

HEALTH AND HUMAN SERVICES LEGISLATIVE CHANGES AFFECTING PERSONS WITH DISABILITIES

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The 2003 Legislature adjourned late on Thursday, May 29, 2003, after tackling a \$4.5 billion budget deficit during a regular and special session. Early in the regular session, Governor Pawlenty unallotted \$281 million in order to balance the state budget for 2003. The budget for the next biennium, beginning July 1, 2003, was balanced with shifts, fee and other revenue increases and deep cuts to many programs and services for persons with disabilities, but without a tax increase as Governor Pawlenty had promised during his election campaign.

The Health and Human Services budget bill cuts about \$1 billion from what would have been spent in the next two years. An initial review of the Health and Human Services \$7.2 billion budget bill reveals many serious cuts for persons with disabilities and some improvements: All figures used are for the next two-year biennium, July 1, 2003 until June 30, 2005, unless otherwise indicated.

1. Home And Community Waiver Services Reductions:

- a. Eliminates 600 new waiver slots for persons with developmental disabilities mental retardation/related conditions (MR/RC) waiver for the next biennium, cuts \$13.4 million in state funds and \$26.8 million cut in services (due to loss of federal Medicaid matching funds).
- b. Limits TBI waiver (alternative to nursing homes and hospitals for those with brain injuries) to 150 persons per year, \$4.9 million state funds cut, producing a \$9.8 million cut in services counting federal Medicaid funds.
- c. Limits CADI waiver (alternative to nursing homes for children and adults under 65) each month to five fewer individuals, \$4.8 million state cut, for a total of \$9.6 million service cut.

The CADI limitation, which was never discussed at a public meeting, was a last-minute proposal designed to save money. This cut is likely to affect persons who are on waiting lists for the MR/RC and TBI waivers as well as children and adults with mental health needs living in the community. Adults under 65 who want to leave nursing facilities have priority for CADI waiver slots under the new limitations.

- d. Improvements for waiver services, development of a common service menu and home care targeted case management, were delayed for two years,

cutting \$3.9 million in state funds or \$7.3 million with federal Medicaid funding included.

2. **Minnesota Family Investment Plan (MFIP) Families With SSI Disability Payments.**

Beginning July 1, 2003, over 7,000 low-income families on MFIP with a disabled family member who receives an SSI payment will lose \$125 per SSI family member. For example, a mother caring for her child with disabilities on SSI will have her monthly income reduced from \$802 per month to \$677 per month, 33% less than the federal poverty level. This is a cut of \$22.4 million for 7,000 families already living below the poverty line.

3. **Community Service Provider Rate Cuts.**

Community service providers, including waiver service providers, ICFs/MR, deaf and hard-of-hearing grants, alternative care grants and consumer support grants, are reduced by 1% for the next biennium. The reduction totals \$14.7 million in state funds and \$29.4 million with federal Medicaid funds included.

Personal care assistance, private duty nursing and home health agencies were not cut.

4. **Consumer Support Exception Grants Elimination Delayed Six Months.**

These important exception grants for 200 families will be eliminated as of January 1, 2004 (cutting \$1.9 million). A six-month delay of the Governor's proposal to eliminate these grants by July 1 was included in the final budget agreement.

5. **Parent Fee Increases For MA/TEFRA, Waivers, ICFs/MR, Rule 5 Mental Health.**

The Governor's original proposal which substantially increases parent fees for families with children who qualify for an institutional level of care, was adopted, effective July 1, 2003. About 5,600 families will pay \$4.2 million more in fees over the next two years. The increases hit families at various income levels differently. Some fees will go from \$139 per month to \$409 per month and from \$25 per month to \$168 per month. The Department of Human Services expects to send fee notices to families in early June.

6. **Community Social Services Act (CSSA), County Mandates For Services.**

The Legislature repealed the CSSA and cut state social services funding by \$37.5 million, over 25% for the next two years. The funding cut is restored in the

following biennium, '06,'07. Children's mental health grants will be combined with state social services funds and federal Title XX funds into a new block grant called the Children's and Community Services Grant, which has far fewer requirements for counties.

Counties are required to continue to provide services in seven priority areas, including protection services, emergency services and services that maintain persons in their homes or least restrictive settings. Specific language on day training and habilitation (DT&H) and chemical dependency services was removed from the list of priority areas, but must be provided when needed to meet service priorities such as emergencies or maintaining a person in the least restrictive environment. The new block grant funding is available for vulnerable adults as well as children. DHS had proposed excluding adults over 25.

Persons who need county funding for day training and habilitation (DT&H) services will face difficult challenges as some counties propose cuts due to the changes in law and funding reductions. Counties are limited in making service cuts for adults with disabilities to no more than the "overall percentage" of the reduction in funding, including federal funds. However, counties are not allowed to reduce services needed to meet priority areas. There are currently 1,430 persons with county-funded DT&H services and another 1,300 new June graduates with developmental disabilities, many of whom will need county funding for DT&H services.

The new children's and community services block grant also includes nearly \$21 million in previously dedicated state funds for children's mental health services. Without separate and focused grants for children's mental health, services for these children are at risk.

7. Requirement That ICF/MR Residents Receive DT&H Services.

The ICF/MR/DT&H provisions which provide that ICF/MR residents can choose their residential provider or other providers for services during the day was adopted for a funding reduction in DT&H services of \$3.2 million for the biennium. An important protection requiring that day services be provided outside the residence unless otherwise specified in the individual service plan, was included in the final bill.

8. Medical Assistance For Employed Persons With Disabilities (MA/EPD).

The MA/EPD program will be changed in a number of significant ways:

- a. Everyone will have to earn more than \$65 per month in order to participate in MA/EPD, beginning January 1, 2004.

- b. A minimum premium of \$35 will have to be paid for those who now pay less than \$35 per month, beginning January 1, 2004.
- c. MA/EPD enrollees must have taxes withheld from their earnings or pay quarterly self-employment taxes in order to remain eligible, beginning January 1, 2004.
- d. One-half percent of unearned income must be paid on a monthly basis for those who have Social Security or other unearned income, beginning November 1, 2003.
- e. Beginning November 1, 2003, persons over 200% of the Federal Poverty Guidelines (FPG), \$1,498/month, will have to pay their Medicare Part B premium if they have Medicare. The Medicare Part B premium is now about \$58 per month and will rise to \$65 per month next January.

On the positive side, effective January 1, 2004, MA-EPD enrollees can remain on MA-EPD for four months after losing a job through no fault of their own.

9. Medical Assistance Co-Payments For Adults Over 21, Will Be Effective October 1, 2003:

No co-payments for those in nursing homes, ICFs/MR, for services covered by Medicare, hospice, children, pregnant women.

- a. \$3 for brand name; \$1 for generic drugs, except no co-payments for mental health drugs.
- b. \$3 per visit for doctor and clinic visits, except OT, PT, speech and mental health visits.
- c. \$6 for non-emergency visits to Emergency Room.
- d. A \$20 out-of-pocket limit for pharmacy co-payments was also adopted.

Providers may not deny service to recipients who cannot pay co-payments. However, new language says that if health care providers normally refuse service to patients who have a debt, the provider can include co-payments as an uncollected debt and refuse service, if advance notice is provided.

10. Medical Assistance, GAMC And MinnesotaCare Dental Coverage For Adults.

Dental care for adults is limited to \$500 per year, not including emergencies and extractions for dentures, a cut of about \$4.3 million in dental services, beginning July 1, 2003.

11. General Assistance Medical Care (GAMC).

GAMC survived as a separate safety net health care program for those with incomes under 75% FPG, \$560 per month. GAMC retroactive coverage has been eliminated. The GAMC spend down for those over 75% FPG without health coverage is eliminated. However, for those with income over 75% FPG, a new "catastrophic" health program is established to cover hospitalization costs with a \$1,000 deductible per hospitalization. The catastrophic coverage begins on the date of application, which can be filed by the hospital. No other services are covered for those adults without children between 75% and 175% FPG on "GAMC catastrophic." These changes will affect many adults with chronic conditions, such as severe diabetes, heart conditions, mental illnesses, seizure disorders.

12. MinnesotaCare For Adults Without Children.

Effective October 1, 2003, a new limited benefit set for MinnesotaCare adults without children has been adopted. The asset limit is \$10,000 and eligibility will not begin until the month following the premium payment. A \$10,000 limit on hospitalization and a 10% co-payment (\$1,000) are included. Benefits are limited to hospitalization, physicians, drugs, outpatient services and lab/diagnostic only. No dental care and other services are provided. Services other than hospitalization are limited to a total of \$2,000 per year, and there will be a sliding scale premium charged. Co-payments include \$50 for an Emergency Room visit, \$5 for a non-preventative visit and \$3 for brand name and \$1 for generic drugs.

13. Increase Adult Foster Homes To Five.

Allows an increase to five persons for existing four-bed adult foster homes. With informed consent from each person and county approval, providers can add a fifth person to four-bed homes. Savings of \$711,000 for the biennium was associated with this provision due to a 14% reduction in payments when a fifth person is added to a home funded by the MR/RC waiver.

14. County Share For ICF/MRs Over Seven Beds.

The Governor's proposal to shift to counties 10% of the cost of ICF/MR services over seven beds was adopted, but delayed until July 1, 2004. The shift from state funds to the county totals \$10.6 million for the biennium.

15. Adult Mental Health Day Treatment.

This service is phased out over the biennium, cutting \$2.4 million in state funds.

16. New Medical Assistance Autism Benefit.

Delayed until 2007. Cuts \$13.8 million in state funds for the next four years.

17. Continuing Care Grants.

Most continuing care grants for persons who are elderly or disabled were cut 15% (totaling \$14.3 million), except the Epilepsy Demonstration Grant and Region 10 Quality Assurance which were not reduced.

18. Minnesota Services For Children With Special Health Needs (MCSHN).

MCSHN treatment program funds were for \$1.8 million for the next biennium. This program will likely not provide health treatment and assistance for out-of-pocket health care costs for children with chronic conditions, such as diabetes, hearing loss, asthma and epilepsy in the next biennium.

19. Minnesota Council On Disability.

Funding was cut 30% and the Council was extended until 2007.

20. Centers For Independent Living.

State funding was cut 30% for the first year and 10% for the second year of the next biennium.

21. Mandated Health Benefit Proposal Evaluation Process.

The final Omnibus Bill contains provisions which establish a process for reviewing proposed health coverage mandates for private sector health plans.

22. Children's Mental Health Services Improvement.

Funding was adopted for children's mental health screening, which will include follow-up assessments and services for children in the child protection and juvenile justice systems at \$2.7 million for 2005 and \$9.2 million for the following biennium. In addition, a new more flexible Medical Assistance benefit set for children's therapeutic services and supports was adopted, providing \$1.7 million for 2005 and \$3.8 million in the following biennium.

An adolescent mental health crisis facility for sub-acute care was funded in the Medical Assistance program. A suicide prevention grant in the Health Department was maintained as a separate block grant.

23. Hearing Aid Coverage For Children.

For health plan contracts issued or renewed after August 1, 2003, hearing aids for children 18 years of age or younger with hearing loss due to functional, congenital malformation of the ear that is not correctable by other covered procedures must be covered.

24. Adult Mental Health Changes.

Regional treatment centers will be reduced to facilities for 15 or fewer persons in order to qualify for Medical Assistance, resulting in a savings of \$9.5 million. Also, Rule 36 facilities will be reduced for the same reason, in order to qualify for federal Medicaid funding.

A new alternative treatment program for offenders with mental illness will be established. This new program will also be eligible for federal Medical Assistance match.

25. Increase For Adoption And Relative Custody Assistance For Special Needs Children.

Funding for adoption and relative custody assistance for 960 children with special needs was funded for an additional \$2.2 million for the next biennium, rising to \$16.8 million for 2006, 2007.

The actual impact of many of the Health and Human Services budget changes will only be understood as various provisions become effective and the governmental units and providers decide how to respond. There are many other legislative changes affecting persons with disabilities not listed here. For more information, check on various new laws at www.leg.state.mn.us.