

# News From The Hill

"How Low-Income Minnesotans Fared: 2009 Legislative Session"

By Legal Services Advocacy Project

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Greetings!

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. The primary issue affecting low-income Minnesotans this session was a \$6.4 billion state budget gap that had to be closed. While federal stimulus funds helped to cushion the blow, many of the budget cuts targeted health care services for low-income elderly Minnesotans, persons with disabilities and adults without children. Basic health care for some of the state's poorest individuals was eliminated when the Governor line item vetoed the General Assistance Medical Care program. Also, with a few exceptions, long term care and health care providers rates were significantly cut. Even with these painful cuts, the budget remains unbalanced and the Governor plans to cut an additional \$2.7 billion starting July 1, 2009 through the process of unallotment. See <http://minnesotabudgetbites.org>. LSAP is planning a series of newsletters this summer to keep you informed on the impact of unallotment on low-income Minnesotans.

This newsletter contains an overview of the highlights and lowlights of the 2009 session. Thanks to Anne Henry, Pat Siebert, Dan Stewart and Iris Freeman for their contributions to the newsletter. 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.

## CONSUMER

*Debt Settlement.* Debt settlement services will now be regulated and strong protections against abusive practices have been put in place. Debt settlers will

need to register with the Department of Commerce and some of their worst practices, identified by the Minnesota Attorney General and the Federal Trade Commission, will be prohibited. In addition, a plain language disclosure about possible dangers for consumers must be given before a contract is signed.

***Garnishment Law Revisions.*** The garnishment law was changed to make it more pro-consumer. Among the changes, the obligation will now fall on the creditor to seek a court hearing to challenge the debtor's claim the money is protected against seizure.

***Mortgage Loan Modification Scams.*** People who charge homeowners to help them modify their loans will have to comply with the protections established several years ago with respect to "foreclosure consultants," including not charging for services until they have been fully performed.

***Payday Lending.*** The state was given power over Internet payday lenders, who will now be clearly required to get a license from the Department of Commerce, and follow Minnesota's payday lending and debt collection laws. Penalties for violations of Minnesota law were beefed up, including making the loan void.

***Tax Preparers.*** New standards of conduct and new disclosures for taxpayers contemplating using Refund Anticipation Checks were added to the existing law governing paid tax preparers (who are not currently required to obtain any license). In addition, consumers will have the right to cancel a Refund Anticipation Loan within 24 hours of asking for one.

## **CONTINUING CARE**

***Cuts to Personal Care Assistance (PCA) Services.*** As part of balancing the state's budget, and in response to a legislative auditor's report, dramatic changes were made to PCA services. The changes include cutting the number of hours of care a person may receive, limiting eligibility for PCA services, restricting the number of hours PCAs may work and cutting PCA provider rates by 2.58%.

***Limits to Disability Waiver Programs Growth.*** The growth of the disability waiver programs, including the CADI, DD and TBI Waivers, will be limited by capping the number of program slots. For the next biennium 530 slots are cut.

***Nursing Facility Level of Care.*** Starting January 1, 2011 it will be more difficult for people to meet the threshold level of care required to establish eligibility for a nursing home or receive services in the community through the various disability and elderly waiver programs, or the Alternative Care program. It is estimated 900 elderly and persons with disabilities will lose eligibility for services after January 1, 2011.

***Personal Needs Allowance Cut for Group Residential Housing (GRH) Residents.*** Over 16,000 GRH residents will see their personal needs allowance cut by \$32 or \$12. The new personal needs allowance falls to \$89.

***State Medical Review Team (SMRT).*** The Commissioner of Human Services will now be required to review all the medical evidence a county agency has submitted with a referral and to seek any additional information needed to support a determination of disability. Prior to a denial or withdrawal of a disability determination due to insufficient evidence, the Commissioner must make certain the missing evidence is necessary and appropriate to a disability determination and must assist applicants and enrollees in obtaining the evidence.

## **COURTS AND PUBLIC SAFETY**

***Criminal Background Issues.*** Information regarding a criminal history record of an employee or former employee, including a record of an arrest that did not result in a conviction or that has been sealed, will not be allowed to be introduced as evidence in a lawsuit against a private employer. Also, with certain exceptions, a public employer can no longer ask about or consider the criminal record or criminal history of an applicant for public employment until the applicant has been selected for an interview by the employer (this is the so-called "ban the box" provision).

***Equitable Administration of Justice.*** It is now the policy of the State of Minnesota to identify and eliminate barriers to racial, ethnic, and gender fairness within the criminal justice, juvenile justice, corrections, and judicial systems, in support of the fundamental principle of fair and equitable treatment under law.

***Public Safety Stimulus Fund Grants.*** The Legislature directed priority for awarding grants of federal stimulus money to: (1) organizations providing mentoring grants for children of incarcerated parents; (2) youth intervention programs; (3) re-entry programs for offenders; (4) trafficking victim programs, including legal advocacy clinics; (5) programs increasing juvenile detention alternatives; and (6) restorative justice programs.

## **FAMILY LAW**

***Child Protection.*** Social services agencies must now "make diligent efforts to identify and locate both parents" of any child who is the subject of a child protection court hearing.

***Children Aging Out of Foster Care.*** Local agencies, upon the request of a person between the ages of 18 and 21 who had been in foster care, must develop a plan related to that person's vocational, educational, social, or maturational needs and, to the extent funds are available, must ensure any foster care, housing, or counseling benefits are tied to that plan.

***Domestic Violence Review Teams.*** Courts are now authorized to establish a domestic fatality review team to review domestic violence deaths in their district. The purpose of the review team is to assess domestic violence deaths in order to develop recommendations for community prevention policies and intervention initiatives to reduce and eliminate the incidence of domestic violence and resulting fatalities.

***Termination of Parental Rights Proceedings.*** When a hearing to terminate parental rights is scheduled, notice now must be given to assumed fathers who have registered with the Minnesota Fathers' Adoption Registry and to grandparents.

## **GREEN JOBS**

***Federal Energy Stimulus Bill.*** The Legislature appropriated almost \$200 million for increased weatherization, energy efficiency, and renewable energy activity from federal energy stimulus funds. Of that amount, \$2 million was provided for low-income persons who could otherwise not afford the cost to obtain training for green jobs in these sectors. In addition, contracts awarded under the bill must adhere to the disadvantaged business requirements under current Minnesota law. Finally, the bill specifically directs agencies administering the funds to conduct outreach on the availability of jobs and contracts specifically to low-income communities.

## **HEALTH CARE**

### **CHILDREN'S COVERAGE**

- ***Expanded Coverage for Children in MinnesotaCare.*** A number of changes make more children eligible for the MinnesotaCare program. For children in families with income equal to or less than 200% of the federal poverty guidelines, the following insurance barriers have been eliminated: the four month waiting period and the requirement that the child must not have access to employer-subsidized insurance. Premiums are also eliminated for these children. Additionally, children who are leaving foster care or a juvenile residential correctional facility will be automatically eligible for MinnesotaCare and remain eligible for MinnesotaCare until they are 21 years old. Children in families with incomes greater than the MinnesotaCare limit of 275% of the federal poverty guidelines will now be able to purchase MinnesotaCare at the maximum premium level if they do not have access to employer-subsidized insurance.
- ***Renewal of Eligibility for Children in MinnesotaCare.*** Children who fail to submit renewal forms and related documentation in a timely manner will continue to remain eligible for the program, if the Commissioner can determine through other means there has been no change in income. However, if the Commissioner determines there is a premium change, the family must be notified and if they fail to pay the

premium, the children must be disenrolled.

***Dental Services under Medical Assistance (MA).*** Dental coverage for nonpregnant adults covered under MA will now be more limited. The specific services and frequency of the services is set forth in statute. For children all medically necessary dental services continue to be allowed.

***General Assistance Medical Care (GAMC) Eliminated.*** The Governor eliminated all funding for the General Assistance Medical Care (GAMC) program effective July 1, 2010 through use of a line-item veto. GAMC currently provides basic health care to over 30,000 nonpregnant adults with annual incomes below \$7,800. Over 70% of GAMC recipients receive mental health services.

***Health Care Application and Enrollment.*** The Commissioner of Human Services and local county agencies must develop a streamlined application and enrollment system as well as an online application form for the Medical Assistance (MA) and MinnesotaCare programs. The Commissioners of Human Services and Education are also required to provide recommendations to the legislature by January 15, 2010 on the creation of an open enrollment process coordinated with the public education system.

***Reduction of Excess Assets and Eligibility for Medical Assistance (MA).*** This change in law will eliminate the ability of applicants to reduce assets in the three months before the month of application for MA by designating burial funds. It also states that excess assets may only be reduced beginning the month of application by paying bills for health services incurred during the time period required for local agencies to act on MA applications (45 days for persons who are not aged, blind, or disabled, 60 days for persons who are aged, blind, or disabled).

## HOUSING

***Abandoned/Problem Properties.*** To protect property values and neighborhoods, cities will now be able to go to court to have a property declared abandoned. Also, lenders will have to take more steps to maintain and protect abandoned, foreclosed properties.

***Changes to the Foreclosure Process.*** Homeowners in foreclosure will now be able to postpone the sheriff's sale for five months, and cancel the sale if the homeowner can pay the missed payments and become current on the mortgage. Also, homeowners now will be informed of the new date if the sheriff's sale is postponed.

***Farmer-Lender Mediation.*** The Farmer-Lender Mediation Program was extended for four more years.

***Homeowner-Lender Mediation.*** The Governor vetoed a bill that would have allowed homeowners under threat of foreclosure to enter a mediation program

administered by the Attorney General before the lender actually begins the formal foreclosure process.

***Manufactured Housing.*** The Legislature resolved a problem in the collection of payments to the Manufactured Housing Relocation Trust Fund. Under the new law, the state will assess each manufactured home park owner for the \$12 annual contribution required to be paid by residents. The owner can recover the amount in a lump sum or by adding \$1 each month to the rent.

***Renters' Credit.*** Neither the House nor the Senate cut the credit. However, it may be subject to unallotment.

***Reverse Mortgage Protections.*** The Governor vetoed a bill that would have given borrowers (typically seniors) thinking of entering into a reverse mortgage greater protections. Under the bill that passed, the existing counseling requirements that must be followed before a mortgage contract is signed would have been strengthened. Also, lenders would have had to determine the mortgage product is suitable for the prospective borrower before offering the reverse mortgage. Finally, cross-selling of other financial products would have been restricted.

## INDIVIDUAL RIGHTS

***Strengthening Protections under the Guardianship and Conservatorship Statute.*** Many changes were made to the Guardianship and Conservatorship Statute which strengthen protections, improve accountability and provide greater transparency of the actions of guardians and conservators. One of the changes cumulates all of the individual rights scattered throughout the statute into a Bill of Rights that will be easier to find for wards, protected persons, families and others.

***Vulnerable Adult Act Improved.*** Changes to Minnesota's Vulnerable Adult Act seek to curb the growing problem of financial exploitation of vulnerable adults. Changes will enable financial institutions to disclose records in connection with financial exploitation investigations, refine procedures for reporting of maltreatment, and enhance exploitation crimes and penalties. Also, victims of financial exploitation will be able to bring a private right of action against a perpetrator to recover treble damages and administrative costs. Additionally, DHS is authorized to seek federal funds to centralize the call-in-centers (common entry points) for reporting suspected maltreatment.

## MENTAL HEALTH

***County Maintenance of Effort (MOE).*** Twenty percent of mental health funding under the Mental Health (MH) Act is county money required under MOE provisions. Legislation passed allows for an adjustment in county MOE in proportion to reductions in revenues received from state and federal sources,

streamlines state reporting to counties and requires a workgroup, including advocates, to develop alternative ways for counties to demonstrate performance of MH Act requirements.

***Mental Health Funding.*** Grants to counties, inpatient mental health, and provider rates for mental health services were not cut.

## **PUBLIC BENEFITS**

***Child Care Funding.*** No cuts to child care assistance occurred this session, and the Legislature directed \$8 million in federal stimulus dollars to fund the Basic Sliding Fee waiting list. In addition, the legislature appropriated \$1.6 million to continue the School Readiness Connections pilot program and \$3.4 million to continue the Family, Friend, and Neighbor pilot. The Governor line item vetoed \$2 million in the bonding bill for Early Childhood Facility Grants.

***Emergency Assistance Stimulus Funds.*** The Legislature directed \$25 million in federal stimulus funds to dedicated emergency assistance payments for families facing a housing or utility crisis. This appropriation doubles the amount currently spent across the state and means more than 20,000 additional families will be served.

***Family Stabilization Services.*** New protections for ill and disabled families in the Minnesota Family Investment Program (MFIP) will take effect in July. The changes assist families lacking requisite medical paperwork and also clarify individuals' rights prior to having their grant penalized. The changes will require county workers to be more careful in reviewing a person's health and disability status before punishing an individual for non-compliance.

***Minnesota Family Investment Program (MFIP) Cuts Avoided.*** Thanks to the advocacy of many anti-poverty and faith-based groups, a number of proposed cash grant cuts to families in the Minnesota Family Investment Program (MFIP) did not move forward. Two of the proposed cuts included a \$125 per month penalty to MFIP families receiving Supplemental Security Income, and an additional \$50 penalty to MFIP families receiving rental housing subsidies. These cuts would have harmed more than 8,000 low-income families.

## **SPECIAL EDUCATION**

***Seclusion and Restraint.*** There were significant changes in state special education law. Effective in August, 2011, school districts will have a new set of provisions to follow when they restrain or seclude children with disabilities. These provisions include new training and documentation requirements, a focus on prevention strategies, prohibitions on physical restraints that impairs a child's ability to breathe, and an emphasis on using restraint and seclusion only in emergency situations. Most current provisions on restraint and seclusion were repealed. Other changes to state special education law include revisions to the process for imposing school discipline (including suspensions and

expulsions) and to the due process hearing system. The changes to the discipline and due process hearing laws, which are now effective, generally were made to ensure consistency with federal laws and to clarify and streamline those processes. However, some of these changes removed protections to children with disabilities.

## UNEMPLOYMENT

***Extended Unemployment Benefits.*** Minnesotans who missed out on the federal extension of unemployment benefits will be covered by a special emergency funding bill passed by the Legislature. Federal law this spring provided for an extension of unemployment benefits to applicants who exhausted regular unemployment benefits in Minnesota. However, because federal law contained a special requirement that an applicant needed to earn a certain amount of "base period" insured wages, a significant group of applicants who had exhausted benefits did not qualify.

***New Protections.*** New protections were established for workers terminated from employment for reasons related to mental illness or providing care for immediate family members who are ill, disabled, or victims of domestic violence. The law clarifies that when a person is terminated for alleged "employment misconduct," the definition of misconduct cannot include conduct that was a consequence of a person's mental illness or impairment; an absence without proper notice to the employer, to care for an immediate family member who is ill, injured, or disabled; or conduct necessitated due to domestic abuse experienced by an immediate family member.

