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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OakTree and HealthMATE Updates

As reported in the July edition of Health Law PA News, *the HealthChoices Southeast health plan OakTree, and HealthMATE, the voluntary managed care plan in the Lehigh Capital region and in Lackwanna and Luzerne Counties, closed. Both plans belonged to the parent company, Health Risk Management, Inc. (HRM), which has recently had severe financial difficulties that jeopardized its ability to provide health coverage under its contracts with DPW. In response to the company's financial straits, DPW elected to cancel its contracts for OakTree and HealthMATE.*

These cancellations have had a major impact on MA recipients enrolled in OakTree and HealthMATE. In particular, roughly 50,000 members of OakTree were rolled into AmeriChoice health plan in the Southeast on August 1, after AmeriChoice purchased the failing plan's contract. In a similar deal, 20,000 HealthMATE members have been rolled into AmeriHealth Mercy on September 1 after that plan purchased HealthMATE.

OakTree Members Rolled into AmeriChoice August 1

OakTree members in the Southeast have been navigating the sudden change to AmeriChoice since July 31. AmeriChoice buyout of the OakTree contract was announced on July 19, and consumers received notice at least a week later, giving most only a few days to prepare for the transition. Many had no information regarding their PCP, or what pharmacies or other providers they could use.

Working to the advantage of former OakTree members is the large proportion of their providers who also belong to the AmeriChoice network. Many have been able to keep the same PCP and specialists they had in OakTree, minimizing difficulties with the transition. An exception has been pharmacies: both CVS and Eckerd were major OakTree providers, but are not a part of the AmeriChoice network. This has led to cases in which former OakTree members who used CVS or Eckerd experienced difficulties obtaining prescriptions. Another area of possible difficulty is with OakTree members who receive home health services, since overlap between the two plans' home health provider networks is not ideal.

Former OakTree members have many protec-

*(See **OakTree** on page 2)*

HealthMATE Members Transitioned to AmeriHealth Mercy September 1

In a surprise move only days before HealthMATE members were scheduled to roll into fee-for-service or the new HMO of their choice, DPW, AmeriHealth Mercy, and HealthMATE brokered a sale of HealthMATE's contract to AmeriHealth Mercy. This sale means that as of September 1, all HealthMATE members became AmeriHealth Mercy members, unless they had previously enrolled in another HMO for September 1. The affected counties include all counties in the upcoming HealthChoices Lehigh/Capital area (Adams, Berks, Cumberland, Dauphin, Lancaster, Lebanon, Lehigh, Northampton, Perry and York) and Lackawanna and Luzerne Counties, which are not a part of HealthChoices.

Consumers have a number of rights in this tran-

*(**HealthMATE** on page 2)*

-In this edition-

*(**OakTree** from page 1)*
tions, including:

- The right to continue an ongoing course of treatment with a doctor or other provider for 60 days, whether or not that doctor is in the AmeriChoice network. Women who were pregnant on July 31 will be able to see the same provider through their postpartum period.
- Access to the OakTree formulary until September 29. Former OakTree members can obtain any drug for which AmeriChoice requires prior authorization but OakTree did not, *without* prior authorization until September 29.
- AmeriChoice will grandfather all OakTree members taking Zoloft, even though the drug is not on the AmeriChoice formulary. The plan may also consider grandfathering other former OakTree members on certain other medications not on its formulary. They will consider requests on a case-by-case basis.
- OakTree prior authorizations will be honored until September 29th for adults, and for the full duration of the authorization for children.
- Referrals to specialists from OakTree doctors given before August 31 will be valid as long as the specialist is also an AmeriChoice provider.

The PA Health Law Project has produced an update that contains more details on consumers' rights during the OakTree to AmeriChoice transition. The update is available by calling our help line at 1-800-274-3258, or on our website at www.phlp.org. ■

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*(**HealthMATE** from page 1)*
sition they should be aware of. These include:

- The right to continue an ongoing course of treatment with a doctor or other provider for 60 days, whether or not that doctor is in the AmeriHealth network. Women who were pregnant on August 31 will be able to see the same provider through their six-week check-up following birth.
- AmeriHealth will give members the same PCP they had in HealthMATE if that PCP is also in the AmeriHealth network. If a member's PCP is not in the new plan's network, the member may continue to see that PCP for an additional 30 days after September 1. If the member is in an ongoing course of treatment with the PCP, he or she can continue to see that PCP for up to 60 days from September 1, as discussed above.
- All prescriptions written and authorized before August 31 will be honored by AmeriHealth until they run out. After that, AmeriHealth's rules and formulary will apply. Thus, if a drug requires prior-authorization under AmeriHealth, a prescription for that drug from before August 31 will be valid with AmeriHealth until it runs out.
- Referrals from HealthMATE doctors are valid after September 1; AmeriHealth will cover any care approved by HealthMATE, including referrals to specialists. Referrals are valid even if the specialist is in the AmeriHealth network, as long as the provider will take AmeriHealth payment.

Lehigh/Capital Members

Lehigh/Capital area members will not have the option of going back into fee-for-service, but they will be able to change health plans by calling the HealthChoices hotline at 1-877-214-3901. This call must have been made by September 14 in order to be effective October 1.

Lancaster Mental Health Coverage

Consumers in Lancaster will continue to receive their Mental Health coverage *only* through HealthMATE until October 1, when they receive it from Community Behavioral HealthCare Network. They will continue to receive physical health coverage form AmeriHealth during September.

Lackawanna/Luzerne Members

Residents of Lackawanna and Luzerne Counties will be able to go back to fee-for-service (ACCESS) by calling AmeriHealth at 1-888-991-7200 and requesting a disenrollment form, which they should complete and return to AmeriHealth. This process typically takes 30-45 days from when AmeriHealth receives the signed disenrollment form.

AmeriHealth members can also switch into MedPLUS+, the other HMO available in Lackawanna and Luzerne by following the disenrollment procedure above, and also contacting MedPLUS+ directly at 1-800-400-4003.

The PA Health Law Project has produced an update that contains more details on consumers' rights during the HealthMATE to AmeriHealth transition, available by calling our help line at 1-800-274-3258, or on our website at www.phlp.org. ■

Lehigh/Capital Area HealthChoices UPDATE!

The Department of Public Welfare (DPW) is now gearing up to bring HealthChoices (mandatory Medical Assistance managed care) to the Lehigh/Capital region starting October 1st.

The Lehigh/Capital area consists of Adams, Berks, Cumberland, Dauphin, Lancaster, Lebanon, Lehigh, Northampton, Perry and York counties. There are almost 167,000 MA recipients in this region, making up about 13% of the state's MA population.

Voluntary HMO enrollees

A number of MA consumers in the region previously joined an HMO through the voluntary managed care system. These consumers were sent a mailing in late August giving them the options of switching to a different health plan or remaining with their current plan. Whatever they choose, these consumers will be the first individuals converted to HealthChoices effective October 1st, and will not be permitted to switch back into the fee-for-service system.

Other MA consumers

MA consumers who had not joined a voluntary HMO will be getting mailings in October telling them they must choose a Physical Health plan and a Primary Care Practitioner (PCP) no later than March. There are three health plans to choose from-MedPLUS+, Gateway, and AmeriHealth Mercy. These consumers will be enrolled in HealthChoices within 30-45 days of choosing a plan. If consumers do not choose an HMO or PCP, they will be automatically assigned to one so that all consumers will be enrolled no later than April 1st. The number to call to ask questions about the available HMOs, about which providers are in their networks, and to enroll is **1-877-214-3901**.

Mental Health and Drug and Alcohol Treatment

In HealthChoices consumers actually belong to two HMOs-a Physical Health HMO that they choose, and a Behavioral Health HMO they do **not** choose. Once consumers are enrolled in a Physical Health Plan, they are automatically enrolled into the Behavioral Health HMO chosen by their county. These are the Behavioral Health plans chosen by the counties:

Adams, Berks and York Counties:
Community Care Behavioral Health

Cumberland, Dauphin, Lancaster, Lebanon and Perry Counties:
Community Behavioral HealthCare Network of PA

Lehigh and Northampton Counties:
Magellan Behavioral Health of PA

When consumers need mental health or drug and alcohol treatment, they must go to their behavioral health plan for that care. The only exception to this rule is prescription medications which must be obtained through the member's Physical Health Plan.

Training and Consumer Materials

PHLP is available to conduct trainings on HealthChoices and how to advocate within that system for consumers, advocates, agencies and providers in the Lehigh/Capital area. PHLP has also developed consumer education materials which are distributed at the trainings. To arrange a training, contact PHLP's Helpline at **1-800-274-3258.** ■

Gerald Radke Replaces Charles Curie as OMHSAS Head

On July 27, Governor Ridge announced his appointment of Gerald Radke to the post of Deputy Secretary for DPW's Office of Mental Health and Substance Abuse Services (OMHSAS). Mr. Radke previously served as DPW's Deputy Secretary for Medical Assistance Programs in the Casey and Thornburgh administrations, and as Deputy Secretary for DPW's Office of Social Programs in the Shapp administration. He has since worked with the National Alliance for the Mentally Ill, Eli Lilly, and PCS Health Systems.

Mr. Radke replaces Charles Curie, who was tapped by George W. Bush to head the United States Substance Abuse and Mental Health Services Administration. ■

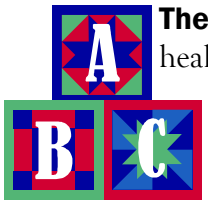
The Tobacco Settlement Money

How will it impact consumers?

The Tobacco Settlement represents a windfall for Pennsylvania. According to the state, the average yearly amount of the settlement is valued at approximately $404 million. Act 77, passed by the Legislature and signed by Gov. Ridge earlier this summer allocates most of this money (61%) to medical coverage for lower-income Pennsylvanians.

The main initiatives include expanding eligibility for the PACENET program, which provides prescription coverage for low-income seniors, and increased funding for Home and Community-Based Services (HCBS) for seniors. The state will use the largest portion of the Tobacco money, 30%, to fund coverage for low-income adults who are employed or between jobs. Two initiatives will provide this coverage: Ticket to Work, and the Adult Basic Coverage program (ABC). Ticket to work will function as a Medical Assistance buy-in for workers with disabilities, and ABC will provide low-cost coverage to people between the ages of 19 and 64 who are employed or between jobs.

Adult Basic Coverage Program



The Program: Will provide basic health insurance coverage to low-income adults. Administered by the Department of Insurance, the Adult Basic Coverage (ABC) Program is similar to CHIP, but for adults. For a premium of $30 a month, ABC will provide basic coverage, including preventive care, physician services, diagnoses and treatment of illness or injury, in-patient hospitalization, out-patient hospital services and emergency accident and medical care. ABC will not cover prescriptions, dental services, vision, durable medical equipment, substance abuse or mental health services.

Eligibility: Income at or below 200% of the federal poverty level (in 2001, $17,180 per year for one person, $23,220 for two, and $6,040 for each additional member of the household). Age 19-64. Not covered by any other health insurance for at least 90 days prior to enrollment.

When available: The Department of Insurance has stated that enrollment in ABC may begin as soon as February 2002.

How Tobacco Money is used: ABC is completely funded by Tobacco Settlement money, and receives 30% of the payment each year, the largest single allocation of Tobacco money.

Ticket to Work

The Program: Will offer full MA eligibility to individuals with a disability who are employed and receiving compensation, and who meet the program's criteria. The program will charge a premium of 5% of the enrollee's monthly income.

Eligibility: There are two types of eligibility:

1) **Worker with a Disability:** Age 16-65. Income at or below below 250% of Federal Poverty Level (in 2001, 250% of the FPL is $2,419 per month, before taxes). Resources less than $10,000. Must meet SSI disability definition, and be receiving compensation from employment.

2) **Worker with a Medically Improved Disability:** *Age, income, and resource requirements are same as above.* Must previously have been a worker with a disability and work a minimum of 40 hours a month at minimum wage

When available: The new eligibility is expected to go into effect in January 2002.

How Tobacco Money is used: MA is jointly funded by the state and the federal government. In Pennsylvania, the state pays 47% of MA costs, while the federal government pays 53%. Tobacco money will be put toward the Pennsylvania share of MA costs for people covered under the program.

PACENET Income Limits Expanded

The Program: The state Department of Aging administers the PACE and PACENET programs, which provide prescription coverage for lower-income people 65 and over. PACENET has a $500 yearly deductible, and requires an $8 copay for generics and $15 for brand drugs. PACE covers prescriptions with a $6 copay, and no deductible.

Applications are available at senior centers, pharmacies, legislator's offices, and at 1-800-835-4080.

Eligibility: PACENET is available for single seniors 65 and over with a 2000 income from $14,000 to $17,000, and married seniors from $17,200 to $20,200. To be eligible for PACE, a senior must have a 2000 income of $14,000 or less if single, or $17,200 or less if married.

When effective: New, higher eligibility limits for PACENET go into effect July 1, 2001.

How Tobacco Money is used: Settlement funds will go towards expanding PACENET income eligibility limits for single and married seniors by $1000 a year. The upper limit has risen from $16,000 to $17,000 for single people, and from $19,200 to $20,200 for couples.

Tobacco Use Prevention and Cessation

The Programs: The Department of Health will be making money available to fund county-level tobacco use prevention and cessation programs. DOH will administer a bidding process for local entities to submit proposals for funding this Fall. DOH will also implement programs at the state level.

As of this issue, further details are not available about any of the upcoming tobacco programs, but you should watch *Health Law PA News* for details.

Expanded Home and Community Based Services for Seniors

The Programs: The Department of Aging administers a Medicaid waiver that provides a wide array of in-home services to people aged 60 and over who would otherwise face placement in a nursing facility, and who may exceed traditional Medical Assistance income and resource limits.

Eligibility: Contact your Area Agency on Aging (AAA). Contact information is on the web at http://www.aging.state.pa.us, or call PHLP.

When Effective: Watch *Health Law PA News* for more information on when this program will be rolled out.

How Tobacco Money is used: Settlement funds will be used in three ways: 1) To establish a bridging program for individuals whose savings, retirement investments, or other resources exceed waiver limits. People with countable resources of up to $40,000 will pay half the cost for their home and community-based services, and the other 50% will come from tobacco funds. When they have spent excess countable resources down to the waiver limit of $2,000, they will roll into the full waiver program, without disruption in services. 2) The Department of Aging will create more waiver slots to reduce or eliminate waiting lists. 3) Funding other in-home service supports for vulnerable older individuals who do not qualify for the bridging or waiver programs.

Heller Steps Down at Income Maintenance, Takes Federal Post

On September 6, Gov. Ridge announced that Sherri Heller, Deputy Secretary of DPW's Office of Income Maintenance (OIM), will step down to take a position as the head of the Federal Office of Child Support Enforcement.

As head of OIM, Heller was responsible administering TANF, Food Stamps, MA eligibility, energy assistance, and child support enforcement and payment processing. ■

Federal Waiver Based on National Governor's Association Proposal Allows States to Cut Services, Impose Cost-Sharing

The National Governor's Association issued a proposal calling for a radical restructuring of the Medicaid (Medical Assistance) program. In response, the Bush administration has issued an outline for a waiver based on the NGA plan, and which incorporates many of its proposals. The resulting Health Insurance Flexibility and Accountability (HIFA) waiver would circumvent many Federal requirements for state Medicaid and SCHIP programs, and do away with significant coverage mandates for consumers. The plan would allow states to reduce Federal guarantees of access to MA built into the current structure, and use savings to provide coverage for other groups. The HIFA waiver is being considered nationwide as states seek to solve problems of increasing health care costs (due in large part to increasing pharmaceutical costs) and rising numbers of uninsured. However, Pennsylvania does not appear to have plans to seek the waiver.

How the HIFA Waiver Works

The waiver essentially reduces Federal coverage requirements for optional populations, which states are permitted but not required, to cover. These include many people above Federal income levels for mandatory inclusion, like:

- Children above federal minimum income levels
- Adults in families with children
- Pregnant women above 133% of the FPL
- Persons with disabilities (above SSI levels)
- Persons with disabilities (under HCBS waiver)
- Certain working persons with disabilities (above SSI levels)
- Elderly above SSI levels
- Elderly nursing home residents above SSI levels

According to the Kaiser Family Foundation, nationally and in Pennsylvania, roughly 70% of MA recipients have mandatory eligibility; 30% are optional. A HIFA waiver in Pennsylvania could affect in the neighborhood of half a million MA recipients.

Savings from these reductions in benefits could be used to create basic coverage programs for other groups not traditionally covered by MA, but the waiver may not require this.

The waiver would allow states to cut the benefits they offer (if they offer them at all) to optional populations, by scaling them back to the benefits offered by the state CHIP program, or one of three other benchmarks. HIFA could also shift costs to consumers by giving states greater freedom to impose cost-sharing. This means that selected MA recipients would have co-payments, deductibles or co-insurance for many services. States could choose which optional and expansion groups must cost share, and how much (up to 5% of income).

Expansion Groups

To expand coverage, the waiver permits states to use surplus MA funds gained through cost-sharing and coverage reductions to establish coverage programs for uninsured populations that could not be covered under Medicaid without a waiver. So-called "expansion populations" go beyond optional ones, and would have to receive at least a basic benefits package. However, the scope of benefits could be severely limited, excluding many important areas of coverage, including prescriptions, durable medical equipment, or long term care. To free up funding for expansion programs, the HIFA waiver could provide an incentive to reduce coverage and increase cost-sharing elsewhere in the MA system. Indeed, in order to provide enough savings to fund expansion programs, a HIFA implementation could require deep cuts in benefits for elderly and disabled populations who often require the most comprehensive set of benefits.

HIFA Not Under Consideration in PA

It does not appear that Pennsylvania is currently considering the HIFA waiver, and so its potential for increased financial burden and reduced benefits, while a rising specter in other states, is not in the cards for the Commonwealth at the moment.

Of more lasting concern to Pennsylvania consumers, however, is the possibility that elements of the NGA proposal not included in the HIFA waiver could be implemented in a future waiver further expanding the ability of states potentially to reduce benefits, or impose cost-sharing.

For more information, contact PHLP at 1-800-274-3258. ■

Bush Administration Publishes Revision to Clinton Medicaid Rules

On August 20th, the Centers for Medicare & Medicaid Services (formerly HCFA) published a new proposed rule governing Medicaid Managed Care programs that replaces regulations originally proposed by the Clinton administration in January 2001. The Bush administration version appears to roll back some significant consumer protections provided by the original version in order to provide states with greater flexibility in administering MA managed care programs. Implementation of the regulations, based on the Balanced Budget Act (BBA) of 1997, is also delayed until August of 2002.

It appears that the federal regulations will not immediately impact MA recipients in Pennsylvania, since many of their protections are surpassed by Pennsylvania's Act 68 and state contracts with HealthChoices plans. However, these Federal regulations set a lower standard to which protections could be cut in future revisions to the HealthChoices program.

The BBA of 1997 provided greater leeway for states to create mandatory managed care delivery systems for their MA programs without obtaining waivers from the federal government. In exchange, the Act prescribed certain protections for members of Medicaid Managed Care organizations, including:

- Access to emergency services
- Access to routine and preventative gynecological care without referrals
- The right to obtain a second opinion
- Requiring adequate provider networks
- Basic grievance and appeal requirements

While both sets of rules are based on the Act, they vary in their implementation of it. According to the August 17th edition of *The New York Times*, the recent proposed rules retreat from the Clinton-era proposal in key ways:

- Clinton rules required HMOs to conduct a thorough assessment of MA recipients with special needs; the new proposed rule eliminates much of this requirement.
- Bush administration proposed rules allow HMOs 45 days to resolve grievances, up from 30 days in the previous set of proposed regulations
- Emergency grievance decision times have been changed from within 72-hours from when the grievance is field, to within 3 business days.

The Bush administration "streamlines" Clinton regulations in order to provide states and managed care plans greater flexibility, and to control costs.

Following the most recent developments, the final regulations would not go into effect until August of 2002. Joan Alker, a policy analyst for the consumer advocacy group, Families USA, was quoted in the August 15 *Kaiser Daily Health Policy Report* as saying, "The states have gotten their flexibility, but we're still waiting for the protections."

An August 16th Health & Human Services press release stated that, "the previously issued rule went far beyond what Congress intended...its excessive mandates actually threatened beneficiaries' access to care under Medicaid."

CMS will accept written comments to the regulations until October 19, 2001. Consumers interested in learning how to submit comments can contact the PA Health Law Project at 1-800-274-3258. ■

Announcements

Grieving the Events of September 11, 2001

A reminder. Individuals on Medical Assistance or CHIP who have lost friends, family members, or other loved ones, or who are having particular difficulty in the aftermath of the attack on New York and Washington, DC, and the related plane crash near Pittsburgh, may access counseling services through their health plan.

Health Coverage Information Online

Get information on MA, CHIP, ABC, and other state-run health coverage programs *online* at our website, **www.phlp.org**. This section of our website is being updates, and we are open to your feedback on what you would find helpful. Contact BMurken@phlp.org.

DPW Dental Summit

DPW will host a Dental summit for stakeholders to consider how to make improvements in access and utilization in the Medical Assistance system at state, county, and local levels. The summit will be November 1-2, in Carlisle, PA. Call Peg Suchma at DPW at 717-772-6341.

Lehigh/Capital Area Trainings

PHLP staff are available to conduct trainings for consumers and advocates on HealthChoices Mandatory Managed Care during and following its implementation in the Lehigh-Capital region. Please contact our office at 1-800-274-3258 for more information. Also, watch Health Law PA News over the coming months for features on issues important to consumers in all HealthChoices and voluntary managed care regions.

Confused by MA Eligibility Rules?

The Pennsylvania Health Law Project has produced a free guide to Medical Assistance eligibility. It is designed to be brief, simple, and to the point. Obtain a copy for free as an acrobat file by emailing scoggins@phlp.org, or from our website at:

www.phlp.org/healthinfo/phlp_ma_manual.pdf

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