

2011/2012  
**BUDGET BRIEFING**  
 Report on Key Issues from the  
**HOUSE APPROPRIATIONS COMMITTEE (D)**

**JOE MARKOSEK, DEMOCRATIC CHAIRMAN**

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## Department of Public Welfare

*Despite showing an increase in the bottom line, the 2011/12 Republican budget actually cuts more than \$1 billion from Department of Public Welfare programs and services, compared to 2010/11. The final budget cuts more than \$652 million beyond Governor Corbett's proposal. Irresponsible cuts in DPW will not only affect our most vulnerable citizens, but all residents, due to the potential impact on the Commonwealth's health care and safety net systems. While the Governor touted "transparency" in his budget address, the budget process was anything but transparent. Many details about how this budget will impact residents, especially those who receive services from the DPW, are still not known.*

### The Bottom Line

The final budget provides an increase of \$1.7 billion in state funds to the Department of Public Welfare (DPW). However, a closer look reveals DPW **programs and services that affect residents every day are cut by more than \$1 billion.**

- The enacted 2011/12 budget appropriates \$10.561 billion in state General Funds for the DPW. This represents a \$1.7 billion increase from the prior year **to make up for the loss of federal ARRA funds.**

**The \$1.03 billion of DPW cuts in the final 2011/12 budget** includes reductions to state line item appropriations (compared to the prior year), cost containment initiatives in select programs, and purported "waste, fraud and abuse" savings in Medical Assistance:

- The reduced line items fund various human services programs, special hospital payments, medical schools, operations at state centers/hospitals, and administrative functions within the department.
- The cost containment initiatives **impact Medical Assistance, disability programs, child welfare, child care, and employment/training programs** for low-income adults.
- The budget includes **\$222 million in savings**

### FY 2011/11 Cuts in DPW Budget Total State Cuts = \$1.03 Billion



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vaguely characterized as “waste, fraud and abuse.” As explained below, the secretary will ultimately determine how these savings are achieved without approval by the legislature, Attorney General, or Independent Regulatory Review Commission.

## ***Unprecedented Authority***

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A controversial factor surrounding the 2011/12 DPW budget is the **unprecedented authority given to the Secretary of Public Welfare to redesign public assistance programs**. As part of the budget deal reached with the Corbett Administration, Republicans amended the Public Welfare Code, giving the secretary expedited rule-making authority to establish rules, regulations, procedures and standards that impact Medical Assistance and other assistance programs including cash grants, training/employment, and child care.

**The secretary is now authorized to change eligibility, benefits, copayments, provider rates and provider qualifications without going through the regulatory review process.** This expedited rule-making authority allows DPW to quickly implement a number of the specific program cuts enacted as part of the 2011/12 budget. Many of these specific cuts are described on the following pages.

**However**, changes to the Public Welfare Code further authorize the secretary to take whatever actions necessary to ensure that program expenditures do not exceed the amounts appropriated for 2011/12. **This gives unprecedented authority to the secretary to unilaterally change and/or cut programs to achieve one quarter billion dollars of “savings” that are assumed in the 2011/12 budget and for which there is no negotiated or agreed-to plan or direction for attaining such savings.**

- This authority enables the secretary to **cut \$222 million from the MA program** – i.e., modify individual benefits and copayments, revise provider payments, delay or eliminate eligibility for certain populations –to attain savings supposed to be attributed to “waste, fraud and abuse.”
- It also enables the secretary to make **cuts in community programs for people with disabilities** to attain the \$30 million of state savings supposed to be attributed to “reforms.”

## ***Medical Assistance Changes***

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The largest component of DPW’s budget is the Medical Assistance (**MA**) program, which **provides health care and long-term care services to more than 2.1 million Pennsylvanians**.

- Managed care is funded through the **MA-Capitation** appropriation, and the fee-for-service program is funded through the **MA-Outpatient** and **MA-Inpatient** appropriations.
- Historically, nursing facility care and alternative home-and community-based services for elderly MA recipients are funded through a single Long Term Care appropriation. However, the 2011/12 budget funds these services through three separate appropriations:
  - The **Long Term Care** line item now only funds nursing facility care;
  - The **Home and Community Based Services** line item funds the PDA Waiver program which enables seniors to remain in their homes rather than live in a nursing facility; and
  - The **Long Term Care – Managed Care** line item funds the LIFE managed care program for seniors.
- The monthly payments that Pennsylvania must make to the federal government for each dual eligible individual (low-income seniors and individuals with disabilities) enrolled in the Medicare Part D prescription drug program is funded through the appropriation titled, **Payment to Federal Government — Medicare Drug Program**. This payment to the federal government is often referred to as the “clawback” payment.

The 2011/12 DPW budget includes \$5.7 billion in state General Funds for the Medical Assistance program, as shown in the table at right. Note that state General Funds account for only one-third of all MA funding (state, federal and other funds) which totals \$17.6 billion.

The 2011/12 General Fund budget for Medical Assistance represents a \$1.6 billion increase over the prior year. **The most significant factor driving this increase in state MA appropriations is the expiration of federal fiscal relief after June 30, 2011.**

*(Dollars in Millions)*

<b>Medical Assistance</b>	
<b>Line Item Appropriations</b>	<b>FY 2011/12 State General Funds</b>
MA - Outpatient	\$648.4
MA - Inpatient	\$364.9
MA - Capitation	\$3,271.6
MA - Long Term Care:	
Long Term Care (nursing facilities)	\$730.2
Home & Community Based Services	\$160.4
Long Term Care - Managed Care	\$71.9
Payment to Federal Gov't - Medicare Drug Program	\$480.5
<b>Total Medical Assistance</b>	<b>\$5,727.8</b>

During the federal stimulus period, the federal government paid for a greater share of state Medicaid expenditures through a temporary increase in the federal match (FMAP) and also reduced the monthly “clawback” payment that states must make for the Medicare Part D program. Specifically, the 2010/11 MA budget included additional federal Medicaid reimbursements (ARRA FMAP) worth \$1.48 billion and “clawback” savings of \$250 million, both of which helped reduce state spending in 2010/11, but are no longer available.

**The Medical Assistance portion of the enacted budget is \$628 million less than Gov. Corbett’s original request.** Three factors account for \$545 million of this decrease in state spending:

- **Tobacco Settlement Funds** – Corbett’s tobacco fund proposal was rejected and tobacco-related expenditures are moved from the General Fund back to the Tobacco Settlement Fund (\$247 million). The following program expenditures that Corbett included in his original General Fund budget request are removed: **Long Term Care** (\$152.7 million); **Medical Assistance for Workers with Disabilities** (\$63 million); and **Uncompensated Care payments to hospitals** (\$31.5 million).
- **Expenditures Shifted to Special Funds** – Additional state expenditures for Long Term Care are shifted from the General Fund to the Lottery Fund and the Tobacco Settlement Fund (\$76 million).
- **Medical Assistance Cuts** – Unprecedented authority is given to the DPW secretary to achieve purported “waste, fraud, and abuse” savings from Medical Assistance (\$222 million). These assumed savings represent unsubstantiated reductions in MA expenditures which the Republicans claim can be attained by eliminating payment errors, decreasing the growth in caseload, and increasing managed care efficiencies.

### ***Purported “Waste, Fraud and Abuse”***

Most of the purported “waste, fraud and abuse” savings are based on the unfounded assumption that reducing MA payment errors will reduce state expenditures by \$151 million in 2011/12. Using a 3 percent error rate, the Republicans cut state MA funding as follows:

- **\$121 million is cut from the managed care program** (the MA-Capitation appropriation). This was based on an error rate that is **15 times** the 0.19 percent error rate reported in the federal audit of Pennsylvania’s 2009 Medicaid payments.
- **\$30 million is cut from the fee-for-service program**, including \$18.6 million for outpatient services (the MA-Outpatient appropriation) and \$11.2 million for inpatient services (the MA-Inpatient appropriation).

Additionally, the Republicans claimed state savings of \$25.2 million through an inexplicable **cut in the number of MA recipients anticipated to receive services** in 2011/12. Specifically, they lowered MA

enrollment growth to 4 percent, down from the 4.5 percent growth assumed in Gov. Corbett's budget request. **This means approximately 10,500 fewer people per month will receive MA benefits.** It is not clear whether this cut represents a revision to MA caseload projections or an estimate of the number of "ineligible" MA recipients to be terminated from the program under new, yet-to-be specified department policies that will be developed without legislative or regulatory input. By lowering caseload growth, the Republicans cut state MA funding as follows:

- \$20.2 million is cut from the managed care program.
- \$5 million is cut from the fee-for-service program, including \$3.1 million for outpatient services and \$1.9 million for inpatient services.

Finally, the Republicans claim the state could save another \$46 million in managed care by implementing unspecified "efficiencies" in the program.

### ***MA Cost Containment Initiatives***

The enacted MA budget includes several cost containment measures that impact benefits for recipients and payments to providers. The table on page 5 shows the **specific MA initiatives that are anticipated to save the state \$242 million** in 2011/12. Most measures were proposed by Gov. Corbett in his original budget request; other measures were added by the Republicans as noted in the summaries below.

- **Dental services for all adults are modified** as follows: exams and cleanings are limited to two per year; coverage of dentures is limited to one upper arch, one lower arch or one full set of dentures per lifetime; coverage for crowns, endodontic and periodontal services is eliminated. Exceptions will apply to residents in nursing home and intermediate care facilities. DPW is also considering exceptions for pregnant women, individuals with diabetes, individuals with coronary artery disease and individuals with special needs (such as those who also require behavior management and anesthesia services) for whom denial of the exception will jeopardize their life or result in rapid, serious deterioration of their health.
- **Pharmacy benefits** for Medicaid adults are **limited to 6 prescriptions** per month, with certain exceptions based on the class of drug or the medical history of the recipient. These are the same pharmacy limits instituted in 2005 for General Assistance adults.
- **Pharmacy utilization management** in the fee-for-service program will be expanded for select drugs that have significant potential for health and safety risks, misuse, and abuse.
- As proposed by the House Republicans, **copayments will be instituted for services provided to "loophole" children** whose family income exceeds 200 percent of the federal poverty level. These are children with disabilities who do not qualify for federal SSI because their parental income is too high, but who qualify for MA because Pennsylvania only considers the income of the child and disregards parental income. The disabilities most commonly reported include autism, attention deficit hyperactivity disorder, and Down Syndrome. MA services most commonly used include school-based services, outpatient behavioral health services, and private duty nursing services.
- **Copayments will be instituted for MA Transportation services**, with recipients charged a \$2 copayment for each ride (\$4 per round-trip).
- **Hospital supplemental payments** funded through the MA-Inpatient appropriation will be **reduced up to \$23 million**, as opposed to the \$86.7 million cut proposed by Gov. Corbett.
- **Hospital payments** earmarked for the following hospitals are cut: **Temple** (\$7.8 million cut) and **North Philadelphia Health System** (\$840,000 cut). These payments are funded through the MA-Inpatient appropriation.

- **Pay-for-Performance (P4P) payments to managed care organizations** are cut as follows: physical health P4P payments are reduced to reflect actual amounts earned by the managed care organizations in 2009/10 and skilled nursing P4P payments are **eliminated**.
- **Home nursing risk sharing payments to managed care organizations** are reduced to reflect actual amounts paid to managed care organizations.
- Managed care will use **evidence-based behavioral health services** for children and youth (under age 18) in the juvenile justice system, providing community-based alternatives to psychiatric residential treatment facility services.
- **Behavioral health reinvestment funds** kept by counties are capped at 4 percent. The federal government allows counties to keep unspent funds provided they use the funds for behavioral health services targeted to, but not limited to, individuals who are eligible for Medicaid.

- To achieve cash flow savings, the budget **delays nursing home payments** by one week, pushing the last payment of June 2012 to July 2012; reducing 2011/12 state expenditures by \$77 million.

- The **nursing facility audit program** will be expanded to recover excess payments made to nursing homes. DPW will conduct financial reviews of facilities in the Philadelphia area, examining several years of facility records for accuracy and compliance with MA billing regulations.

- **Fee-for-service audits, claims review, and recovery efforts** will be expanded as follows: the use of directed provider self audits will be expanded;

non-medical staff will be used to perform provider claim reviews and recoveries in cases when a medical professional's review is not needed; and, as required by federal health care reform, DPW will contract with Recovery Audit Contractors to audit payments to MA providers.

*(Dollars in Millions)*

<b>MA Cost Containment Initiatives</b>	<b>2011/12 State Savings</b>
<b>Physical Health Benefits</b>	
Modify dental coverage for adults	\$25.2
Limit pharmacy benefits to 6 prescriptions per month	\$28.5
Increase prior authorization for certain prescription drugs	\$2.2
<b>Copayments</b>	
"Loophole" kid services	\$10.0
MA transportation services	\$8.4
<b>Behavioral Health Managed Care</b>	
Utilize evidence-based services for children and youth	\$11.0
Cap Reinvestment Funds retained by counties	\$10.0
<b>MA Provider Payments:</b>	
Reduce hospital supplemental payments	\$23.0
Reduce hospital payments earmarked for Temple and North Philadelphia Health System	\$8.7
Reduce physical health Pay-for Performance payments	\$19.0
Reduce home nursing risk sharing payments	\$9.0
Eliminate skilled nursing Pay-for Performance payments	\$1.9
Delay nursing home payments one week	\$77.0
<b>Other MA Initiatives</b>	
Expand nursing facility recovery audit program	\$5.4
Expand provider audits, claims review and recovery efforts in fee-for-service system	\$3.3
<b>Total MA Cost Containment</b>	<b>\$242.4</b>

### **Other Medical Assistance Impacts**

- **Hospitals** — The hospital assessment rate will increase to 3.22 percent (from 2.95 percent). The higher assessment rate will generate \$50 million in new revenues to help restore the supplemental payments in the MA-Inpatient appropriation. However, as itemized in the cost containment section, **hospitals still**

face a reduction of up to \$23 million in the supplemental payments that they receive through this appropriation.

At the governor's request, funding for **Pittsburgh Mercy Hospital** (\$750,000) is added to the MA-Inpatient appropriation. Funding for **Philadelphia Mercy Hospital** is maintained at last year's level.

**Additionally, hospital payments** funded through the following line items **are cut 25 percent**, not eliminated as Gov. Corbett requested:

- **Trauma Center** payments made to Pennsylvania's accredited trauma centers, improving access to trauma care for the most critically injured patients;
  - **Critical Access Hospital** payments made to hospitals that meet Medicare's definition for "critical access" hospitals, assuring access to care in underserved areas of Pennsylvania;
  - **Hospital-Based Burn Center** payments made to certified burn centers; and
  - **Obstetric and Neonatal Service** payments made to qualifying hospitals that provide obstetric and neonatal services to MA recipients.
- **Medical Schools** — The final budget **reduced the MA payments that fund Pennsylvania's medical schools by 48 percent** compared to the 2010/11 level — Gov. Corbett had proposed to eliminate all funding. These payments, which were instituted in 2005 and 2009, earn federal matching funds and replaced the non-preferred state appropriations that previously supported the medical schools.
- **Academic Medical Centers** — Payments that fund the medical schools at Temple, Penn State, and University of Pittsburgh are cut by a total of \$19.9 million (**state funds are cut \$8.9 million**). The budget added \$3 million in state funds for three additional academic medical centers in Erie, Scranton and Philadelphia.
  - **Physician Practice Plans** — Payments that fund the medical schools at Drexel, Thomas Jefferson, and University of Pennsylvania are cut by a total of \$13.0 million (**state funds are cut \$5.8 million**).
- **Managed Care Organizations** — The enacted budget funds the managed care rate increases proposed in the governor's budget request:
- 3.5 percent average increase for physical health managed care organizations.
  - 2 percent average increase for behavioral health managed care organizations.
- **Nursing Facilities** — The enacted budget **added \$22.9 million of state funds** (\$51 million total funds) for per diem rates paid to nursing facilities, reversing the governor's request for a 2 percent cut. To further reduce state General Fund spending, the enacted budget used the following Special Funds to pay for nursing home expenses in 2011/12:
- \$178 million of Lottery Funds, an increase of \$57 million from the governor's request.
  - \$162.6 million of Tobacco Settlement Funds, or \$18 million more than under the governor's tobacco initiative.
- **Community-Based Services for Seniors** — The enacted budget restored the \$18.2 million of state funding that Gov. Corbett proposed to cut under his "reforms" to the **PDA Waiver**, although \$1.4 million is cut in the final budget. The enacted budget fully funds the **LIFE Program**, restoring the cuts that were in the initial House Republican budget proposal.

## Programs for People with Disabilities

The 2011/12 budget includes nearly \$2.3 billion in state General Funds (\$4.2 billion in total funding) for programs that serve individuals with intellectual disabilities (previously referred to as mental retardation), persons with mental health disorders, and individuals with severe physical disabilities. This is a \$286.5 million increase compared to the prior year; however, most of this is related to the expiration of the federal ARRA FMAP funding, which reduced the need for state funds by \$260 million in 2010/11.

The enacted budget cuts state funding for **Community Waiver Programs for individuals with intellectual disabilities** by \$29.1 million (total funding is cut \$42.7 million).

- State funding for **group home room and board** is cut by \$18.1 million, which is \$8.9 million less than Gov. Corbett requested. Republicans restored \$22 million of Gov. Corbett's proposed cut (which limited room and board payments to \$7,000 per person), but instituted \$13.1 million of targeted cuts aimed at specific payments made to certain group homes.

*(Dollars in Millions)*

Disability Program Area / Line Item Appropriation	2011/12 State General Funds
<b>Intellectual Disabilities (ID)</b>	<b>\$1,285.0</b>
ID - State Centers	106.3
ID - Intermediate Care Facilities	143.8
ID - Community Base Program	166.5
ID - Community Waiver Program	854.9
Autism Intervention and Services	13.5
<b>Mental Health</b>	<b>\$765.1</b>
Mental Health Services	717.2
Behavioral Health Services	47.9
<b>Physical Disabilities</b>	<b>\$239.1</b>
Services to Persons with Disabilities	135.7
Attendant Care	103.5
<b>TOTAL - DISABILITY PROGRAMS</b>	<b>\$2,289.3</b>

- The budget includes Gov. Corbett's proposed revisions to service definitions, which are expected to cut state funding by \$11 million (total funding, including the federal match, is cut by \$24.6 million).

The budget supports Corbett's recommendation for **no expansion of community services for individuals with intellectual disabilities**, failing to meet the urgent needs of thousands of Pennsylvanians.

- More than **3,200 Pennsylvanians** are on the **emergency waiting list**, including individuals with aging parents, and who face an immediate need for services in the upcoming fiscal year.
- For the first time in recent years, there is **no funding for graduates of special education programs**, leaving approximately **700 young Pennsylvanians without services**.

The 2011/12 budget funds **Autism Services** at the level requested by the governor, however, \$450,000 is apparently earmarked specifically for Philhaven.

**Mental Health Services**, which funds both the state mental hospitals operated by DPW and the community programs administered by the counties, reflects the following changes from Governor Corbett's budget request:

- State funding for **state mental hospitals** is increased by \$3 million, rejecting Corbett's proposal to privatize the operation of the forensic psychiatric units at Torrance and Norristown State Hospitals.
- State funds for **community mental health programs** are cut \$3.2 million below the governor's request. Even with this cut, state funding for these programs is \$25 million more than 2010/11.

**Behavioral Health Services**, which funds county programs that provide mental health services and drug and alcohol treatment services to persons not eligible for Medical Assistance, is **cut by \$5.2 million** compared to 2010/11. Budgeted funds are **\$4.3 million less** than what the governor initially requested.

State funding for the two community-based programs that serve 15,383 Pennsylvanians with severe physical disabilities is **cut by \$31 million** (total funds are cut \$69 million) – these cuts reflect the “reforms” proposed by Gov. Corbett. In the months since the governor proposed the reforms in March, no additional information or examples are available.

- **Services for Persons with Disabilities** are **cut by \$17.2 million** in state funds (\$38.3 million total funds cut).
- **Attendant Care** is **cut by \$13.6 million** in state funds (\$30.4 million total funds cut).

In response to litigation regarding the inappropriate and unnecessary institutionalization of Pennsylvanians, the enacted budget includes additional state funding to move individuals from the state centers and state hospitals and to place them in the community. Specifically, the 2011/12 budget includes \$8.6 million in state funds for additional community services as follows:

- \$4.95 million in the **Mental Health Services** appropriation to provide community services for 90 individuals currently residing in state hospitals – in response to the *Frederick L. v. Department of Public Welfare* lawsuit settlement agreement.
- \$2.45 million in the **ID Community Waiver Program** appropriation to provide community services to 35 persons with dual diagnosis of mental illness and intellectual disabilities who are currently residing in state hospitals – in response to the *Jimmie v. Department of Public Welfare* lawsuit.
- \$1.2 million in the **ID Community Waiver Program** appropriation to provide community services for 50 individual with intellectual disabilities currently residing in state centers – in response to the *Benjamin v. Department of Public Welfare* lawsuit settlement agreement.

## ***Impacting Services for Our Children***

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The Republican budget cuts state funding for **child care programs** which provide child care services and early education quality assurance initiatives to children across Pennsylvania.

- **Cuts** funding for **Child Care Services** by \$17.5 million and **Child Care Assistance** by more than \$17.6 million.
- **Cuts** include the **elimination** of the **T.E.A.C.H.** scholarship program. This program assists staff currently working in the early childhood field to attain a degree in early childhood education.
- The budget also assumes increased copayments for families receiving services under both appropriations. The copayment schedules will be determined by the department and it has expedited regulatory authority to do so over this fiscal year.
- The budget reduces bonus payments to providers for providing care during nontraditional hours.

The budget **cuts funding** for **Community Based Family Centers** by \$3 million, or nearly 49 percent. This appropriation has funded 65 family centers in 29 counties designed to offer a variety of community services to assist parents in improving their child rearing skills. In addition, it has included funding for the Parent-Child Home program.

## ***Passing the Burden to Our Counties***

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The Republican budget **cuts millions of dollars from county services and programs**. Where state funding is reduced, counties must either replace with local revenue (i.e. increased taxes) or cut services to residents.



The budget **cuts more than \$45 million from the County Child Welfare** appropriation, providing support for county-administered social services programs for children and youth in all 67 counties.

- The budget reduces funding in the needs-based budget by an additional \$23 million from the governor's original request.
- The budget reduces funding for "**special grants**" by 2 percent across-the-board. In recent years, these components have been extracted from needs-based budgets to **target funding to improve research-based practices in child welfare**. These grants have not carried the same county match requirements, which are often at a lesser rate.
- **Cuts** funding for **Homeless Assistance** programs by more than \$2 million compared with 2010/11.
- **Cuts** funding for the **Human Services Development Fund** by \$8.5 million compared with 2010/11.

## *Discouraging Self-Sufficiency*

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The budget assumes more than \$60 million in savings of state funds and federal TANF block grant funding relating to a **yet-to-be defined initiative entitled "Fair Share."**

Currently, the department contracts with various **employment and training providers** to procure job placement and training slots to assist clients with work participation activities. The budget reduces the number of annual employment and training slots purchased by 17,000.

- This is to be done by reducing contracts for work participation programs or reducing ancillary services and supports for these slots.
- The department estimates that nearly 70 primary contractors (along with their subcontractors) will be affected by these contract reductions.

The initiative also mentions "savings generated from reduced employment and training ancillary services and support costs." The Special Allowances program historically has fallen under the category of "support services" in the Cash Grants appropriation.

The Corbett administration has not yet provided any details on components affected by the "Fair Share" initiative.