



Center for Public Policy Priorities

THE POLICY PAGE

Update on State and Federal Action

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FEDERAL MEDICAID RELIEF FUNDS COULD STOP THE ELIMINATION OF MEDICAID MENTAL HEALTH SERVICES, OTHER SERVICES

In conjunction with other unappropriated funds, federal money is now available to halt the cutting of important services such as providing eyeglasses, hearing aids, and podiatry to elderly and disabled.

HB 1—the state appropriations bill for 2004 and 2005—assumed that Medicaid coverage for most mental health professional services, podiatric and chiropractor care, eyeglasses, hearing aids, would be eliminated for all adults on Medicaid (these are “optional” benefits under federal Medicaid law). **This will principally affect elderly aged and disabled individuals; in May 2003 73% of adult Texas Medicaid clients were aged or disabled (about 625,000 out of 852,000 adults).** This Policy Page describes the expected impact of the proposed cuts, and explains what readers can do to try to stop them.

While no law was passed prohibiting provision of these services, HB 2292 deleted the statutory mandate for Medicaid coverage of podiatry, and services of licensed psychologists and licensed marriage and family therapists¹. The other Medicaid services that were eliminated for adults (e.g., hearing aids and eyeglasses for elderly and disabled clients, and services of licensed professional counselors and social workers) were not mandated anywhere in Texas law, and thus no repealing legislation was required.

Because HB 1 reduced Medicaid funding based on the assumption that these benefits would be eliminated, HHSC published proposed administrative rules (*Texas Register*, June 27) which would implement the cuts. Under these rules, Medicaid coverage for services of licensed psychologists, licensed masters social workers—advanced clinical practitioners, licensed professional counselors, licensed marriage and family therapists, podiatrists, as well as hearing aids and eyeglasses will be eliminated for all Texas Medicaid enrollees age 21 and older.

UNINTENDED CONSEQUENCES OF MEDICAID MENTAL HEALTH BENEFIT CUTS FOR ADULTS

It appears that case management and mental health rehabilitation services delivered by Community Mental Health Authorities and/or Centers can still be billed to Medicaid, but this option is not available to other mental health providers. These services by the MHMR Centers do not include counseling or therapy services.

Medicaid services of psychiatrists are still covered, but the counseling and therapy services provided by these mental health professionals are rarely available from psychiatrists (whose practices tend to be focused on the complex matters of prescribing and monitoring psychiatric medications). In fact, as many physicians have testified, psychiatrists and other medical doctors who prescribe medication depend on being able to refer Medicaid clients for therapy to help improve

their condition, support the client in “complying” with medications, and to help monitor the effectiveness of medication treatment. Moreover, very few Texas psychiatrists accept Medicaid patients, so psychiatrists will not be able to replace these eliminated services. For example, in one West Texas community, no local psychiatrist is accepting new Medicaid patients. Because Community MHMR Center services are already over-taxed, psychiatric hospitals have relied on being able to refer their Medicaid patients to non-psychiatric therapy services after an inpatient hospitalization. Providers expect to see an increase in E.R. visits and inpatient admissions due to the lack of “after-care” services in the community.

How Many People Will Be Affected? HHSC has not produced any detailed client impact information related to these cuts, but according to agency utilization data, in 2002 at least 128,000 Medicaid adult clients used the services of one of these mental health professionals. These numbers are

assumed to be significantly lower than actual utilization, due to incomplete information about services provided to adults in Medicaid HMOs.

How Did This Happen? This Medicaid benefit cut decision is a textbook example of public policy development gone wrong. Sweeping Medicaid and CHIP cuts proposed early in the Legislative session (e.g., cutting off community care for more than 56,000, eliminating nursing home care for thousands, prescription drug coverage for over 200,000 aged or disabled clients, cutting CHIP enrollment in half, deep cuts in Community MHMR services, cut-backs in CPS case workers) required significant attention and focused work by the small group of Legislators trying to reduce program cuts. In the process, the HHSC budget proposal to cut a number of other optional Medicaid benefits for adults, though spelled out in budget documents from the very beginning, simply never received any detailed discussion, analysis, or public hearing in either the House or Senate. As a result, the elimination of mental health professional services appears to have a number of unanticipated consequences—unanticipated because no analysis was ever undertaken or provided to lawmakers.

Who Will Be Affected? Since the passage of HB 2292, however, all kinds of Texas advocates have been hearing from clients and providers alike about the potential impact if this cut is implemented. Some of the unintended consequences which are surfacing:

- **Child and Adult Protective Services.** Many of parents who have been found by CPS to abuse or neglect their children are mandated to courses of counseling, and a significant share of these parents are Medicaid-eligible. Without the ability to bill Medicaid for these services, some parents will have to go without counseling, or 100% state or local dollars will have to be used for these services (losing the 60% federal share). Family counseling (i.e., group counseling in which the child participates) for children who have been abused can still be billed under the child's Medicaid coverage, but therapy for the neglecting or abusive parent may not be available. In cases of sexual or severe physical abuse, the intensive services needed by the perpetrator will not be possible or appropriate to deliver with the child present. Similar issues are related to adults involved in elder neglect or abuse; however, in these cases elderly victims who are Medicaid-eligible may also be unable to receive counseling to help recover from the trauma of abuse.
- **Nursing Home Residents.** About 70% of Texas nursing home residents are paid for by Medicaid, and a very high percentage have depression or other behavioral health issues. For example, when seniors are being treated for depression; the psychiatrists and other medical doctors who prescribe medication depend on being able to refer the Medicaid nursing home client to visiting counseling services to help them cope with their condition, to support the client in taking the

medications, and to serve as a feedback source for the effectiveness of medication treatment and changes that may need to be made. Nursing Homes also serve younger Texans with disabilities, sometimes after traumatic injuries have turned their lives upside down. In these cases, therapy can be a life-saving component needed to help an individual cope with a sudden loss of independence and function. If mental health professionals can no longer bill Medicaid, many clients will not get mental health care they need.

- **Community Mental Health Centers.** Many Community Mental Health Centers around the state provide counseling services by licensed psychologists, licensed masters social workers—advanced clinical practitioners, and licensed professional counselors. Just as described above, counseling and therapy are relied on as companions to medication treatment, and have been shown to dramatically improve medication compliance as well as to improve outcomes for persons with major psychiatric disorders. Depending on the location, Centers report that 15% to 30% of their adult clients are Medicaid-eligible. In a quick survey of Texas Centers, about two-thirds of centers responded and estimated that over 3,600 of their clients would lose services with this cut. Given the staffing and administrative budget cuts already facing Community Mental Health Centers under the state budget, it is not clear whether or how these clients will be served.
- **Family Violence Shelters, Sexual Assault Survival Agencies, and Crime Victim Assistance Agencies** routinely refer survivors of sexual assault and domestic violence to community nonprofit agencies and individual providers for counseling, and Medicaid is the only source of payment for many of these clients. Without this coverage, many domestic violence and other violent crime victims may go without the services they need to get back on their feet.
- **Intermediate Care Facilities for Mental Retardation (ICF/MRs).** These entities refer resident clients with behavioral health diagnoses (in addition to mental retardation) to psychologists and other mental health practitioners who bill Medicaid. Their needs are very similar to those described above for nursing home residents. Without the ability to bill Medicaid for these services, some residents with mental retardation will have to go without counseling services.
- **Other Populations with Special Needs for Counseling.** At the July 15 public hearing on proposed rules eliminating coverage of the mental health services for adults, a variety of professionals from all over the state reported on the services they provide to Medicaid enrollees.
 - One therapist from Lubbock reported on her work with End-Stage Renal Disease (ESRD) and dialysis patients teaching

lifestyle skills to cope with a chronic condition, as well as the importance of Medicaid counseling services for parents in the local Homeless Shelter. Assisted living and rehabilitation facilities as well as hospice programs in her rural area all provide mental health services to Medicaid clients.

- Public health officials from one city reported on the critical role that counseling played in keeping chronically mentally ill residents living in the community on their medications, and out of the E.R. and local jails.
- More than one professional reported that significant numbers of registered sex offenders receive therapy via Medicaid which is critical to preventing more offenses. They stated that providing services to this population is an issue of public safety.
- A psychiatrist-administrator of an urban psychiatric emergency service reported that, due to a 21-day average wait to see a psychiatrist at the local MHMR center, he relied on being able to refer clients to counseling services to prevent relapse following emergency stabilization. He predicted that the arrest and incarceration of clients, already high, would increase sharply without this support in place.
- A mental health consumer told her personal story of coping with mental illness, confirming that psychotherapy had been a critical element of helping her survive the 3 years required to successfully diagnose and treat her condition, and now to help her maintain her medication regimen. As a result, following 3 years of repeated institutionalizations, she had been able to achieve 4 years without hospitalization.

In conclusion, it appears that because no analysis or debate occurred at all on the impact of the elimination of this benefit, this Legislative action threatens to undermine Community mental health services, services to survivors of sexual assault and domestic violence, services to the mentally retarded, services to rehabilitate parents who neglect or abuse their children, services to nursing home residents, and many others. This unintended and unforeseen situation should be reversed to avoid harm to our most vulnerable citizens and to the critical safety net services they need.

**ELIMINATION OF EYEGASSES,
HEARING AIDS, AND PODIATRY
Who is Affected?**

HHSC reports that about 170,000 adults on Medicaid received vision care in 2002. About 65,000 adults used podiatric services in 2002. Over 5,500 adult Medicaid recipients received hearing aids from Medicaid in 2002.

Elderly and disabled clients in institutional settings may be at particular risk after this change. With only \$45 per month in personal needs allowance available to buy eyeglasses, a hearing aid, or podiatry (and this allowance must also cover 100% of clothing and any other personal needs), it is clear that many will simply go without eyeglasses or hearing aids, and foot care. Physicians have testified that it is highly unlikely that medical doctors will be able to step in and

HHSC Estimates of Cost of Restoring the Cuts Outlined Above			
	2004	2005	Total
Psychologists	\$1,850,700	\$1,849,770	\$3,700,470
Social Workers, Licensed Professional Counselors, Licensed Marriage and Family Therapists	\$15,283,200	\$15,275,520	\$30,558,720
Subtotal, MH Professionals			\$34,259,190*
Podiatry	\$1,631,800	\$1,630,980	\$3,262,780
Eyeglasses	\$2,156,874	\$2,155,790	\$4,312,664
Hearing Aids	\$477,600	\$477,360	\$954,960
Total, Restore Adult Service Cuts			\$42,789,594
<i>* Official budget documents during the 78th Legislative session listed this impact at less than \$9.5 million.</i>			

provide care if podiatrists' services are eliminated. Without vision and hearing correction, they will experience even greater functional limitations than their medical conditions create. Podiatric needs of this population, if left unmet, will inevitably lead to loss of the ability to walk, and even amputations.

It should not be assumed however, that elders and disabled in institutions are the only clients at risk. The SSI population in the community, living on just \$552 per month, often have nearly as little "disposable" income as nursing home residents after paying for housing and food. They, too will be unable to afford podiatric care, eyeglasses, or even the least costly hearing aid.

These three benefits could be restored, and unnecessary suffering of tens of thousands of elderly and disabled Texans could be avoided, for an investment of only \$8.5 million.

STATE FUNDS ARE AVAILABLE TO RESTORE THESE CUTS

According to best estimates, at least \$372 million in federal Medicaid Fiscal Relief funds remains available for restoration of proposed Texas Medicaid cuts (see Policy Page #197). In

addition, SB 21 of the first called (i.e., the special) session would make another \$231.7 million available for allocation to Medicaid, **for a total of over \$600 million.**

This money would be allocated according to a plan developed by the Legislative Budget Board (LBB) and the Governor.ⁱⁱ The rider states that “it is a priority of the Legislature” that the funding plan will direct one-quarter of the fiscal relief (presumably 25% of the entire 1.26-1.28 billion, or \$315-\$320 million) to a partial restoration of the Medicaid provider rate cuts assumed in HB 1 (rate cuts of 5% for most Medicaid acute care providers, 3.5% for nursing homes and 2.2% for community care providers will reduce GR appropriations by at least \$425 million). Restoration of the 15% cut in hours of care for Medicaid community care clients is identified as second priority (full restoration is scored by DHS at \$159.9 million GR), but no dollar amount is specified. After those two items, a list of other possible restorations is provided which is not in priority orderⁱⁱⁱ. This language is not strictly binding on the LBB and Governor, but carries weight as a record of Legislative intent. As stated in Policy Page #197, the center believes that the Governor and LBB have the latitude to include restoration of the benefits cuts outlined above in their plan for spending the Medicaid funds.

While CPPP agrees that partial restoration of rate cuts for providers and service hour reductions in Community Care articulated in the state budget bill for 2004-2005 are valid priorities (HB 1, 78th Texas Legislature, Article IX, Section 11.28), we urge the Governor and Legislature in the strongest terms to devote a small portion of the \$600 million to averting the disastrous and inhumane results that will accompany the elimination of mental health professional services, eyeglasses, hearing aids, and podiatry for adult Medicaid clients.

WHAT CAN BE DONE?

It is critical to note that one option for the Governor and the LBB will be to use none of the \$600 million to restore cuts, to instead implement all proposed cuts, and simply “bank” the funds in case there is a shortfall in Medicaid in 2005.

Readers who want these benefit cuts restored are encouraged to communicate right away with the Governor, members of the LBB, and other key Legislative leaders. Let them know:

- **The \$600 million should be spent to reduce the size of Medicaid program cuts;**
- **restoration of cuts to adult Medicaid benefits must be included in the plan; and**
- **your own perspective and concerns about the unexamined impact of taking these benefits away from the elderly and disabled poor, the mentally ill, the chronically ill, the mentally retarded, the abused and neglected, and victims of sexual and domestic violence.**

WHO TO CONTACT:

Governor Rick Perry (see <http://www.governor.state.tx.us> for phone and address information)

Members of the LBB:

(see <http://www.capitol.state.tx.us> for phone and address information)

Lt. Gov. David Dewhurst, Chair
Speaker Tom Craddick, Vice-Chair
Senator Teel Bivins
Senator Bill Ratliff
Senator Chris Harris
Senator John Whitmire
Representative Talmadge Heflin
Representative Ron Wilson
Representative Fred Hill
Representative Vilma Luna

Health and Human Service Chairs of Budget Committees:

Senator Jane Nelson, HHS Workgroup Chair, Senate Finance Committee
Representative Arlene Wohlgenuth, HHS Subcommittee Chair, House Committee on Appropriations
(see <http://www.capitol.state.tx.us> for phone and address information)

ⁱ Human Resources 32.027(b) and (e) are repealed in Section 2.156 of HB 2292.

ⁱⁱ HB 1, 78th Texas Legislature, Article IX, Section 11.28.

ⁱⁱⁱ Listed items include HIV, STD and Community Health services at TDH, Medicaid coverage for Pregnant Women and Medically Needy and Graduate Medicaid Education payments at HHSC, State-funded Community Care at DHS, MR Community services at TDMHMR, At-risk prevention services at PRS, and the Texas B-On-Time Loan program.

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