

Health Law PA News

NEWSLETTER OF THE PENNSYLVANIA HEALTH LAW PROJECT

HARRISBURG ❖ PHILADELPHIA ❖ PITTSBURGH

STATEWIDE HELP LINE: 1-800-274-3258

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PA Budget Stops DPW From Counting Parental Income for Severely Disabled Kids' MA, Imposes Process for Changing Wraparound Criteria

The Pennsylvania state budget, which passed early in the morning on June 29th, provided a pair of victories to parents of children with severe disabilities. The budget was silent on other Medicaid issues. This has led the Department of Public Welfare (DPW) to announce that it is moving ahead with other cuts that Governor Schweiker proposed in his budget.

Parents were pleased to learn that their children with severe disabilities who do not qualify for SSI (because of income deeming rules) will still qualify for Medical Assistance - at least for another year. However, the Budget Act instructs DPW to submit an annual report to the general assembly, listing the family size, household income, diagnosis, cost of services paid by the medical assistance program, and other information for such children. The General Assembly appeared unwilling to disqualify any children with severe dis-



abilities as recommended by the Administration without more details on the potential impact.

Parents of children with Autism, concerned that DPW would change the medical necessity criteria to make it more difficult to obtain wraparound services, succeeded in getting the legislature to impose on DPW a process for any revision. The Budget Act prohibits DPW from altering the medical necessity criteria for therapeutic staff support, mobile therapy, and behavior specialist consultant services except through the regulatory process. The Act further prohibits any change until the department develops, with public input, a comprehensive plan for children's behavioral health services, and presents the plan to the Public Health and Welfare Committee of the Senate and the Health and Human Services Committee of the House.

DPW Moves Forward on Other Health Care Cuts

DPW has announced plans to publish in the Pennsylvania Bulletin proposed regulations designed to implement the MA cuts. This may occur as early as August 10th. The state projects that thirteen thousand recipients who now "spend down" (i.e. use medical deductions from their income to qualify for MA) will lose their health insurance. These include 6,000 persons who use their high medical bills as deductions to qualify for MA on a monthly basis. This is an important way for persons with disabilities to

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get health care coverage during the two year waiting period for Medicare. It also helps them to pay for prescriptions after they get Medicare.

The spend down cuts will also limit medical bills used for 6-month spend down eligibility. This is frequently used to cover hospital and other large bills by persons whose income is over the Medical Assistance limits. About 6,222 persons would lose health coverage under this proposal.



On July 25th, the state's Medical Assistance Advisory Committee (MAAC) unanimously opposed the elimination of the non-money payment (NMP) monthly spend down program. Many elderly and low-income consumers with disabilities use this program to pay for expensive drugs.

Four other proposed changes would force nursing home residents to pay more toward the cost of their care. Consumers have been especially critical of the proposed elimination of the home maintenance deduction, which allows persons who are temporarily institutionalized in a nursing home for less than six months, to set aside up to \$572 per month from the cost of their nursing home care to keep up their residence. Critics of the proposal argue that it will cause unnecessary institutionalization, since residents will have no home to return to unless the rent or mortgage are paid.

Other proposals would limit the amount that can be set aside for a community spouse, place a limit of \$1,000 on spend-down deductions, and extend the disqualification period for those who give away assets.

When the regulations are published, members of the aforementioned legislative committees will have an opportunity to respond to them within 30 days, and the public may express their position to the Independent Regulatory Review Commission (IRRC).

The IRRC will then vote to approve or disapprove the regulations.

DPW Plans MA Managed Care Phase-In for Northeastern PA Carbon, Lackawanna, Luzerne, Monroe, Pike, Schuylkill, Susquehanna, Wayne and Wyoming Counties

HealthChoices mandatory managed care is phasing in to the Northeastern Region of the state. This means that almost all Medical Assistance recipients in the counties listed above will be required to choose an HMO to provide their MA coverage. DPW is currently slating phase-in to begin July 1, 2003, with the transition to mandatory managed care complete by January 1, 2004.

As of the date of this newsletter, enrollment in an HMO in these counties is still voluntary, and consumers can switch HMO's or return to fee-for-service at any time. Behavioral Health will begin January 1, 2004 for everyone.

Lock-in: July 2003

For consumers in a voluntary HMO, DPW has announced that they will be locked into Physical Health managed care as of July 1, 2003. This means that if you are enrolled in a voluntary HMO on this date, you will be able to change between other HMO's, but you cannot go back into the old fee-for-service system.

Looking down the road: New MA Enrollees

Based on implementation of HealthChoices mandatory managed care in other regions of the state, DPW will most likely set a date after which anyone who *becomes* eligible for most kinds of MA will be required to choose an HMO, and cannot elect the fee-for-service system.

DPW has completed its proposal process and announced that five managed care organizations have submitted acceptable plans for HealthChoices HMO's. Currently, the state is negotiating rates with these organizations, and based on the outcome of those talks, the Department will select several plans to offer MA coverage to Northeast MA consumers. The five plans under consideration are:

- **AmeriHealth Mercy Health Plan**

Currently operates in HealthChoices Lehigh/Capital, operates as a voluntary HMO in Lackawanna and

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Luzerne counties. Closely related to Keystone Mercy in HealthChoices Southeast.

- **HMO of Northeastern Pennsylvania**
Not currently operating a Pennsylvania MA plan.
- **Gateway Health Plan**
Currently operates in HealthChoices Southwest and Lehigh/Capital, and as a voluntary plan in Blair, Cambria, Clarion, Columbia, Erie, Jefferson, Luzerne, Mercer, Montour, Northumberland, Schuylkill, and Somerset.
- **Three Rivers Health Plans, Inc.**
Currently operates MedPlus+ in HealthChoices Southwest and Lehigh/Capital, and in the voluntary counties of Blair, Bradford, Cambria, Clarion, Crawford, Erie, Jefferson, Lackawanna, Luzerne, Mercer, Monroe, Schuylkill, Somerset, Sullivan, Warren and Wyoming.
- **Health America**
Not currently operating a Pennsylvania MA plan.

Behavioral Health Plans

DPW is currently gathering and considering proposals from potential behavioral health contractors, and will announce its selections later this year. DPW will select one contractor per county.

Personal Care Homes: Regulatory Update!

DPW expects to release proposed Personal Care Home (PCH) regulations to replace the current outdated ones around the end of August in the Pennsylvania Bulletin. The re-regulation of Personal Care Homes has been a hotly debated issue by both consumer advocates and the PCH industry. Both the Auditor General and the Pennsylvania Health Law Project have prepared scathing reports on the conditions in some of the Commonwealth's personal care homes, conditions that result from inadequate standards and need drastic improvement.



DPW has been in the process of revising these regulations for over two years, now.

Among the most significant areas of interest to consumers in the draft regulations are their treatments of:

- Staff training and competency standards
- Staffing levels
- Medication Administration
- Assessment and Care Planning; and
- Consumer rights

Following DPW's release of the proposed regulations in the Pennsylvania Bulletin, there will be a public comment period. Consumers and advocates who wish to participate in the commenting process should be sure to submit comments to this proposal.

MATP in the Lehigh/Capital Region

Following HealthChoices implementation in the Lehigh/Capital region, the Department of Public Welfare (DPW) recently mailed out a Medical Assistance Transportation (MATP) informational brochure to each of the 155,000 MA consumers in the region. The brochure tells consumers how to register for the MATP in their county and how to access services—whether they need a ride, or they want mileage reimbursement for using their own car or someone else's. It also reminds consumers they have a right to transportation for "urgent care" matters (cases where they should get medical care within 24 hours before it becomes an emergency). This MATP brochure mirrors the one DPW previously issued for the HealthChoices-SW and SE regions and is due in large part to ongoing advocacy by the Consumer Subcommittee of the MAAC (Medical Assistance Advisory Committee). These are the telephone numbers for the MATP programs in the Capital/Lehigh region:



Adams	(800) 830-6473
Berks	(800) 383-2278

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Cumberland	(800) 315-2546
Dauphin	(800) 303-1904
Lancaster	(800) 892-1122
Lebanon	(717) 273-8901
Lehigh/Northampton	(610) 432-3200
Perry	(877) 800-7433
York	(800) 524-2766

Anyone who is having trouble using the MATP to get to the medical care they need can contact the PHLP Helpline at (800) 274-3258.

Feds Approve PA's Brain Injury Waiver

The federal government has approved Pennsylvania's plan to offer community based services to adults with traumatic brain injury. To qualify, an individual must be twenty-one or older, have a primary diagnosis of traumatic brain injury, which is not of a degenerative, congenital or post-operative nature, and otherwise require the level of care offered by a Special Rehabilitation Facility. The individual must also have substantial functional limitation in 3 or more of the following activities: mobility, behavior, self-care, self-direction, independent living, cognitive capacity, and communication.

Available services include respite care, environmental adaptations, supported employment services, non-medical transportation, chore services, night supervision, cognitive therapy, counseling, community integration, personal care services, and other services not generally available to medical assistance recipients. In order to qualify financially, an individual's income, after a \$20 deduction, must fall below 300% of the federal SSI level (currently \$1635 per month), and countable resources must be below \$2,000. One's home, automobile, furniture, clothing, etc. are not countable.

Applying

Applications in the eastern part of the state are made through Liberty Resources, Inc., 215-634-2000. In the central and western part of the state, apply through United Disabilities Services, 800-995-9581. Medical Assistance recipients who participate in HealthChoices will continue to get their non-waiver services through the HealthChoices system.

Applying for Medical Assistance over the Internet

Applications for Medical Assistance Health Coverage have been available online at the Department of Public Welfare website for a long time now. Thus far, however, the applications have had to be printed, completed by hand, and then taken or mailed to the local county assistance office.

You can now apply for Medical Assistance online and submit the application online. You can go to the COMPASS website, www.compass.state.pa.us and complete an application and submit it via the internet.



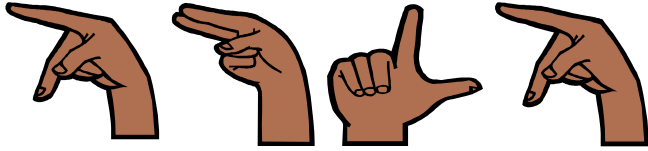
Once you have completed the application online, you will be prompted to print a copy of the application, a signature page, and a page listing all the verification that needs to be submitted to make the application completed. You will even be able to print the address for the specific county assistance office to which the signature page and verification must be sent.

But note: You must submit the signed signature page (signed by the applicant) and the required verification to the County Assistance Office within 30 days. The application date will be the date that the application was electronically submitted.

The best part of this news is that anyone can submit an application for another person. Family members, advocates, medical providers, etc. can all complete the application for a consumer or the consumer can do it herself. Imagine, Sue's daughter in Seattle can gather the information from Sue over the phone, complete the application online, and send Sue the signature page to sign and the list of verification items to submit.

Check out the online application and call the **Pennsylvania Health Law Project at (800)274-3258** if you have any problems.

DPW To Pay for Sign Language and Interpreter Services for MA Appointments



DPW has announced that it will use “best efforts” to provide certified sign language interpreters and non-English language interpreters for doctor’s visits and other related appointments under the fee-for-service program. This service is theoretically available already through the MA managed care. MA recipients in the fee-for-service (access) program who want to take advantage of this new service are asked to contact DPW at least 2 weeks ahead of a scheduled appointment.

As we go to print, DPW is still working on the toll free numbers and email address for recipients to use when requesting the service. We will publish them in our next newsletter. Members of managed care plans should contact their member services department to request interpretation services.

Update: Medical Assistance for Women with Breast or Cervical Cancer

Full Medical Assistance coverage for women diagnosed with breast or cervical cancer, or precancerous conditions, became available in Pennsylvania effective January 1, 2002. To be eligible for the program, a woman must be under 65, uninsured or without creditable coverage, a U. S. citizen or eligible immigrant*, and a resident of Pennsylvania.

In addition, women must have been screened or evaluated through the Healthy Woman program, a Pennsylvania program designed to screen women for breast and cervical cancer, and must have household income under 250% of federal poverty level (\$37,550 for a household of 3). Applicants for this

program can self-declare their income.

Coverage under the program is under the fee-for-service program, and not under Health Choices, even for women who live in a Health Choices area. Women who have been previously diagnosed with breast or cervical cancer but who have lost insurance are eligible as long as they are still receiving any kind of treatment for the condition. The initial eligibility time frames are dependent on the diagnosis. Please note that they have been updated since the original DPW bulletin, and now include a full twelve months for primary breast cancer.

Key points to remember in helping women to access this coverage:

- Access is via the Healthy Woman programs, not the County Assistance Office. Only these programs have the necessary application forms.
- Healthy Woman programs have variable waiting periods and this is a new program. Women with urgent needs may require advocates’ help in getting appointments and understanding the program
- Information about the program is available at the DPW website, www.dpw.state.pa.us/omap/bccpt/omapbccpt.asp.
- For help with finding the Healthy Woman site closest to you or for any other issue with this program, call the PHLP Help Line at 1-800-274-3258

*Please call us for an explanation of “eligible immigrant” if you have questions. And, please note, even those immigrants who are not eligible for full Medical Assistance benefits due to immigrant status (ie., undocumented) may be eligible for treatment under this program through Emergency Medical Assistance.

Call us on the **Help Line at (800) 274-3258** for more information.

ABC Enrollment Underway, Coverage Set to Begin in July

Pennsylvania's long-awaited AdultBasic program commenced coverage this past July. Funded by money from the state's settlement with Tobacco Companies, AdultBasic is administered by the Pennsylvania Department of Insurance, and coverage is provided by five contractors across the state.

AdultBasic provides skeletal health benefits that include doctor visits (specialist visits will require a referral from your primary care doctor), inpatient hospitalization, outpatient services, diagnostic services, accident and emergency care, preventative services, and other basic medical needs. The program will not cover mental health services, outpatient prescription drugs, or durable medical equipment. There are no pre-existing condition limitations.



Eligibility for AdultBasic is at 200% of the Federal Poverty Level, which is \$1,477 for an individual, \$1,990 for a household of two, \$2,503 for a household of three, and another \$513 for each additional member of the household. There is a premium of \$30 per month charged to each member, plus copayments. The program is available to people who meet the income guidelines, and who:

- are between 19-64 years of age
- have no other health insurance coverage for at least 90 days prior to enrollment (there are some exceptions to this rule)
- have been a resident of Pennsylvania for at least 90 days

Enrollment is based on what region of the state you live in. *If you are interested in AdultBasic, you should call to begin the application process as soon as possible—demand is high, and there may be waiting lists!* To apply, call the 800 number listed below for your region:

- **Highmark/Western Caring Foundation**
1-800-543-7105
Allegheny, Armstrong, Beaver, Bedford, Blair, Butler, Cameron, Campbell, Centre, Clarion, Clearfield, Crawford, Elk, Erie, Fayette, Forest, Greene, Huntingdon, Indiana, Jefferson, Lawrence, McKean, Mercer, Potter, Somerset, Venango, Warren, Washington, Westmoreland*
- **First Priority Health**
1-800-543-7199
Bradford, Carbon, Clinton, Lackawanna, Luzerne, Lycoming, Monroe, Pike, Sullivan, Susquehanna, Tioga, Wayne, Wyoming
- **Capital Blue Cross/PA Blue Shield**
1-800-543-7101
Adams, Berks, Centre, Columbia, Cumberland, Dauphin, Franklin, Fulton, Juniata, Lancaster, Lebanon, Lehigh, Mifflin, Montour, Northampton, Northumberland, Perry, Schuylkill, Snyder, York*
- **Keystone Health Plan East**
1-800-464-5437
Bucks, Chester, Delaware, Montgomery Philadelphia

*Centre County is served by both Highmark/Western Caring Foundation, and Capital Blue Cross/PA Blue Shield.

For more information on AdultBasic, call your contractor, or PHLP at 1-800-274-3258. You can also visit the Department of Insurance AdultBasic page at: www.insurance.state.pa.us/html/adultbasic.html.

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JKershenbaum@phlp.org

Please include your name, email address, and your current subscription address so we can switch you over to an electronic subscription.

Medicare Updates

Attention: Seniors and Social Security Disability Recipients!

New Law Delays Medicare HMO Lock-In Until 2005

At the end of May, both the US Senate and the US House of Representatives approved a measure that would delay the Medicare lock in provisions at least until the year 2005. The measure was an amendment to the Bioterrorism bill that passed both Houses. It was signed into law by George W. Bush on June 12.

The lock-in was to have taken effect June 30 of this year, when all enrollees were to be locked-in to their choice of Medicare plan. No changes would have been allowed for the rest of the year.



One would not have been able to switch to another Medicare HMO until January 2003; switch plans even within the same insurance company; or even switch back to Original Medicare until January 2003. Additionally, consumers would have been limited to one switch in

plan between the months of January and June 2002.

Many opposed the lock-in on the grounds that consumers were not adequately informed and no systems were in place to implement the lock-in. As a result, consumers can now switch plans at any time and as many times throughout the year as they wish.

Consumers who desired to switch plans but were told they could not, because they had made a switch between January 2002 and June 2002, can now switch plans. Any consumers having problems with switching plans should call 1-800-MEDICARE.

Medicare May Soon Cover Oral Cancer Drugs



U.S. Senators Olympia Snowe (R-Maine) and John Rockefeller (D-W.Va.) have proposed a bill that would expand Medicare to cover oral cancer drugs. A similar bill has been introduced in the House by U.S. Representative Deborah Pryce (R-Ohio). The New York Times reports that more than 20% of the 40 million Medicare beneficiaries receive some cancer treatment each year, and a "greater reliance" on oral drugs to treat tumors has left many seniors unable to cover the cost.

Currently, Medicare only covers prescription drugs administered in hospitals and some medications, including cancer injection or infusion treatments, administered in doctors' offices. The oral cancer drug legislation is being viewed as a possible first step toward a comprehensive Medicare prescription drug benefit.

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:

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650 Smithfield St., Ste 2130
Pittsburgh, PA 1522
412-434-5779

Harrisburg

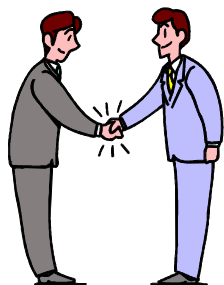
101 S. Second St., Ste. 5
Harrisburg, PA 17101
717-236-6310

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.

PHLP Staff Update



The Staff of the Pennsylvania Health Law Project said goodbye to paralegal **Bob Murken** at the end of July. Bob will be starting law school at Temple University at the end of August.

On behalf of the PHLP Staff and the hundreds of clients he has assisted over the past two years, we would like to thank Bob for his outstanding contributions and wish him all the best in law school. He will be missed!

At the same time, we would also like to welcome our new paralegal, **Josh Kershenbaum**, who came aboard in July. A former elementary school teacher and youth advocate, Josh will also be attending Temple University Law School this fall as an evening student.

We also wish to congratulate Staff Attorney **Stacey Coggins** on the birth of her son, Ryan Nicholas! We look forward to Stacey's return in January.

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