Center *for* Public Policy Priorities

Policy Page

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MAJOR MEDICAID-CHIP 2012-2013 STATE BUDGET DECISIONS:
A Mix of Cuts, IOUs, "Efficiencies" and Gray Areas

The 82nd Legislature's state budget for 2012-13 includes Medicaid-CHIP provisions with a mix of specific direct cuts and spending reductions totaling $2.03 billion general revenue (GR: state dollars) including $805 million GR in cuts to fees paid to Medicaid service providers; other benefit and spending cuts totaling about $843 million GR; managed care expansion savings of nearly $386 million GR; and roughly $4.8 billion GR in under-funding—an IOU that will come due early in 2013.

This *Policy Page* summarizes high-level Medicaid-CHIP decisions adopted for health and human services agencies; key funding developments for non-Medicaid health programs will be featured in an upcoming August analysis.

Medicaid Overview

- Total Medicaid funding is dramatically lower than in the current 2010-2011 budget. Total (All funds) Medicaid appropriations of $39.4 billion in the 2012-2013 budget are $5.4 billion below or 12% less than the parallel total in the 2010-2011 budget.
  - Department of Aging and Disability Services (DADS) and Health and Human Services Commission (HHSC) All Funds appropriations are respectively $4 billion (29%) and $6.9 billion (17%) below the 2010-2011 levels.
- Medicaid funding decisions overall tracked Senate decisions to adopt a wide array of service and program reductions as an alternative to making 10 percent across-the-board rate cuts for all Medicaid service providers.
- Specifically identified Medicaid funding reductions totaling roughly $2.03 billion GR **fall into three broad categories:**
  - Provider rate/fee cuts (approx. $805 million GR);
  - Other benefit and spending cuts (approx. $843 million GR); and
  - Managed care expansion spending reductions (approx. $385.7 million).
- An additional Medicaid funding shortfall of at least $4.8 billion GR results from:
  - Senate-adopted Medicaid funding shortfalls totaling roughly $3.95 billion GR; and
  - Rider-directed additional savings, the sources of which are unspecified and/or have not been scored by the Legislative Budget Board (LBB) (approx. $886 million GR).

Medicaid Provider Rate Cuts

- All rate cuts already imposed in 2010 and 2011 remain unchanged.
- Rate cuts adopted for 2012-13 total roughly $805 million GR.
- A table of rate cut percentages and general revenue reductions for both 2010-2011 and 2012-2013 is provided at the end of this document.

Department of Aging and Disability Services (DADS)

- Nursing Homes: No additional cut (stay at 3 percent cut already taken 2010-2011)
- Intermediate Care Facility for the Mentally Retarded (ICF-MR) (not including State-Supported Living Centers): 2 percent rate cut (*added* to current 3 percent cut taken 2010-2011)

	o Health and Community Services (HCS) waiver: 1 percent rate cut (*added* to 2 percent cut in 2010-2011) o Nursing-facility-related hospice: 1 percent rate cut (*added* to 2 percent cut in 2010-11) o Other community care waivers: No rate cuts, but $12.5 million GR reduction in administrative fees for agencies that manage attendant services. **Health and Human Services Commission (HHSC)** • Medicaid and CHIP physicians, dentists, and orthodontists: No additional cuts (2 percent cut in 2010-2011) • Hospitals: 8 percent cut; (*added* to 2 percent cut in 2010-11) o Exempted children's and most rural hospitals from inpatient, but not outpatient portion • Medicaid Durable Medical Equipment, Labs: 10.5 percent cut; (*added* to 2 percent cut in 2010-2011). DME includes a wide range of items from wheelchairs to diabetic and incontinence supplies. • Other Medicaid providers: 5 percent cut (*added* to 2 percent cut taken in 2010-2011) • Other CHIP providers: 8 percent additional cut (*added* to 2 percent cut taken in 2010-2011) • Medicaid pediatric private duty nursing and home health: no additional cut (2 percent cut taken in 2010-2011) • Managed care premiums are adjusted down to "average acuity" ($169.3 million GR)
Other Medicaid benefit and spending cuts	The adopted budget assumes an array of benefit and spending cuts, totaling approx. $843 million GR. • Reduced amount, duration, and scope of Community Services ($31 million GR) • Nursing Facility Cost Change Adjustment ($58 million GR) • Prescription dispensing fee reductions ($34.7 million GR) • Community care wrap-around services ($15 million GR) • HHSC fee cuts ($34.7 million GR) • Reduced "optional" Medicaid benefits for adults ($45 million GR) • Reduced administrative spending at HHSC ($38.2 million GR) • "Medicare Equalization:" Limiting payment for services to seniors and adults with disabilities enrolled in both Medicaid and Medicare to the Texas Medicaid fee schedule. ($295.8 million GR) • Reduced Medicaid Managed Care administrative costs ($27 million GR) • Additional unduplicated savings indicated by LBB from "Medicaid Funding Reduction" (HHSC rider 61: $264 million GR)
Medicaid Managed Care reductions	The budget assumes substantial cost savings from expanding Medicaid Managed Care both for children, pregnant women, and a handful of parents (STAR); and for adults with disabilities and elderly poor clients who get both Medicaid and Medicare (STAR+PLUS). HB 1 assumes $385.7 million GR in net spending reductions (HHSC Rider 51); and estimates an additional $238 million GR in new health insurance premium tax collections for the Medicaid Managed Care expansion (Article IX, section 18.12).
Medicaid 1115 Waiver to Transition Hospital UPL in Medicaid Managed Care	HHSC Riders 76 & 77 express the intent to "protect" the special Upper Payment Limit (UPL) funds that now add about $1.8 billion federal funds annually to Texas Medicaid hospitals through a waiver from federal Medicaid authorities. However, the riders state that HHSC must seek to recoup the hospital-related portion of the projected Medicaid Managed Care savings (including the premium tax revenues) through rate reductions, selective contracting, and/or other initiatives; those savings are scored at $28.9 million GR for STAR+PLUS, and $242.7 million GR for STAR.

Medicaid GR Shortfall*
 	
NOT associated with any specific program cut
	Legislative budget chairs and the LBB have acknowledged a Medicaid funding shortfall—*after the cuts and reductions detailed above*—of at least $4.8 billion GR.
	
	This "shortfall" includes both (1) money the Legislature expects Medicaid to need, but simply left out of the budget, and (2) "savings" directed in riders for which no specific source has been identified and "scored" by LBB.
	
	• **Medicaid funding shortfalls** totaling nearly $4 billion GR. This is a combination of the LBB-identified $1.7 billion GR for unfunded Medicaid cost and caseload growth, and roughly $2.25 billion more in GR shortfall from un-replaced federal stimulus aid (ARRA) that Texas used in 2010-2011 to fund Medicaid, but is now ending.
	• **Rider-directed additional savings**, the sources of which are unspecified and/or as yet unscored by LBB (approx. $886 million GR)
	  o $700 million GR reduction "Federal Flexibility" rider (Art II SP rider 46); and
	  o The unscored portion (per LBB) of the "Medicaid Funding Reduction" HHSC rider 61: $186 million GR out of the $450 million nominal rider total.
	• **Additional Article IX Riders:** This section of the budget lays out conditions under which certain "contingent" funding increases or reductions may be made. Adding to an already-complex Medicaid funding situation are these riders:
	  o **Rider 18.12** would appropriate up to an additional $500 million GR to HHSC and DADS for Medicaid if certified by the Comptroller, including (1) the first $262 million GR in above-estimated state revenues (above the January 2011 estimate plus any additional revenue certified between then and enactment of the budget bill) and (2) up to $238 million in new HMO premium tax revenues generated due to the expanded scope of Medicaid Managed Care in Texas.
	  o **Rider 18.21** reduces HHSC Medicaid funding by $200 million GR, but also provides for reversal of that reduction in the event that the Comptroller certifies sufficient above-estimated state GR.
	  o **Rider 18.55** lays out priorities for allocating additional revenue, stating that fulfilling the $500 million GR identified in 18.12 and reversing the $200 million cut in 18.21 essentially have first call on new GR identified since passage.

Frew Lawsuit Children's Medicaid Initiatives	In the 2007 session, $150 million GR was appropriated for special initiatives to improve access to care for children and youth in Texas Medicaid, in conjunction with a federal -court-approved corrective action plan. Unspent funds were carried forward for use in the 2010-2011 budget, but an extension was not granted for 2012-2013. HHSC projects that about $105 million of the original $150 million will have been spent by 8/31/2011. • Three *Frew* initiatives will be ended early (8/31/2011) due to the lack of ongoing funding: Health home pilots; an Integrated Pediatric-Mental Health Care Pilot; and a project using Promotoras(es)/Community Health Workers for Texas Health Steps Outreach and informing. • The Children's Medicaid Loan Repayment Program is not funded, but the HHSC is exploring ways to continue the funding in part or whole. Nearly 600 doctors and dentists already receiving help with loan repayment in return for service to children and youth in Texas Medicaid could lose that support. • A number of *Frew* initiatives have been incorporated into the basic Medicaid program, and will continue. These include First Dental Home; Oral Evaluation and Fluoride Varnish in the Medical Home; Pediatric Subspecialty Access Reimbursement for Specialty Telephone Consultation; Migrant Data Exchange, and several others. o The Mobile Dental Unit and Pediatric Dental Residency Clinic, and Telemedicine initiatives will no longer receive dedicated funding, but instead will transition to billing at Medicaid rates. Sustainability of these two projects is uncertain and will be evaluated in 2012.

Medicaid Women's Health Program (Family Planning Waiver)	The Medicaid WHP program covers exams, preventive screenings, and birth control (not abortion) for women ages 18-44 with incomes at or below 185% of the federal poverty income (FPL); very few women qualify for Medicaid otherwise—unless they are pregnant. It saves over $40 million every year in avoided costs for unplanned pregnancies, so Texas saves $10 for every $1 it puts in. About 120,000 women per year will be served this way in 2012-2013. • State law called for re-approval of this 5-year program, but no bills were passed calling for renewal, but HHSC rider 62 in the budget provides authority for renewal of the program. • State law calls for exclusion of providers who "perform or promote" or "affiliate with" entities that "perform/promote" elective abortion. This language, apparently intended to exclude Planned Parenthood clinics even if they do not perform abortions (through the "affiliation" reference), will have to be defined more clearly in the courts. Because Planned Parenthood has provided over 40% of services in WHP, their exclusion would create access problems for women enrolled in this program, with fewer patients ultimately served. • Because block grant Family Planning funding for over 284,000 more women has been cut in the DSHS budget, maintaining capacity in the WHP is more critical than ever.

The Medicaid IOU

As noted in the chart above, both chambers' budget chairs and the LBB all openly acknowledged a $4.8 billion GR gap (about $11.2 billion All Funds) between what they expect Medicaid to cost (even after the cuts and reductions adopted) and what they are appropriating. The working assumption is that most of the "Medicaid GR Shortfall NOT associated with any program cut" (see chart above) will be covered in 2013 in a supplemental appropriation. Texas HHSC is obligated to pay health care providers for Medicaid and CHIP bills regardless of the exact appropriated amounts in the budget bill, and the state will make good on that shortfall.

The Medicaid program is currently paying over $2 billion a month in health care and long term care bills, and about $900 million a month of that is state dollars (GR). The funds appropriated for the Texas Medicaid program need to—and appear to—cover enough months of care to allow uninterrupted payments for care through spring 2013, when the Legislature can appropriate more to fill the gap, whether from higher-than-currently-expected tax revenues, or from the still-growing and still largely untapped Rainy Day Fund.

Advocates' Budget-Related Concerns

Texas Senate budget writers and the conference committee clearly tried to mitigate damage to the health care safety net by using the Medicaid IOU, *which is preferable to massive (nearly 30 percent) cuts that would be required to balance the Medicaid budget with no additional revenues and no further use of the Rainy Day Fund.* Still, a review of the rate cuts adopted and the long list of program cuts and changes being used to further reduce spending makes clear that many new challenges to access to care will be faced in 2012-13 by the 3.5 million Texans who rely on Medicaid for life-saving medical and long-term care services. Advocates for Medicaid clients will need to monitor most, if not all of the program changes detailed above, with an eye to protecting access to care for our fellow Texans.

Added to that concern is general uncertainty related to the Medicaid shortfall. Nearly $5 billion GR in Medicaid cuts will be no more acceptable in 2013 than today, and advocates will need to make sure that the IOU is not transformed into a new deeper round of cuts. Especially ambiguous are the potential outcomes if the savings assumed in the $700 million GR "Federal Flexibility" rider and the $186 million GR unfunded portion (per LBB) of the "Medicaid Funding Reduction" rider are not achieved. Advocates must be on the lookout for attempts to convert any unachieved savings into program cuts, beyond the substantial cuts already certain to be applied to this vulnerable population, .

Waivers, Block Grants, Interstate Compacts: SB 7's Tossed Salad

Bills directing Texas to seek a capped Medicaid-funding federal waiver (HB 13, see http://www.cppp.org/research.php?aid=1075&cid=3&scid=4) and to ask Congress and the President for permission to opt out of Medicare, Medicaid, and CHIP, and to convert all federal health care funds into a block grant for Texas along with most other federal health care spending (HB 5, see: http://www.cppp.org/research.php?aid=1118&cid=3&scid=4) were not passed in the regular legislative session, but were amended onto "must-pass" SB 7 in the special session and retained in the final bill signed by the Governor. As a result, Texas law now newly directs the Medicaid program to (1) pursue service delivery and payment reforms that parallel the national movement to health homes, clinical integration, and payment tied to improved outcomes; (2) seek a Medicaid 1115 waiver designed to protect hospital UPL funding streams while promoting service delivery and payment reforms; (3) seek a Medicaid 1115 waiver designed to dramatically restructure the Texas Medicaid program but lacking commitment to protections for Medicaid's vulnerable population of children, seniors, Texans with disabilities, and expectant mothers (HB 13); and (4) also seek permission to enter an interstate compact to opt out of Medicare, Medicaid, and CHIP and convert all federal health care funds into a block grant (HB 5).

How these overlapping directives will be handled by the agencies and the impact on clients is unknown at this time. HHSC is already deep in discussion with federal Medicaid officials on the waiver to protect and convert Texas Medicaid UPL funding streams. An important next step for advocates will be to work with HHSC to ensure a full and meaningful public information and input process related to the development and formal submission of this waiver (and any future waivers).

Further analysis of SB 7 will be provided in an upcoming *Policy Page*.

Texas Had Choices

The best that can be said about Medicaid's treatment in the 2012-2013 state budget is that it could have been worse. But it could also have been much better. The Legislature could have taken a balanced approach to the budget that relied far less on cuts, used much more of the state's $9.7 billion Rainy Day Fund, and added new revenues like closing unwarranted tax loopholes or adding sugary drink taxes. The constitutional purpose of the Rainy Day Fund is to protect Texans during an economic downturn, yet we have chosen to cut public schools and essential public services instead.

It would appear that Texans agree that the budget should be better. Texas polling in May 2011 found 85 percent opposed cuts to public education; 90 percent didn't want to cut children's health insurance, 86 percent opposed cutting payments to Medicaid providers like doctors and hospitals; and 93 percent wanted to avoid cuts to nursing home funding.

CPPP will continue to monitor and report on both state and federal proposals to reduce funding for health care programs including Medicare, Medicaid, and CHIP—and on the likely impact on access to care and our state's economy if both services and the jobs they represent are cut. A recent fact sheet on the scope of state and federal proposals can be found at this link: http://www.cppp.org/research.php?aid=1123&cid=3&scid=4.

CPPP will provide additional analysis of non-Medicaid health and human services funding decisions and major health policy legislation in upcoming issues of the *Policy Page*.

Provider Type	2010-2011 rate cuts	GR Reduction, 2010-2011 (millions)	2012-2013 rate cuts	GR Reduction, 2012-2013* (millions)
Nursing Homes	3%	$24.8	0%	---
ICF-MR (not SSLC)	3%	(NF & ICF-MR)	2%	$4.9
HCS Waiver	2%	$3.4	1%	$6.8
NF-related Hospice	2%		1%	$3.2
Other Community Waivers	0%		$12.5 million GR cut in admin for agencies	$12.5

Medicaid & CHIP physician, dentist, orthodontist	2%	$62.3	0%	
Medicaid Hospital	2%		8%	$440.3
Medicaid DME & Labs	2%		10.5%	$81.9
Other Medicaid Providers	2%		5%	$62
Other CHIP Providers	2%		8%	$22.4
Medicaid Pediatric private duty nursing & home health	2%		0%	
Medicaid Managed Care premiums: "additional reductions" 2010-11; reduced to "average acuity" 2012-13	n/a	$14.6	$169.3 million GR cut	169.3

Sources: HB 1, 82nd session; HB 1 conference committee decision documents; HHSC documents.

* New reductions only; not cumulative. HHSC has not published estimates of the impact of 2010-2011 rate cuts on 2012-2013 spending. However, it is reasonable to assume that the reduced spending amount for 2012-2013 due to rate cuts imposed in 2010-2011 will equal or exceed the amounts reported by HHSC for 2010-2011.

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