in public insurance programs." Mr. Miller-Wilson can be reached by email at lmillerwilson@phlp.org.

Miller-Wilson joined Juvenile Law Centers as a Skadden Foundation Fellow and

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focused on the delivery of education services for at-risk youth. His earliest cases were representing youth with developmental disabilities, such as autism and mental retardation, who were accused of crimes for disability related behavior. He successfully argued for the use of public health services available through Medicaid's Early and Periodic Screening Diagnosis and Treatment (EPSDT) program as an alternative to limited resources of the juvenile justice system. He has litigated cases against the Pennsylvania Department of Education and several local school districts to enforce special and basic education rights for school-aged inmates in Pennsylvania's county prisons and jails. He has led numerous efforts to improve the child welfare and juvenile justice systems.

In 2003, Miller-Wilson conducted an assessment of indigent juvenile defense throughout Pennsylvania that led the PA Supreme Court to order major rules changes resulting in increased funding and support for attorneys representing juveniles in the Commonwealth's 67 counties. Miller-Wilson was lead counsel in a petition to the PA Supreme Court to ensure the right to counsel for accused youth. The petition was brought after he discovered counties in Pennsylvania where juveniles were being adjudicated with no counsel present. He is the author of two forthcoming publications about navigating the juvenile and criminal justice system for youth with developmental disabilities.

Miller-Wilson graduated from Harvard College and University of Pennsylvania Law School. He has been a lecturer at Temple University and University of Pennsylvania schools of law.

PHLP gives special thanks to Leonardo Cuello, Senior Staff Attorney, who has served as Interim Director for the last six months. He continues to be of great help in this period of transition.

Mayview State Hospital Closes on Schedule

The doors of Mayview State Hospital were closed as scheduled on December 29, 2008. There are still 12 individuals receiving care temporarily on the grounds of Mayview in a state operated Long Term Structured Residence (LTSR) called Monarch Spring LTSR. Those 12 individuals will remain on the grounds of Mayview until a community residence is identified. A community location for an LTSR had been identified in Allegheny County, but vehement opposition by township residents has halted the establishment of an LTSR in that community.

Mayview provided services to the 5 county area of Allegheny, Beaver, Greene, Lawrence and Washington. Between August 15, 2007 and the closure on December 29, 2008, there were 235 individuals discharged from Mayview. The majority of those individuals were from Allegheny County. Following comprehensive evaluations and intensive community support planning only 23 of the 235 Mayview residents were determined to require a continued level of state hospital care. Twenty-two of those individuals were transferred to Torrance State Hospital and one person was transferred to a hospital out of state.

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The remaining 212 residents were discharged from Mayview into the community with a highly individualized Community Support Plan (CSP). The CSP is a detailed written document that goes with each person into their community living arrangement and identifies the services and supports needed for their recovery. The planning process for each individual involved a clinical evaluation, a peer assessment and, if desired, a family assessment. These evaluations, along with the interests and desires of the individual, were used in meetings to develop the CSP. The meetings included family members, state hospital and county mental health staff, community providers and external advocates.

More than two-thirds of those discharged from Mayview went to Community Residential Rehabilitation programs, specialized/ enhanced Personal Care Homes, Long Term Structured Residences or Supported Housing. A detailed list of how many people were discharged and to what living arrangement can be found at the Mayview website at www.mayview-sap.org.

If you are working with an individual or family member discharged from Mayview and are concerned that their needs are not being adequately addressed, contact their County Mental Health Office. The County Mental Health Administrators have ultimate responsibility to ensure each person's Community Support Plan is followed and/or revised as needed to enable a successful integration to community living.

Triumph for Personal Care Home Residents on SSI

Thanks to the persistence of hundreds of consumers and advocates, the personal needs allowance was increased from \$60 to \$85 effective January 1, 2009. This increase was the result of a long-fought battle. The Department of Public Welfare notified personal care home operators about the increase in a letter dated January 2, 2009.

Personal Care Home residents on SSI have not seen an increase in their personal needs allowance since 1993. Over the last 16 years the costs of personal items, transportation, medication co-pays and clothing have significantly increased. This long-awaited \$25 raise will assist residents in meeting their basic needs.

The increase in the personal needs allowance coincided with the \$37 increase in the Federal Supplemental Security Income (SSI) benefit for 2009. Personal Care Home Operators, per DPW, can choose to increase rent for residents by the \$12 remaining after providing consumers with the \$25 raise in their personal needs allowance.

If consumers on SSI in Personal Care Homes have questions or are not receiving their \$25 increase in their personal needs allowance they can contact the PA Health Law Project Helpline at 1-800-274-3258.

BUDGET UPDATE

The state's budget outlook continues to be bleak. The latest figures released by the Governor show a \$2.3 billion budget deficit compared to the \$1.6 figure given in mid-December. While the budget deficit continues to grow, so does Medical Assistance enrollment. There has been a 2.9% increase in MA enrollment from July–December 2008. Governor Rendell will detail his proposed budget on February 4th. We will provide analysis and information about the proposed budget on our website (www.phlp.org) and in upcoming newsletters.

Office of Long Term Living Issues Draft Independent Enrollment Broker RFP

The PA Office of Long Term Living (OLTL) recently issued a Draft Request for Proposals (RFP) to establish an Independent Enrollment Broker for a number of home and community based service programs across PA. Currently the enrollment and intake process for each program varies widely depending on a number of factors including what program is being applied for, the applicant's county of residence, and whether the applicant is living at home or in an institution. The OLTL proposes to select one entity with whom it would contract to perform intake and enrollment services across the state for all of the following programs: AIDS Waiver; Attendant Care Act 150 Program; Attendant Care Waiver; COMMCARE Waiver; Independence Waiver; Michael Dallas Waiver; and the OBRA Waiver.

The Independent Enrollment Broker would be responsible for the following:

- Providing education, outreach, and community awareness;
- Receiving referrals from a variety of sources of individuals requesting home and community-based services;
- Screening individuals for needed services and likely eligibility for OLTL programs;
- Conducting initial intake visits;
- Facilitating the eligibility determination process;
- Developing an initial individual service plan and obtaining approval for the enrollment;
- Transferring the individual and all necessary documentation, once they have been approved, to the enrollee's chosen service coordination provider.

The OLTL is currently seeking comments to the Draft RFP. Comments must be submitted **no later than February 16, 2009**. The RFP can be read and downloaded from the following site:

www.emarketplace.state.pa.us/GeneralEdit.aspx?SID=RFI%2042-08.

New HCBS Waiver Manual Available in SW PA

Thanks to a generous grant from the FISA Foundation, PHLP has developed a new Manual about all of the HCBS Waiver programs available to adults with disabilities in Southwestern Pennsylvania. **Home and Community Based Services (HCBS) Waiver Programs: A Manual for Consumers and Advocates in Southwestern PA** is a 43 page Manual that provides up-to-date information on the eligibility criteria and services available for each of the 11 waiver programs operating for adults with disabilities in SW PA. The Manual also includes information on: consumer rights and consumer direction; paid family caregivers; how to access waiver programs and services in Southwestern PA; and how to appeal when a consumer is denied eligibility for a waiver or denied needed services under one of the waivers.

Using this new tool, staff in PHLP's Pittsburgh office are available to do presentations and workshops on accessing HCBS waiver programs to consumer groups, advocates and providers across the 10 county Southwest region. Everyone who attends one of our trainings will receive a copy of the new Manual. To schedule a training for your consumers or for your staff please contact PHLP's Helpline at 1-800-274-3258 or email equay@phlp.org. The manual will also be made available on our website (www.phlp.org) at some point in the future.

KMHP Contract Breakdowns with Temple Hospital and Crozer-Keystone Health System

PHLP has learned of potential contract terminations between Keystone Mercy Health Plan (KMHP) and two large providers in Southeastern PA: Temple Hospital in Philadelphia and Crozer-Keystone Health System (Crozer) in Delaware County. Both providers have signed contract extensions through the end of March. KMHP is currently negotiating with the providers to reach a contract agreement. Temple Hospital now accepts the two other Medicaid managed care plans in Southeastern PA (Health Partners and AmeriChoice); however, Crozer does not take AmeriChoice and only takes Health Partners on a "Letter of Agreement", not a full contract.

A contract termination with Temple Hospital would impact 67,681 KMHP members who have Primary Care Providers (PCPs) at Temple Hospital or who see specialists there. Should KMHP's contract with Temple terminate at the end of March, impacted members will have the following options:

- 1) they can stay in KMHP and continue to see their providers at other locations if the providers have privileges at other hospitals,
- 2) they can stay in KMHP and choose a new provider, or
- 3) they can switch to a different MA plan that has their current provider in their network.

The current contract issue with Temple Hospital is different than KMHP's previous contract termination with Temple University Physicians (TUP) as of September 1, 2008. That issue impacted 15,556 people as we reported in our September 2008 newsletter.

If KMHP's contract with Crozer is terminated at the end of March, 17,000 KMHP members who have their PCP at Crozer will be impacted. In addition, there are 18,000 members who see Specialists there. It's not clear how much overlap there is in these numbers. Four of the six hospitals in Delaware County are in the Crozer system. That means that if the contract is terminated, Mercy Fitz-

gerald and Riddle Memorial Hospitals will be the only two remaining KMHP network hospitals in the county. If the contract is terminated, affected members will have the option to continue to see their provider at a different location (if this is applicable), change to a different provider, or change health plans. This could be problematic because currently, Health Partners is the only other MA plan that Crozer takes. However, Health Partners and Crozer only have a "Letter of Understanding" (and not a full contract) which will expire at the end of March. It is not yet clear whether Crozer will sign a contract or new "Letter of Understanding" with Health Partners. There is concern that if the KMHP contract is terminated, there could be no other Medicaid managed care plan available to residents of Delaware County with Crozer in its network.

Should the contracts terminate at the end of March, affected KMHP members must be given a 30 day advance notice of the contract terminations. Notices will need to be sent by the end of February if there are no changes to the current situation. There is concern that the parties may reach an agreement after notices have gone out informing members of the contract termination which would result in confusion for consumers. The advance notice will explain, in more detail, what options consumers have. The Consumer Subcommittee of the Medical Assistance Advisory Committee made comments to improve the notice that will be sent to consumers in this circumstance after KMHP's contract with TUP terminated last year. DPW revised the notices based on the comments so that consumers receive clearer information, and better understand their options, when their health plan terminates a contract with a network provider.

We will update you about the status of these contract negotiations in our next newsletter. Please call our Helpline if you have any questions or concerns about this issue at 1-800-274-3258.

Brandywine Hospital and Lansdale Hospital OB Units Closed Last Month

Brandywine Hospital in Coatesville and Lansdale Hospital closed their Maternity Units at the end of December, 2008. Before closing, Brandywine Hospital had delivered about 240 babies a year. Lansdale Hospital delivered fewer than 400 babies a year. The Department of Public Welfare (DPW) said the hospitals cited cost constraints as the reason for closing their maternity units. As we reported in our last newsletter, Philadelphia's Chestnut Hill Hospital closed its Maternity Unit on November 7, 2008. Overall, 17 hospitals in Southeastern Pennsylvania have stopped delivering babies since 1997.

Twelve AmeriChoice members and 214 Keystone Mercy Health Plan members were affected by the recent Maternity Unit closings at Brandywine Hospital and Lansdale Hospital. Women who had been receiving OB care from a provider in those hospitals must now receive their care elsewhere. Women affected by these closures have the following options:

1) She can stay in her current health plan and continue to see her current OB provider at a different hospital within her Medical Assistance (MA) HMO plan's network. If the different hospital is not in the plan's network, she should be able to continue to see the provider per continuity of care rules. Department of Health Regulations and DPW's contract with the HMOs require that a patient be permitted to receive care from her obstetrician through the post-partum period, regardless of the trimester of her pregnancy. A patient can complete her treatment with the provider of her choice at an out-of-network hospital and her (MA) HMO will cover it.

According to DPW, 8 providers at Brandywine Hospital and 3 providers at Lansdale Hospital are working to obtain privileges at other hospitals. Maternity Unit employees at Lansdale Hospital have been invited to apply for full staff privileges at Abington Memorial

Hospital, 12 miles away. Brandywine Hospital has established patient-transfer agreements with Phoenixville Hospital and Jennersville Hospital, both located about 15 miles away from Coatesville.

2) She can switch OB providers. Women who need help finding a new doctor should contact their managed care plan.

Pregnant women should not experience excessive wait times in scheduling appointments. The access standards for pregnant women in MA managed care plans are as follows:

- Women in their first trimester should not wait more than 10 days for an appointment;
- Women in their second trimester should get an appointment within five days; and
- Women in their third trimester should wait no longer than four days to have an appointment scheduled.
- Those with high-risk pregnancies should get an appointment within 24 hours.

Women who are having problems finding an Obstetrician as a result of these Maternity Unit closures, getting an appointment scheduled in a timely manner, or understanding their options should contact PHLP's HELPLINE at 1-800-274-3258.

PHLP staff are available in Southeastern PA to conduct trainings on Medicare 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 Medicare 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 PHLP 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 hearing and/or visual impairments.

DPW Pilot-Testing “Model Office” Concept

For the past few years, the Department of Public Welfare’s Office of Income Maintenance has been implementing a “model office” concept initiative. The development of this project began in December 2005. The goal is to use technology and to reconfigure County Assistance Office (CAO) staff to overcome the challenge of handling increased caseloads with decreasing staff.

In most counties, CAOs have adopted self-service mechanisms in their lobby to allow people to drop off, scan, and/or get receipts for documents needed for verification. CAOs have also developed new office layouts including using a greeter, a client service representative, and “floaters”. As part of the model office concept, the Change Center phone numbers -- 1-877-395-8930 (statewide), 215-560-7226 (Philadelphia) -- allow applicants and recipients to track their application status; make changes to their address, household expenses and household composition; and leave messages for their caseworkers without having to go to the County Assistance Office.

The latest initiative under the model office concept involves pilot-testing specific functions for CAO staff that emphasize teamwork and that are designed to manage work flow more efficiently. There will be two sets of staff: (1) customer service representatives (CSRs) who will interface with clients; and (2) processors who will work on applications in a timely and accurate way. The goal is to allow a client to be able to talk to any CSR about their application and not have to rely on any one caseworker. This initiative is currently being pilot-tested in the Snyder District CAO in Philadelphia County and the Dauphin County CAO.

There is some concern that the team concept may not result in improved productivity-that is, that what should be the work of everyone on the team will actually be done by no one. The testing allows DPW to make improvements or enhancements based on their experience in these counties before deciding whether to expand the model statewide.

Is My Medication Covered by MA?

Trying to figure out what medications are covered by different insurance plans can be a difficult task. If you are on Medical Assistance in Pennsylvania however, a new chart is available on the Department of Public Welfare’s pharmacy website: <http://www.dpw.state.pa.us/PartnersProviders/MedicalAssistance/DoingBusiness/MAPharmProg/>. Clicking on “Information on Managed Care Pharmacy Services” on the pharmacy page gets you to a list of all the managed care companies, with links to their individual drug lists. It also allows you to click on another link “Fee for service and managed care preferred drug list comparison chart”. This takes you to a table that lists a medication, and whether or not it is preferred (covered) or non-preferred (not covered or requiring authorization) by each Medicaid managed care organization as well as DPW’s preferred drug list.

This is a Department of Public Welfare website. It does not cover Medicare D drug lists. For information on each Medicare D Plan’s drug list, it is necessary to go to www.medicare.gov.

Philadelphia CAO Districts Merge to Form Chelten

Attention Philadelphia Residents: The Hill District and Ogontz District CAO offices have merged to create the Chelten District office. If you have experienced problems with this transition or are unable to contact your assigned caseworker, please call us at 1-800-274-3258.

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 staff@phlp.org to change the way you get the Health Law PA News!

Applying for and Renewing CHIP and Medicaid Coverage: What is the “Healthcare Handshake”?

Eligibility for children’s health care coverage under Medicaid (also called Medical Assistance) and CHIP is based on three elements: age, family size and family income. In Pennsylvania, the income limit for Medicaid varies: for infants under 1, the income limit is 185% of the federal poverty income guidelines (FPIG), for children between 1 and 6, the income limit is 133% of FPIG and for children 6 and over, the income limit is 100% of FPIG. Children under 19 years old whose family income is over the Medicaid limit can qualify for CHIP.

To streamline the application and renewal* processes, both programs have applications and renewal forms that collect the information necessary to determine eligibility for both Medicaid and CHIP. The CHIP contractors and the County Assistance offices have followed an “any form is a good form” policy. Families do not have to resubmit an application for CHIP if they are turned down for Medicaid and vice versa. Applications and accompanying verification should be transferred automatically.

** For purposes of this article, the term “renewal” refers both to CHIP’s renewal process and to the re-determination process for Medicaid.*

In the past, this exchange was a paper process and did not always go smoothly. To further expedite the appropriate transfer of applications and renewals, the Departments of Public Welfare and Insurance instituted an electronic process for transferring the forms and verification called the HealthCare Handshake.

What does the HealthCare Handshake actually do?

When an application is submitted to Medicaid and some or all of the children are found not eligible, the caseworker sends the electronic version of the application form and verification to the CHIP contractor in the county. If there is more than one CHIP contractor in the county, the CHIP contractor is chosen randomly based on the last digit of the application number. The CHIP contractor then reviews the application for eligibility. In some cases, the family

may be contacted for additional information.

If an application is initially submitted to CHIP and the family’s income appears to be within the Medicaid guidelines, the CHIP contractor sends the electronic version of the application form and verification to the local County Assistance office (CAO). Because CHIP does not require citizenship and identity verification, the CAO is likely to contact the family to obtain that information. If the child is found eligible for Medicaid and lives in a HealthChoices county, the choice of a managed care plan and primary care provider would follow the same process as any other Medicaid application.

What Should a Family Expect?

Families who applied to one program but whose application is later sent to the other program will get a series of letters and notices.

On the Medicaid side, a Medicaid denial notice will be sent and a separate letter will tell the family that their application has been sent to a specific CHIP contractor and it will provide contact information. Individuals have the right to appeal the Medicaid denial. Once the CHIP contractor has reviewed the application, the family will either get a letter asking for more information or will get an eligibility determination notice from the CHIP contractor. CHIP appeal rights will also apply.

On the CHIP side, a CHIP denial notice will be sent and a separate letter will tell the family that their application was sent to the local County Assistance office and include the CAO’s contact information. The CAO will then contact the family if additional information is needed. The family will get a Medicaid notice on the outcome of the determination of Medicaid eligibility. Again, both Medicaid and CHIP appeal rights would apply.

At renewal, the same process and protocols are used: forms and verifications are transferred electronically and notices and letters are sent.

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How to Help Families

The COMPASS web-based application, found at www.compass.state.pa.us, can help families send their application to the most appropriate program from the start. For families who are not sure whether they should apply for Medicaid or CHIP, COMPASS allows families to choose a CHIP contractor, rather than rely on the CAO's random assignment system.

The web-based system performs an analysis of each child's age, family size and income as well as geographic information to route the application or renewal to either the Medicaid or CHIP program. Using the geographic information, COMPASS will give families the opportunity to choose one of CHIP programs in their county if some or all of the children appear to be eligible for CHIP. If some or

all of the children appears to be eligible for Medicaid, information about the local County Assistance office will appear.

COMPASS also allows families to track the status of their applications and renewals. If families prefer to apply using the paper application or if they do not have access to a computer, they can state a preference for a CHIP contractor by writing it anywhere on the MA application form. Paper applications for CHIP are sent directly to a CHIP contractor.

For more information

The Pennsylvania Health Law Project can provide details on tracking applications and renewals, appeal rights, access to health care services and other information. Call the Helpline at 1-800-274-3258.

IBC and Highmark Announce That Merger Is Off

Earlier this month, Independence Blue Cross (IBC) (covering Southeast PA) and Highmark Inc. (covering Western PA) announced that they had withdrawn the merger application they filed with the PA Department of Insurance. This merger would have created the largest health insurer in Pennsylvania and one of the largest in the nation.

The proposed merger was initially announced in April 2007. The two companies stated that a merger would result in \$1 billion dollar savings and help consumers (although, exactly how it would help them was not clear). In addition, the plans indicated that they would use a major portion of the savings to expand coverage for uninsured Pennsylvanians. Opponents of the merger expressed concerns about the merger's impact on competition in the state and argued that a lack of competition would be bad for providers as well as consumers. If the plans merged, they would have had 51% of the market share in the state and about 78% of the Medical Assistance market in the HealthChoices Lehigh-Cap region where two affiliates operate (Gateway Health Plan and Ameri-Health).

Reports indicated that the Department of Insurance was prepared to reject the merger unless the two plans gave up either their Blue Cross or their Blue Shield trademark. This would have then enabled another insurer with that trademark to enter the market. The Blues were not willing to give up either brand and therefore withdrew their merger application.

The merger withdrawal could have an impact on the state's adultBasic program which provides health insurance for uninsured low-income adults. Currently, the state has an agreement with the Pennsylvania Blues (Capital BlueCross and Blue Cross of Northeastern PA in addition to Highmark and IBC) to help finance the program. This agreement, which provides about \$80 million annually to adultBasic, runs through 2010. Renewal of that agreement beyond 2010 may be in jeopardy as a result of the merger withdrawal. State officials acknowledge that losing such a key funding stream would have a significant impact on the adultBasic budget.

HomeWorks Project to Receive Excellence Award

We are proud to announce that the *HomeWorks Project*, a collaboration between PHLP, Regional Housing Legal Services, and three men with disabilities in Philadelphia County will receive a 2009 Excellence Award from the Pennsylvania Legal Aid Network, Inc. (PLAN). The *HomeWorks Project* was the idea of the three men and their families who wanted to pool their resources to purchase a home together and share attendant care services. David Gates, a Senior Attorney and Director of Policy at PHLP, was contacted by the families to provide technical assistance and to help make the idea a reality. David will be recognized by PLAN for his role in developing *HomeWorks* as a unique and innovative collaboration along with Kim Dolan, an attorney with Regional Housing Legal Services. The 2009 Excellence Awards will be presented at PLAN's annual awards dinner in Harrisburg on March 31, 2009. Congratulations David for this well-deserved award!!

Please support PHLP by making a donation through the United Way of Southeastern PA. Go to www.uwsepa.org and select donor Choice number 10277.

Pennsylvania Health Law Project

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