

# MINNESOTA DISABILITY LAW CENTER

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## ***DRAFT***

***---Subject to change as more information is obtained---***

**\*\*NEW INFORMATION HIGHLIGHTED IN YELLOW\*\***

**TO: Persons Interested in Disability Services**

**FROM: Anne L. Henry**

**RE: Governor's Proposed Budget Cuts for Disability Services in Health and Human Services**

**DATE: February 20, 2009**

The Governor's budget for the 2010-2011 biennium can be found on the Minnesota Department of Management and Budget website:

<http://www.mmb.state.mn.us/doc/budget/narratives/gov/human-svcs.pdf>

**We do not yet have reliable information about the effect of the federal stimulus funding on the disability related cuts in the Medical Assistance program. We will provide information as soon as possible. Because of our state's growing deficit it is wise to keep working on the cuts proposed to date. Cuts in the DHS budget are expected despite the increased federal Medicaid match in the federal stimulus package. The next revenue forecast will be released March 3, 2009, when it is expected the deficit will soar by \$2 billion to \$7 billion (next two year state spending projected to be \$36.7 billion). The Governor is slated to release an updated budget on March 10, 2009.**

The Governor has proposed the following cuts for disability services:

**1. Personal Care Assistant (PCA) Services Changes, pp. 63-66.**

- Cuts more than \$85 million in PCA services (state and federal Medicaid funds) for biennium. [The PCA service cut is larger because the administrative costs are subtracted from the savings and that amount is not shown on the budget page.]
- **CUT IN ELIGIBILITY for PCA: Requires recipient to be dependent (need for hands-on assistance OR constant cuing and supervision during ADL) in two**

**activities of daily living (dressing, grooming, bathing, eating, positioning, transferring, mobility and toileting).** It appears that persons needing assistance with independent activities of daily living, complex medical needs or behavior issues who do not need physical help or constant supervision with at least 2 ADL's will not qualify for PCA services at all.

■ 2,100 individuals in fee for service MA would be cut off PCA beginning January 1, 2010. Cuts \$18 million state dollars, \$36 million in services state + federal Medicaid funding. Seniors in managed care will also be affected but DHS hasn't been able to determine how many over 65 in managed care plans will be cut off PCA services.

- Changes assessment and authorization for PCA.
  - Changes to home care rating (21 ratings collapsed into 10), complex medical redefined, behavior levels collapsed and redefined, dependencies in ADL's defined and simplified.
  - Authorization of time for PCA will be changed into standard amounts for each activity, not minutes based on the individual.
  - The MT rating (Regional Treatment Center level of care) which allows up to 24 hours of service per day will be eliminated and will apparently be replaced with some funding under the DD waiver.
  - 6,600 projected to be cut two hours of PCA service per day and 5,500 expected to get an additional 1 hour PCA service per day.
  - The assessment changes and time standardization will affect seniors in managed care plans, but DHS doesn't have the information about how many persons over 65 will be affected.
  - Assessment and time allowance changes cut \$25.2million (state and federal Medicaid) in PCA services and cost over \$800,000 to implement for 18 months from January 1, 2010 through June 30, 2011.
- Simplify statute and service delivery.
  - Allow 180 licensed home care agencies to qualify as Medical Assistance (MA) PCA enrolled providers without additional forms, reduce conflict of interest.
- Change PCA on where and how PCA can be used.
  - Restrict use of PCA in housing with services.
  - Prohibit providers from providing both housing with services and PCA.
  - **Require a responsible party to live with consumer who cannot direct their own care, effective January 1, 2010.** This change will mean that 350 to 400 people under 65 who don't live with their responsible party will be cut off PCA services unless they move in with the Responsible

Party. This includes adults living with a parent or adult son or daughter who is providing PCA services and thus can't be the responsible party. This change is expected to save \$5.8 million state dollars, \$11.6 million in services (state + federal Medicaid) over 18 months.

- **The responsible party provision also affects seniors in managed care plans, but DHS doesn't yet know how many over 65 year olds are not living with their responsible party.**

- Implementation of provider standards.
  - Require training.
  - Require standards and certification for agency and agency staff.
  - Require fidelity and surety bonds.
  - Increase criminal background checks for managerial staff and qualified professionals.
  - Require communication between provider agency and consumer.
  - Standardize training required for all.
  - Limit hours a PCA can work to 310 hours per month (about 60-65 hours per week), effective July 1, 2009. This saves money because PCA recipients with high needs will get less than they are authorized to receive because they can't get another PCA to provide the remaining hours. Hours limit projected to cut \$6.2 million state \$, \$12.4 million (state + federal Medicaid) in 18 months.
- Administrative cost of implementing the PCA changes is \$1.5 million (most eligible for federal Medicaid match).

***CUTS MORE than \$85 million (state + federal Medicaid) in Fee-for-Service PCA Services from January 2010 – June 30, 2011. Cuts rise to \$75 million (state + federal) for 2012 and \$81 million (state + federal) for 2013.***

**2. Modify Nursing Facility Level of Care Threshold which will affect Access to Home and Community-Based Waivers and Alternative Care Programs, p. 59.**

- Cuts \$36 million state (\$72 million Medicaid for biennium).
- Changes ELIGIBILITY for nursing facilities and the Home and Community Waivers persons with disabilities and the elderly use to obtain community services instead of nursing facilities(CADI, EW, TBI). The change results in 4,300 persons not being eligible for nursing facility care, CADI or EW in the next biennium, beginning January 1, 2010.
- Due to of loss of eligibility for NF level of care and the financial eligibility standards associated with long-term care, 1,100 seniors will lose eligibility for BOTH long-term care services (NF or EW waiver) and for Medical Assistance

(part of the 4300).

- The new nursing facility level of care criteria require one of six factors:
  - High assistance in 4 or more ADLs **OR**
  - A high need for assistance in one ADL that requires 24 hour staff availability (toileting, positioning, transferring, mobility) **OR**
  - A need for clinical monitoring once per day **OR**
  - Significant difficulty with memory, using information, daily decision making, or behavioral needs that require at occasional intervention **OR**
  - a qualifying nursing facility admission of at least 90 days **OR**
  - living alone AND risk factors are present (maltreatment, neglect, falls or substantial sensory impairment).
  
- It is clear than many persons will qualify for NF level of care, but will not qualify for PCA services because they don't need constant supervision or hands on assistance with 2 ADLs. With caseload limits on CADI and TBI waivers, it appears than some will have to choose between no services and facility care.
  
- Implements COMPASS, a new comprehensive assessment tool across all long-term care programs (all waivers, PCA, PDN, ICF/MR, NR) and populations by December 30, 2009 for 80,000 individuals each year. COMPASS implementation administrative and systems costs \$5.7 million in state funds (federal Medicaid match available for most of the cost).
  - Many Department of Human Services (DHS) staff needed to implement this major change.
  - This proposal increases the threshold for home and community waivers and nursing facility level of care, but PCA level of care, though increased, appears to be different from the nursing facility and waiver level of care.

### **3. Federal Compliance for HCBS Waivers, p. 67.**

- Establishes a rate methodology for uniform statewide rates for service providers in order to eliminate disparity in rates paid for the same services across the state, effective January 1, 2001.
  
- Implements consistent provider standards for all service providers, effective January 1, 2011.
  
- Eliminates lead agency (county) contracts with providers; automate provider enrollment and compliance information.

- This proposal will cost \$2.5 million for the next biennium, all of it eligible for federal Medicaid match.

**4. Limit Disability Waiver Growth, p. 70.**

- Cuts \$21 million state, \$42 million in services for biennium (with federal Medicaid match).
- Cuts CADI funded slots for new recipients from 1500/yr to 1140/yr, DD waiver slots from 300/yr to 180/yr, and TBI slots from 200/yr to 150/yr.
- Establishes a moratorium on foster care shift staff settings for community alternatives for disabled individuals (CADI), traumatic brain injury (TBI) and developmental disability (DD) waivers. Exception for community alternative care (CAC) and TBI-NB and elderly waiver (EW) in housing with services with home care license.
- Establishes technology grants to develop personally-designed living situations to increase independence and reduce human assistance.

**5. Three percent Provider Rate Cut for Basic Health Care (MA and GAMC) and Long-Term Community Support Service (MA and state grants), p. 76 and 96.**

- Three percent cut to all health care providers (including mental health, dental, physician and all other basic care providers) and all long-term community support providers (waivers, PCA, DT+H, ICF-MR, Nursing Facility, Semi-Independent Living, Consumer Support Grant, Aging, Deaf and Hard of Hearing Services). Children and Adult Mental Health community support services and chemical dependency service providers are not included in this 3% rate cut. Nursing facilities are not subject to the 3% cut, but are subject to other reductions.
- The **community support services** cut is over **\$160 million for the biennium in Medicaid funding**, over 75% of this figure pays wages for staff.
- The **rateable reduction for MA and GAMC basic care** cuts over \$96 million in state funds and \$148 million for the biennium when federal Medicaid match is added. GAMC is a state funded program with no federal Medicaid match.

**6. Group Residential Housing Changes, p. 45.**

- Eliminate Difficulty of Care Payments under GRH April 1, 2010 and transfer costs to:
  - The DD waiver for those who qualify for Supervised Living Services (SLS) under the DD waiver.
  - Shelter needy payments for those who do not qualify for the DD waiver supervised living services.
- Requests federal waiver to get food payments for for-profit GRH settings.
- Cuts Personal Needs Allowance by \$32 for 10,000 GRH residents and \$12 for another 6,000 GRH residents. **Personal needs allowance will fall to \$89 for all.** Those with SSI will lose their \$20 general income disregard and everyone will lose the \$12 community living adjustment (offset to the pharmacy co-pay begun in 2005). Cuts \$7 million dollars from 16,000 GRH residents.
- Saves \$21.4 million, \$14.4 million is from Difficulty of Care Foster Payments which are replaced by federal funds.

7. **Eliminate Health Coverage under MA, GAMC and MNCARE for 65,166 Adults without Children, 26,399 and 27, 233 Parents p. 97-100.**

The Governor cuts health coverage for 113,000 Minnesotans by 2011. The coverage cuts do not include medical assistance for persons with disabilities, however many with disabilities are covered in the areas proposed to be cut. DHS acknowledges that some will whose coverage is eliminated will either seek disability status to obtain coverage or become disabled without health care services. Funding has been added for increases in eligibility based on disability.

8. **Eliminate Region 10 Quality Assurance, Epilepsy Project and Delay Community Service Development Grants, p. 78.**

Cuts \$1.8 million in state funds from these three programs, effective July 1, 2009.

9. **MA-EPD Premium Increase, p. 109.**

- Increase minimum premium from \$35/mo to \$50/mo and increase required payment of unearned income (mainly Social Security) from .5% to 2.5%, beginning January 1, 2010. Collects \$1.6 million per year from MA-EPD recipients.

10. **Limit Customized Living Service Rates under the Elderly Waiver (EW), p. 73.**

- Cuts \$1.7 million state, \$3.4 million Medicaid for biennium, but fiscal impact grows over time as population ages.

**11. Eliminates MA Coverage of OT, PT, Speech, and Audiology for Adults, p. 105.**

- Eliminates OT, PT, Speech, Audiology from MA, GAMC and MNCARE **for all adults**, number affected not in budget, effective January 1, 2010. DHS adds a new cost of about 70% of the rehab services cut for people who will remain in hospitals and nursing homes because they can't get out-patient rehabilitation therapies. Cuts around \$20 million in OT, PT, Speech and Audiology for the biennium including state funds and federal Medicaid match, but only saves \$6.8 million in state dollars. Will affect disability waivers and other services as well.

**12. Eliminate Dental Care for Adults, p. 101.**

- Eliminates dental care for adults (21 and up) on MA, GAMC, MNCARE except for emergency dental care in hospital ER, effective January 1, 2010. Cuts \$38 million in state funds (and unknown amount of Medicaid).

**13. Eliminate Critical Access Dental, p. 121.**

- Eliminates critical access payments for MA and MNCARE dental care, effective July 1, 2009. Cuts \$12.2 million state dollars and unknown Medicaid amount from MA and MNCARE recipients.

**14. Reduction in Mental Health Hospital Payments for MA and GAMC, p. 124.**

- Hospital payments for mental health admissions are reduced 6% for MA and GAMC. DHS admits that this will result in an increase of commitments to state facilities. Therefore, funding is increased by 4% for state operated services. (No specifics provided in budget). Effective July 1, 2009. \$16.7 million in state spending reduction, no information on amount of federal Medicaid lost.

**15. Contact for Special Transportation Services in the Metro Area, p. 137.**

- Allow DHS to again contract with a broker for STS services in the 11-county metro area. Effective date not provided, apparently July 1, 2009.
- Cuts unknown amount of service funding. Cuts are well over \$2 million in service funding. Budget page doesn't not reveal the cost of the broker contract which is paid for with reductions in STS payments.

**16. Adjust Special Transportation Rates, p. 138.**

- Increase rates for wheelchair accessible van from \$1.30 to \$1.80 per mile and decrease ambulatory STS rate from \$1.30 to 1.00 per mile, effective July 1, 2009. Cuts \$211,000 state dollars and \$ 422,000 with Medicaid match.

**17. Change Willmar Child and Adolescent Behavioral Treatment program to a Safety Net Function, p. 142.**

- Adds a Neurodevelopmental Program for evaluation of brain disorders with mental illnesses, a Dialectic Behavioral Treatment Program and Trauma Care for \$506,000 for the biennium.

**18. Fund State-Operated Dental Clinics as a Safety Net Service, p. 144.**

- State-Operated Clinics served 5,349 persons with disabilities in 2007. The cost for this change is \$3.1 million in state funds.

**19. Eliminate Children and Community Services Act and Replace with Protecting Children and Strengthening Families Act Grant, p. 41.**

Redirects 55% Federal Title XX and state appropriation to child welfare and 45% to services for adults who are aging, disabled, need mental health services or detox. No budget details on number affected. Effective January 1, 2010.

**19. Cut \$125 per month from MFIP Grants for Low Income Families Affected by Disability, p 49.**

Cuts \$125 per month from 7000 low income families using the Minnesota Family Investment Plan (MFIP) who have a parent or a child with a disability who receives Supplemental Security Income (SSI).

**20. Cuts Rent Credit 27%.**

Affects 274,000 low- and moderate-income Minnesota households whose property taxes take up a large share of their incomes or their rent includes property taxes. Seniors and persons with disabilities make up 28% of all Renters' Credit recipients. Under the Governor's proposed budget, the Renters' Credit would be cut by 27%, or about \$51 million a year.