

# News From The Hill

"How Low-Income Minnesotans Fared: 2010 Legislative Session"

By Legal Services Advocacy Project

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Greetings!

This newsletter contains an overview of legislation that became law in the 2010 session affecting low-income Minnesotans. The primary issue the Legislature addressed was the state budget deficit, especially in the face of a Minnesota Supreme Court ruling in May finding that the Governor exceeded his statutory authority when he unallotted a Special Diet Program for persons with disabilities. The ruling called into question all the remaining unallotments the Governor made following the 2009 session.

In the ultimate budget deal, funding for the Special Diet Program was restored, but the Legislature ratified most of the other unallotments, including a one-time cut to the Renters' Credit and a host of other cuts affecting low-income persons.

The other major issue the Legislature grappled with this session was the attempt to restore health care to 30,000 single adults cut adrift by the elimination of the General Assistance Medical Care (GAMC) program via a 2009 line-item veto by the Governor. In the end, the GAMC program was maintained, but in a much different, scaled-down form implementing a new health care delivery system called the Coordinated Care Delivery System (CCDS).

In addition, federal health care reform passed in 2010, providing Minnesota with the option to enroll low-income childless adults in Medical Assistance with a state-federal funding match. However, that option was not adopted immediately. Instead, the next Governor was given authority to opt-in until January 15, 2011.

The Legal Services Advocacy Project (LSAP) represents low-income Minnesotans at the legislature on policy issues involving public benefits, consumer rights, health care, housing, family law and courts. If you have any questions, go to [www.lsapmn.org](http://www.lsapmn.org) for a staff directory and more detailed analysis as it becomes available.

## CHILDCARE

### *Funding Cut*

Child care funding was reduced by \$7.5 million through capturing money awaiting distribution to counties for child care assistance expenditures. Other proposed cuts, including those to the Basic Sliding Fee (BSF) allocations, were not adopted.

## CHILD WELFARE

### *Improvements to Child Welfare Law Made*

The Legislature made numerous improvements to child welfare laws, including the following: (1) permitting foster parents or transitional living directors to authorize a child's receipt of a driving permit or provisional license; (2) excluding some sources of a child's income, such as SSI, for the child's housing or educational needs from county reimbursement; and (3) clarifying juvenile court proceedings, including extending court jurisdiction in certain child protection cases until age 21.

## COURTS

### *New Guardian Ad Litem Board Created*

The Legislature created a new Guardian Ad Litem Board, similar to the Board of Public Defense. The initiative, brought by the judicial branch, establishes a board to oversee the statewide program.

## DISABILITY LAW

### *Disability Waiver Program Funding Limits*

Funding for people applying for disability waiver programs - including Community Alternatives for Disabled Individuals (CADI), Developmental Disability (DD), and persons with traumatic brain injury (TBI) Waivers - was limited for another three years by capping the number of new program slots. For the next biennium, CADI reduced from 95 to 60 per month, TBI from 12.5 to 6, and the DD Waiver from 15 to 6 per month. The Governor's proposal cutting disability service providers' rates by 2.5 percent did not pass.

### *Medical Assistance (MA) Rehabilitative Services Limits*

While the Governor's proposal eliminating MA rehabilitative services for adults did not pass, stricter limits were adopted for the number of allowed visits before prior authorization is required for occupational therapy, physical therapy, and speech and language services. In addition, specialized maintenance therapy, provided primarily to persons with significant mental illnesses and those with developmental disabilities, was eliminated.

### *Parent Fees Increased for Children Using MA-TEFRA or Disability Waiver Programs*

Parent fees for MA-TEFRA or disability waiver programs were raised on a sliding scale basis for families beginning at around \$50,000 per year for a family of 4 (\$4 per month

increase to \$79/mo.) and rising to charge 13.5 percent of adjusted gross income for families at 900 percent of the federal poverty level and above. The new fees will begin July 1, 2010.

### ***Personal Care Assistance (PCA) Services Policy Changes***

A number of policy changes for PCA services were made, including the following:

- Allowing PCAs to help with children's hygiene and clean-up;
- Clarifying that a person qualifies as dependent if the person needs help on the days the task is completed rather than daily;
- Prohibiting employers from limiting future employment of PCA staff;
- Requiring that services continue pending appeal, if requested, throughout the appeal period.

Private Duty Nursing Services Coverage Required for State Regulated Insurance Plans Health plans regulated by the state (as opposed to self-insured federally regulated ERISA plans) are now required to cover private duty nursing services if the plan also covers hospital care for persons with specific conditions and the person has Medical Assistance coverage.

### ***State Operated Services Redesigned***

Five state operated dental clinics and other state operated services (SOS) facilities remain open for the next year with some changes, while a task force is appointed to recommend redesign of SOS to better meet the needs of persons served.

## **FAMILY LAW/DOMESTIC VIOLENCE**

### ***Protections for Victims of Domestic Violence Enacted***

Numerous protections for victims of domestic violence passed this year, including the following: (1) expanding the ex parte Order for Protection to a reasonable area surrounding a dwelling; (2) increasing bail limits for certain domestic violence offenses; (3) authorizing a pilot project to conduct electronic monitoring in domestic abuse cases; and (4) permitting pets to be included in Orders for Protection.

## **HEALTH CARE**

### ***General Assistance Medical Care (GAMC)***

Big changes were made to GAMC this session due to the limited amount of funding available for the program. Although eligibility for GAMC remains mostly the same, an entirely new (and untested) way of delivering health care to enrollees has been put into place. The changes include the following:

- As of June 1, 2010, if persons eligible for GAMC do not sign-up for health services at a hospital-based Coordinated Care Delivery System (CCDS), they may not have access to the care they need. At least until Sept. 1, 2010, there are only four CCDS hospitals and all in the metro area. Each CCDS has a "cap" on the number of enrollees it will serve.
- Prescription drug coverage is available for all GAMC enrollees, whether or not in a CCDS, but there are some limitations to coverage.
- Those enrolled in GAMC and not enrolled in a CCDS can continue to seek care

at hospitals for emergencies.

- A temporary uncompensated care pool, effective June 1, 2010, was established for payment to hospitals not part of a coordinated care delivery system (CCDS) and who treat persons enrolled in GAMC.

### ***Medical Assistance Coverage for Childless Adults State Option***

Federal health care reform legislation signed by President Obama this year provided Minnesota with an opportunity to extend Medical Assistance (MA) coverage to most childless adults currently in GAMC and MinnesotaCare, thus capturing \$1.4 billion of new federal money for Minnesota. When smoke from negotiations with the governor and legislators cleared, the bill signed by the governor this year did not actually include MA coverage for this group, but does allow the current governor or the succeeding governor to implement MA per executive order any time prior to January 15, 2011.

### ***Federal Health Care Reform***

Under the landmark bill, the Patient Protections and Affordable Care Act and the Health Care and Education Reconciliation Act of 2010 provides as follows:

- Most individuals will be required to have health insurance beginning in 2014.
- Those who do not have access to affordable employer coverage will be able to purchase coverage through a Health Insurance Exchange. Plans in the exchanges are required to offer benefits meeting a minimum set of standards. Premium and cost-sharing subsidies making insurance more affordable are available for those with income between 133-400% of the poverty limit (\$29,327 to \$88,200 for a family of four in 2009).
- The Minnesota Comprehensive Health Association (MCHA) is the state's current high-risk health insurance pool for people who cannot get coverage in the regular private market due to pre-existing health conditions. In addition to MCHA, a new federal temporary high risk pool will be established in Minnesota later in 2010 to provide health coverage for persons with pre-existing conditions who can't get coverage in the regular private market. This new federal coverage will be available until 2014, when insurers are no longer allowed to deny coverage based on pre-existing health problems.
- In a change to private insurance, young adults are allowed to remain on their parent's health insurance up to age 26.

## **HOUSING/LANDLORD-TENANT LAW**

### ***Notice of Results of Foreclosure Sale***

The Legislature added important information to the Notice of Foreclosure Sale. Homeowners in foreclosure will now be informed about what happens after the foreclosure sale, their rights of redemption, how to find out who was the winning bidder at the sale, and the sale price. In addition, the new law aims to stop a new equity stripping scheme, where speculators, aware of low bids at sheriff's sale, try to convince unaware homeowners to transfer title to the house to the speculator. Now, speculators, seeking to obtain title to a home after the sale and before the end of the redemption period, must give the homeowner notice of the winning bid, the winning bidder, and how to redeem the property.

### ***"Tenants' Bill of Rights"***

The Legislature enacted a comprehensive set of tenant protections. The new law provides as follows:

- Late fees are capped at 8% of the unpaid rate (for non-subsidized housing tenants);
- Landlords must give receipts for rent paid in cash;
- Landlords can only take one application fee at a time and must tell prospective tenants in advance the rental criteria on which the application will be judged;
- In a dispute about whether or not the rent was paid, the court must assume it was paid if the tenant produces money order receipts;
- Tenants, whether plaintiffs or defendants, are entitled to attorney fees if they are successful in a court case and the lease allows the landlord to get attorney fees in the case;
- Increases the penalty a landlord pays to the tenant for illegally withholding a security deposit from up to \$300 to up to \$500;
- Tenants in foreclosure are assured the maximum protections available under both Federal and State law.

## **MENTAL HEALTH PROGRAMS**

### ***Most Cuts Avoided***

In the final budget balancing bill, while some grant programs were cut, neither the \$13 million in cuts to mental health programs recommended by the Governor, nor the nearly \$50 million recommended by the House, were adopted.

### ***Adult Mental Health***

The Governor's unallotment of Adult Mental Health Grants for 2010 was ratified but the amount cut for 2011 was reduced. Additional grant cuts proposed by the House were not adopted.

### ***Children's Mental Health***

Children's Mental Health (CMH) specialty grants were eliminated and funding for MA coverage for an adolescent community treatment program was delayed for one year. The Governor's case management grant cuts and proposals by the House for additional CMH grant cuts were not made.

### ***Mental Health Urgent Care and Psychiatric Consultations***

The GAMC bill provided ongoing funding for a new service called Mental Health Urgent Care, which provides rapid access to psychiatry and psychiatric consultation services to help fill gaps. These new services are funded by projected reductions in Medical Assistance inpatient care.

## **POVERTY TASK FORCE**

### ***"Ladder Out of Poverty" Task Force***

The Legislature established a "Ladder Out of Poverty" Task Force to continue the work of the Legislative Commission to End Poverty by 2020. The Task Force will focus on the areas of asset development, financial literacy, "circles of support," and alternatives to

predatory lending. A bipartisan group of eight legislators - four from the House of Representatives and four from the Senate - along with representatives from the Attorney General's Office and the Minnesota Department of Commerce will constitute the membership. The Task Force is directed to consult with a long list of stakeholders from the public, private, nonprofit, academic, and philanthropic communities and develop policies, strategies, and recommendations around the focus areas.

## **PUBLIC BENEFITS**

### ***Food Support (Supplemental Nutrition Assistance Program [SNAP])***

An estimated 70,000 previously ineligible Minnesotans will gain access to federal food support on November 1, 2010. New changes to income and asset rules will be particularly helpful to families who have suffered job loss, home foreclosure, or uninsured medical expenses. The changes eliminate the \$7,000 asset limit and increase income eligibility from roughly \$24,000 for a family of three to about \$30,000 per year.

### ***MFIP and GA Cuts Avoided***

A number of proposed cash grant cuts to low-income families and individuals with disabilities and illnesses under the Minnesota Family Investment Program (MFIP) and General Assistance (GA) did not move forward. Two of the proposed cuts included a steep penalty to MFIP families receiving Supplemental Security Income, and eliminating assistance for ill and disabled single adults. These cuts would have harmed more than 30,000 low-income families.

## **UNEMPLOYMENT**

### ***Unemployment Insurance and Temp Jobs***

Workers who are new to the industry of temporary staffing will no longer be penalized for purposes of unemployment insurance when a temporary job assignment ends. If roughly half of a person's work experience is in something other than temporary staffing, and a temporary job assignment ends, the person cannot be refused unemployment insurance for attempting to find suitable work outside of the temporary staffing industry.

### ***Unemployment Insurance Coverage Eliminated for Family Member PCAs***

Family members who serve as their close relative's personal care assistants (PCAs) are excluded from unemployment insurance coverage beginning July 1, 2010.



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