

## Memo

To: SNAP members

From: Michael Chirieleison

Date: February 4, 2009

Subject: Proposed Pennsylvania FY 2010 budget

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Earlier today, Governor Rendell released his proposed budget for the state's 2009-2010 fiscal year. SNAP staff is still examining the budget, so we will provide more information to you in the coming days, but we wanted to take an opportunity to present the highlights to you today.

### Hospital Payment Cuts

The following represents proposed cuts to the state share of various hospital payments and the corresponding impact on hospital payments:

- ***Outpatient DSH payments*** – a cut of \$6.792 million in state funds, which amounts to a 25 percent reduction in payments. This reduction appears to maintain the FY08-09 proposed cuts to these payments announced by the governor last fall, which are expected to be implemented in the fourth quarter of the current fiscal year.
- ***“Reduced supplemental payments to hospitals”*** – a cut of \$13.208 million in state funds, with an as-yet unknown impact on specific payments. At this point, we believe this figure represents an aggregate reduction to inpatient DSH, medical education, and community access fund payments. It is presented in a manner that seems to give DPW flexibility to implement cuts to these payments in a non-proportional manner. If these cuts were to be applied proportionally to all three payment pools, they would represent a 15 percent reduction in each payment. Please recall that the governor proposed a similar reduction in FY08-09 payments that is expected to be implemented in the fourth quarter of the current fiscal year in an as-yet undisclosed manner.
- ***OB/NICU payments*** – a cut of \$1.962 million in state funds, with no expected impact on SNAP members. This reduction preserves the base of \$5 million for OB/NICU payments while eliminating additional funding added by the legislature in the FY08-09 budget for “grants” to at least one non-SNAP hospital. We do not believe this reduction will affect SNAP member OB/NICU payments.
- ***Hospital-Based Burn Centers*** – a cut of \$5.5 million in state funds, which amounts to a 100 percent elimination of this payment. These payments, which are made to six hospitals (one of which is a SNAP member), were eliminated in the FY08-09 proposed budget and subsequently restored by the legislature.

- **Critical Access Hospitals** – a cut of \$5.2 million, which amounts to a 100 percent elimination of this payment. These payments currently are made to 11 small rural hospitals. We expect HAP to pursue restoration of these payments in the FY09-10 budget.

## Other Hospital Payments

The proposed budget calls for the following for other types of hospital payments.

- **Tobacco Uncompensated Care payments** – funding in FY09-10 will be \$79.134 million, a \$1 million increase over FY08-09.
- **Trauma center payments** – funding is maintained at the FY08-09 enacted level of \$12.337 million. FY08-09 payments, which will be made at the end of this fiscal year, were targeted for a six percent reduction in state funding by the governor last fall.
- **Inpatient payments** – no cost-of-living increase.
- **Outpatient payments** – no cost-of-living increase.
- **Medical Assistance payment reform** – the budget materials presented today do not offer any information on this matter. If the budget contains any money for payment redesign, we expect it will be a very modest amount reflecting only partial-year implementation. Please note that negotiations over the details of a redesigned payment system still have not been finalized.

## Other Health Care Budget Highlights

The budget addresses a number of other issues of importance to safety-net hospitals.

- **Overall Medical Assistance budget** - the governor's proposal calls for a modest increase in total funding, from \$15.8 billion in 2008-09 to \$16.2 billion, in the proposed 2009-10 budget. State funds are anticipated to decrease from \$4.6 billion in 2008-09 to \$4.3 billion in 2009-10, which is a decrease of \$268 million or nearly six percent. The state fund amounts reflect the impact of an enhanced federal match in FY08-09 and FY09-10 (detailed below).
- **Projected Medical Assistance enrollment** - the proposed budget estimates that Medical Assistance enrollment will grow 3.2 percent, from 1,960,514 to 2,022,490 persons. The budget includes an additional \$127.1 million to reflect increased utilization and caseload in Medical Assistance outpatient, inpatient, and managed care services.
- **FMAP** - the Medical Assistance budget assumes an increase in the federal medical assistance percentages program (FMAP) from 54.52 percent to 54.81 percent – doing so even though the federal economic recovery legislation currently being negotiated in Congress would result in the state's FMAP rising to somewhere between 62 percent and 66 percent, depending on Pennsylvania's unemployment rate over the next two years. These enhancements are projected to increase Medicaid matching payments to Pennsylvania by approximately \$4 billion between October 2008 and December 2010.

On an annualized basis, the administration anticipates \$1.08 billion in additional federal support in FY 2008-09, \$1.92 billion in FY 2009-10, and \$1.0 billion in FY 2010-11, ostensibly to be used to offset the cost of the Medical Assistance program. Despite this, it appears the governor plans to use this FMAP increase to plug other holes in the proposed budget – in a manner not yet disclosed – instead of using the FMAP enhancement on Medical

Assistance payments. Consequently, rather than applying a 62-66 percent match to the state share of hospital payments, we believe the budget contemplates applying a 54.81 percent match. (You may recall that SNAP recently wrote to Pennsylvania's congressional delegation, asking its members to advocate inclusion of a "maintenance of effort" provision in the stimulus bill that would require states to use increased federal Medicaid matching money for Medicaid purposes; at this time, the stimulus bills include no such provision.)

- ***Assessment on Philadelphia hospitals*** - the governor's proposed FY09-10 budget assumes annualizing the assessment (tax) on hospitals in Philadelphia. To date, the state has not yet implemented this assessment and is still negotiating with the Centers for Medicare & Medicaid Services (CMS) over its details. If the state does not receive federal approval of this proposal, that will leave a significant hole in both the FY08-09 budget (\$22 million) and the proposed FY09-10 budget (\$40 million).
- ***MCO funding*** – we have heard that the budget includes a slight increase in payments to the MCOs in FY09-10. We also have heard that the governor proposes once again to delay a month of MCO payments until FY10-11– in addition to the one month delayed in the current fiscal year, which essentially makes this a two-month delay. We still need to confirm this information.
- ***MCO assessment*** - the budget proposes replacing the existing MCO assessment, which the federal government will discontinue in October 2009 without congressional intervention, with a two percent assessment on all MCOs operating in Pennsylvania beginning January 1, 2010. If this proposal fails to garner legislative support and Congress does not act to prevent the discontinuation of the Medicaid MCO assessment, it will leave a \$200 million hole in the FY09-10 budget.
- ***Medicaid MCO pharmacy carve-out*** - the governor is once again proposing to carve out the pharmacy benefit from Medicaid MCOs and administer the benefit through the fee-for-service outpatient program. The budget includes \$54 million in savings associated with this initiative (\$146 million annualized in FY10-11). The legislature has prevented implementation of this proposal in the past few budgets, choosing instead to "buy it back" in budget negotiations.
- ***Fraud and abuse and third-party liability*** - the Medical Assistance budget includes \$15.7 million in additional savings by reducing fraud and abuse and expanding third-party liability – *“The department will implement a Medical Assistance false claims act, enhance the recipient restriction program, limit attorney fees, place a cap on past medical expenses that can be included in determining Medical Assistance eligibility and implement other initiatives.”*
- ***Expanded adultBasic*** - the state budget proposes expanding the adultBasic program through private insurance companies and adding coverage for prescription drugs. The proposal will more than double the number of low-income Pennsylvanians with state-supported health care insurance by 50,000 – from approximately 40,000 at the end of FY 2008-09 to an estimated 90,000 by the end of 2009-10. (As of last month, 165,318 people were on the adultBasic waiting list.) The total state and federal cost for the expanded adultBasic program is projected to be \$251.7 million in FY 2009-10. State funding for the program is derived from existing tobacco and community health reinvestment funds used to support the more limited, current adultBasic program and \$66.4 million from the Health Care Provider Retention Account over four years beginning in FY11-12. The program also would be funded with new

federal matching funds and enrollee premiums. The expanded program would begin providing health care coverage to new enrollees on July 1, 2009, assuming timely passage of state legislation and approval by the federal government for the use of federal matching funds. This expansion would sunset on June 30, 2013. Information about hospital payment rates under this expanded program is not presented in the budget, although we suspect the administration contemplates paying Medicaid-equivalent hospital payment rates. This would represent a significant reduction in rates currently paid under the adultBasic program.

- ***Mcare*** - The FY 2009-10 budget proposes redirecting \$350 million in Health Care Provider Retention Account (HCPRA) money for general fund use. Also, beginning on July 1, 2009, the budget proposes that the 18.52 percent transfer of cigarette tax revenue into the HCPRA be eliminated and redirected for general fund use. The budget also proposes to “pre-pay” the liability of the Mcare fund, with contributions derived from the following sources:
  - a \$280 million down payment from the HCPRA;
  - continued redirection of \$44 million a year in moving violation surcharge revenues from the Catastrophic Loss Benefits Continuation Fund to the Mcare fund through December 2023, providing a total of \$638 million in revenue;
  - the current balance of the Mcare fund, which was approximately \$104 million in December 2008; and
  - interest earnings on these contributions for the duration of the Mcare claims tail.

These sources will pay off Mcare’s unfunded liability over the long term, enabling Mcare to terminate health care provider assessments once the fund is no longer providing prospective coverage. The budget does not anticipate continuation of the Mcare abatement program. We still need to confirm the current balance in the HCPRA. At this time, however, it appears that the redirection of this money into the general fund and to pay down the Mcare liability will deplete the HCPRA.

- ***Certificate of need-type language*** – the budget calls for “the development of a strategy to effectively control expensive health care expenditures and establishment of criteria that ensure that future expensive capital expenditures will strategically address health care needs.”
- ***Regulations*** - The budget calls for updating Pennsylvania’s hospital regulations “to reflect quality improvement practices, standardized admission and billing criteria, improved charity care transparency, elimination of avoidable emergency room use, and improved patients’ rights and responsibilities and discharge planning.”

## **Conclusion**

Considering that the state is facing a projected \$2.3 billion shortfall by the end of this fiscal year, the governor’s FY09-10 state budget proposal at first blush does not appear to present dire consequences for hospitals. Despite this appearance, the proposed cuts to hospital supplemental payments would be meaningful and would disproportionately affect SNAP hospitals – and they are proposed at the same time that the state projects a fairly hefty increase in Medical Assistance enrollment. In addition, the proposed budget again does not include cost-of-living adjustments for any hospital payments. The state’s continued reliance on SNAP hospitals to shoulder the financial burden of caring for its indigent population for the same payment amounts makes the pursuit of true Medical Assistance payment reform even more critical.

Also, even though the state will realize enhanced FMAP in a federal economic stimulus package

(assuming there will be one), the governor does not appear to be applying the enhanced FMAP to Medical Assistance payments.

The proposed budget is predicated on legislative approval of a state-wide MCO assessment and a pharmacy carve-out and federal approval of the Philadelphia hospital assessment. If those three initiatives fail, the Medical Assistance budget would face a shortfall approaching \$300 million. We also understand that the governor proposes to lapse \$175 million in legislative accounts for use in the budget – a move legislative leadership is sure to oppose. The budget also calls for significant lay-offs of state employees during the 2009-10 fiscal year and proposes a ten cent per pack increase in the cigarette tax, a new tax on cigars and smokeless tobacco, and a tax on drilling for natural gas.

We will provide more details as they become available. In the meantime, should you have any questions, please contact me.