

Health Law PA News

NEWSLETTER OF THE PENNSYLVANIA HEALTH LAW PROJECT

HARRISBURG ❖ PHILADELPHIA ❖ PITTSBURGH

STATEWIDE HELP LINE: 1-800-274-3258

ON THE INTERNET: WWW.PHLP.ORG

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- Special 2002 Budget Edition -

Governor's Proposal Slashes Health Coverage for Poor, Elderly, Kids, and Disabled

Governor Schweiker submitted his 2002-2003 budget proposal to the Legislature in February. Among its many belt-tightening proposals, it reduces or delays coverage for many uninsured people and vulnerable populations on Medical Assistance (MA).

Budget cuts would include:

- Eliminating MA for 13,000 poor, disabled, and elderly Pennsylvanians by eliminating NMP spend-down, and restricting MNO spend-down (see next two items below).
- NMP spend-down is a way of obtaining MA coverage most often used by seniors and people with disabilities who have Medicare, and cannot afford their high prescription costs. It is also a crucial safety net for people on Social Security Disability who must wait two years before Medicare coverage begins.
- MNO spend-down: the Governor proposes to change the way medical bills are counted for MNO spend-down, so that it will be harder to qualify. MNO already costs consumers more, and excludes DME and prescriptions.
- Delaying, reducing, or eliminating the Adult Basic Coverage (ABC) program for uninsured, low-income adults. ABC is completely funded by money from the Tobacco settlement, and was

originally slated to begin January 2002. It is currently delayed until July, 2002, and may be reduced or eliminated altogether.

- Capping eligibility for loophole MA for children with disabilities at an income level of \$100,000 per year for a family of four. Currently, there is no family income cap for MA under the loophole, since disabled children often need intensive skilled nursing care, durable medical equipment, wraparound, and other exceptionally costly medical goods and services.
- Less money than advocates have anticipated for the MR waiting list. Proposal funds 367 residential placements—fewer than expected.
- Elimination of the commitment to fund the respite care program for families of non-MR kids with disabilities. ■

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Save the Date!

Learn More about the Proposed Cuts to Health Coverage
and Talk with Advocates and People Affected by Them!



Statewide Meeting
Monday, March 18, 2002
9:30 a.m. to 11:30 a.m.



Philadelphia: Philadelphia Bar Association

1101 Market Street
11th Floor, Conference Center
Philadelphia, PA

Harrisburg: PA Health Law Project

101 Second St., Suite 5
Harrisburg, PA

Pittsburgh: Allegheny Bar Association

Academy Room
400 Koppers Building
436 7th Avenue, Pittsburgh PA

*There will also be a briefing
March 15 with the
Consumer Health Coalition:*

- 1 to 3 p.m.
- United Way Building
One Smithfield St.
Pittsburgh, PA
Call or email for details.

All three sites will be teleconferenced March 18.

Contact PHLP at:

1-800-274-3258 or budgetinfo@phlp.org
to RSVP or for more details.

Governor's Budget Proposes to Eliminate Medical Assistance for Some Children with Disabilities

The Governor's Budget proposes to end Medical Assistance (MA) for some children with disabilities. Currently, parental income is not counted for MA if the child is determined to have a severe disability. Under the proposal, children whose parents had total annual incomes of \$100,000 or more for a family of 4 would be ineligible for MA. Presumably, the income limit would be lower for families of 3 or less and perhaps higher for larger families. The State would not consider the child's medical expenses or other expenses related to the child's disability. Too often these expenses top \$100,000 a year.

If this proposal takes effect, children whose parents' income exceeds the cap would have to pay for or lose services currently paid for by MA or HealthChoices such as:

- in-home nursing
- prescriptions
- nutritional supplements
- medical equipment (wheelchairs, hearing aids, lifts, etc.)
- supplies (diapers, underpads, etc.)
- transportation to medical appointments
- wraparound (TSS)
- residential treatment facilities

Since some providers don't offer some of these services, like wraparound, for private pay or any other payment source, it could mean that the family would have to use some different service, even if they could afford to pay for the TSS. Although this proposal was announced in the Governor's Budget, it does not need to be adopted as part of the State Budget. In fact, legislative action is not required for DPW to cap this category of MA. Nonetheless, because the Governor included it in his proposed Budget, it is expected to be part of the general budget debate in the State Legislature.

State Representatives and Senators who are Members of the House and Senate Appropriations Committees will have the opportunity to question the Department of Public Welfare on this and other cuts during hearings on March 5th (Senate) and March 6th (House). This cut has been proposed as a

cost savings measure. The Governor's Budget estimates this cut will save \$1.2 million in the first year. However, the Governor's Budget does not appear to take into consideration additional costs that may be incurred if this cut goes into effect. For example, if a family loses community supports as the result of the loss of MA, and this results in the institutionalization of a child, MA will HAVE TO pick up the cost of that child's institutional care once the child has been out of the parents' home for 1 month! This is required by current federal law which the State cannot change. The cost of that institutional care is most likely to be much more expensive than the community based supports the child could have received had MA not been cut.

In addition, this proposed cut is likely to reduce the amount of federal funds currently available to many school districts for special education. Currently, school districts and intermediate units in Pennsylvania are eligible to participate in a special funding program run by the PA Department of Education called "Access." Under this program, school districts can bill the State for certain special education costs incurred for students on MA. These costs are then billed by the Department of Education to MA which in turn draws down federal matching money. That federal matching money is then returned to the school districts. Since the federal government only provides matching funds for those students who are on MA, the fewer students on MA, the less federal money school districts will get. Because the school districts would still have a legal obligation to provide special education services, the reduction in federal funds will force school districts to make up the revenue shortfall from other sources, including possibly tax increases. For further information, please contact the PA Health Law Project at 1-800-274-3258 or visit our website at www.phlp.org. ■

Gov. Proposes Fewer New MR Slots

The MR community had been expecting a significant increase in the number of slots for deinstitutionalization, however Gov. Schweiker's proposed budget increases these slots only modestly. This means that more people will go without community based services this year than expected. Under the proposed budget, only 367 new people will receive residential placements. ■

Budget Proposal Eliminates NMP Spend-Down, Curtails MNO

Proposal would eliminate prescription drug coverage for 5000 lower income people with disabilities and seniors, and end basic coverage for another 8000 lower income Pennsylvanians

The Governor's Budget would eliminate the Medical Assistance program called "NMP spend down." The elimination of this program would primarily affect people on Social Security (mostly those on disability and some on retirement) with incomes slightly above the poverty level (\$738 a month for 1). People on Social Security disability do not get Medicare until they have been collecting benefits for two years. As a result, NMP spend-down serves as the only form of health insurance many can get while waiting the two years for their Medicare to begin.

Although there is another form of spend down (MNO, which is also being cut), it has much lower income limits. An individual on Social Security would have to spend \$162 a month more on medical expenses to qualify. MNO also excludes prescription drugs, dental, and medical equipment.

Although people on disability qualify for Medicare after two years, Medicare does not cover prescriptions. Some Medicare HMOs provide limited prescription coverage, but they almost always have copays (often 50%), annual caps (often \$1500 a year or less), and usually charge higher premiums. Moreover, many areas offer no HMOs to sign up with.

Another problem with eliminating NMP spend-down is that it is a major source of prescription coverage for people who are uninsured or on Medicare. People under 65 cannot qualify for prescription coverage through PACE or PACENET, even if disabled.

NMP spend-down can also be less expensive for seniors who might otherwise have to rely on PACENET, which has a high deductible and copays. No affordable alternative for prescription coverage exists for most people on NMP spend-down.

NMP spend-down may also be cheaper for the state than PACE or PACENET, since it pays 100% of the cost for PACE programs, but receives federal funding for more than 50% of the cost of NMP spend-down. Cutting NMP spend-down could also be illegal, since its elimination would be contrary to a State Supreme Court decision (*Crammer v. DPW*).

8000 other Pennsylvanians will lose a form of MA called "MNO" because of a change in what

medical bills DPW would deduct in determining eligibility. MNO covers hospitalization, doctor visits, lab tests and other basic health care, but not durable medical equipment or outpatient prescription drugs. It is most commonly used by the working poor to cover hospital or other expensive medical bills.

Contact PHLP at 800-274-3258 for more info. ■

Proposal Raids Special Health Fund

Pennsylvania has received between \$325 million and \$424 million each year since 2000 from tobacco companies in settlement of a national class action lawsuit on the health effects of smoking. Then-Governor Ridge and the Legislature passed a law (Act 77 of 2001) to put all this money in a special fund for health related programs. It can only be used for health purposes other than those in Act 77 if the Legislature approves by a two-thirds vote.

Governor Schweiker is proposing to take more than \$117 million out of this fund for the coming fiscal year, and another \$38 million the following year to balance the budget. The specific programs that would be affected by the proposal are:

- Home & Community Based Services (HCBS) for older adults cut by \$14.8 million
- Health insurance for uninsured adults (Adult Basic Coverage) cut \$94.5 million over 2 years
- Medical Assistance for Workers with Disabilities cut by \$45.9 million over 2 years

Delays in implementing these programs have left unspent money the Governor proposes to use in the general fund. For example, the Adult Basic Coverage (ABC) program for uninsured adults was scheduled to start in January but has been delayed until July, leaving unspent money. Under Act 77, this amount must remain in the health fund for future services. However, the Governor's diversion of this money will severely curtail future growth in these programs, especially HCBS and ABC, which were already insufficiently funded before the proposed cuts to serve all who qualify.

Based on testimony of Administration officials at a public hearing, the Governor does not intend to try to get a two-thirds vote in the Legislature as required by Act 77, since such a large majority would be extremely difficult to get. Instead, it seems he will ask to reallocate this money by simple majority vote. Such an action could violate Act 77. ■

Adult Basic Coverage Delayed— Cuts or Elimination Possible

The Adult Basic Coverage Program (ABC) that was slated to begin early this year has been delayed at least until July 2002. Currently, groups are seeking to change the law that created ABC to either reduce or eliminate the program altogether.

Intended to provide a minimum level of health coverage for lower-income Pennsylvanians ages 19-64, ABC was mandated by Act 77 of 2001. Act 77 is the state law passed by the Pennsylvania Legislature, and signed by then-Governor Tom Ridge that allocated the multi-billion dollar settlement Pennsylvania is expected to receive over the next 25 years from the tobacco companies.

The largest single chunk of the yearly settlement funds (on average, a total of \$404 million per year) was earmarked for the ABC program. However, the state has delayed implementation of the \$77.8 million program until July. Funds that would go towards the ABC program between now and then have apparently been diverted to other programs. Some groups are seek to scrap ABC in favor of using the funds elsewhere.

The need for ABC in Pennsylvania is very great for a number of reasons. First, many have lost jobs or health coverage due to the recession, in a state where 1.1 million people are already uninsured. Second, other options for health coverage are financially out of reach for most uninsured working Pennsylvanians. Private coverage can cost upwards of \$500 per month, and the low-cost option offered by the Blues (Special Care) provides scant coverage for a relatively hefty price. Third, for unemployed or marginally employed residents, Medicaid eligibility limits are usually far below their income levels. Spend-down would be as expensive or more expensive than purchasing private insurance. If NMP spend-down is eliminated, this problem would become even more extreme.

ABC provides basic coverage: it excludes important types of care, including outpatient prescriptions, durable medical equipment, and behavioral health coverage. However, it does provide an important health safety net, and a way for working poor individuals to qualify for basic health care coverage.

PHLP has received many phone calls from unin-

sured individuals who need ABC's benefits right away. For more information, contact PHLP at 1-800-274-3258 or www.phlp.org. ■

Plans for Non-MR Respite Program Eliminated

Among the many delays, cuts, and eliminations in health coverage proposed by the governor is the defunding of the respite program begun last year for families of children with non-MR disabilities. The program was slated for full funding this yearbut, the recent budget proposal completely eliminates it.

The 2001-02 budget included \$2.5 million to start a new respite program in January, 2002. There was supposed to be \$5 million in the 2002-03 budget to "annualize" the program (make it available for a full year). Start up was slow, however, and DPW's Office of Social Programs did not hire anyone to run the program until late in 2001. As a result, 2001-02 funding for the program was frozen. Now, despite the work that has been completed to enable the program to start up in July 2002, there is no money in the new budget to do so. Advocates will have to educate legislators, to try and get funding restored. ■

This article contains material written by Terry Roth of the Disabilities Budget Coalition and PHLP staff.

Health Law PA News

Health Law PA News is published by the Pennsylvania Health Law Project approximately every other month for Medical Assistance, CHIP, Medicare, and uninsured consumers and their advocates.

The PA Health Law Project is a non-profit, statewide legal advocacy organization dedicated to empowering low-income Pennsylvanians to access healthcare. PHLP has three offices:

Pittsburgh

650 Smithfield St., Ste 2130
Pittsburgh, PA 15222
412-434-5779

Harrisburg

101 S. Second St., Ste. 5
Harrisburg, PA 17101
717-236-6310

Philadelphia

924 Cherry St., Ste 300
Philadelphia, PA 19107
215-625-3663

PHLP also runs a statewide toll-free help line available to consumers on Medical Assistance, CHIP, and Medicare, or who are uninsured at 1-800-274-3258.



This Issue is About How the Proposed Budget Impacts:

- The Adult Basic Coverage Program (ABC) for uninsured adults
- MA for Children with Disabilities
- NMP and MNO Spend-Down for MA
- The new respite care program for families of disabled children
- Expansions of MR deinstitutionalization slots
- Funding for MA for Workers with Disabilities (MAWD) and Home and Community Based Services



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Philadelphia, PA 19107



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