

Capitol News!

February 28, 2011

Vol. 8, Issue 2

Dear NASHIA Member,

Welcome to Vol. 8, Issue 2, of **Capitol News**. As you know, Congress continues to grapple with the FY 2011 budget, as the current Continuing Resolution (CR), that is funding federal government ends March 4th. Last Friday, a new proposal emerged to extend spending for federal government until March 18, with far less cuts than the House initially approved. Meanwhile, the President released his propose budget for FY 2012, which also contains some budget cuts. Read further in this *Capitol News* for more information.

NASHIA will again be a co-sponsor of the Congressional Brain Injury Task Force Awareness Day reception, and will exhibit at the Fair, both scheduled for Wednesday, March 16, 2011, at the Rayburn House Office Building. Information is being updated on the website with regard to NASHIA's recommendations and priorities for the 112th Congress. This information is on the Public Policy webpages titled Priorities, Key Issues and Get Involved (www.nashia.org). A report of major legislation impacting TBI and other disabilities that passed during the 111th Congress has also been posted on the Archives page.

We welcome Rebeccah (Becky) Wolfkiel who has joined us as NASHIA's Government Relations Consultant, replacing Jean Berube who is now working for the National Institutes of Health. Meanwhile, we hope you can join us in Washington, DC in March to welcome Becky and help promote brain injury awareness!

This Week in Congress

Congress is returning from recess this week. Both the House and the Senate will convene this afternoon. President Obama and Vice President Biden are meeting with State governors during their association meeting. State governors are expressing their concerns about their State budgets and Medicaid eligibility and costs.



Appropriations

FY 2011 Appropriations

On Friday, the House of Representatives and Senate leaders began discussing a plan to avert the federal government from shutting down by passing a CR that would immediately cut \$4 billion in federal spending that the President had already targeted for elimination in his FY 2012 budget recommendations. These cuts would come from the Department of Education and one-time money that was administered by the Department of Transportation, which the President was not seeking to renew in 2012. In addition to those cuts, the House bill would revoke \$2.7 billion that Congress dedicated last year to more than 50 local "earmarks." The House is expected to take up this latest CR tomorrow, Tuesday, and the Senate a day or two later.

On Saturday morning, February 12th, the House passed H.R.1 to fund federal government through this fiscal year that ends September 30th. The resolution included massive cuts totaling \$61 billion to discretionary programs. While TBI Act programs were spared, other programs were affected, including the full elimination of the Corporation for National and Community Services (-\$1 billion); the supported employment State grants (-\$28 million) and Projects with Industry; and a cut to the Maternal and Child Block Grant of -\$50 million.

The House adopted amendments to defund the health care law were, including an amendment to ban all payments to "any

employee, officer, contractor, or grantee of any department or agency" to implement the law. The House passed another amendment by Rep. Steve King (R-IA) that would deny any implementation funds in the CR and block salaries to enforce the entire law. The House approved another measure by Rep. Jo Ann Emerson (R-MO) to block funding for the Internal Revenue Service to enforce the individual mandate. While none of the measures completely "defund" the health care law, together these amendments would make it very difficult to implement the law, or worse, it would be implemented poorly.

The Center for Budget and Policy Priorities recently released a report on the impact of the \$61 billion budget cuts proposed by the House <http://www.cbpp.org/cms/index.cfm?fa=view&id=3405>, including a break down on the impacts by State.

The Coalition on Human Needs released a report that shows the affects of the cuts:

- 218,000 young children would not be able to receive Head Start services;
- 11 million patients would lose health care they would have received at Community Health Centers over the next year, with 3.2 million losing care in the next few months; 127 health center sites would have to close and 7,434 jobs would be lost;
- 20 million low-income people, including 5 million children, 2.3 million seniors, and 1.7 million people with disabilities, would have access to anti-poverty services disrupted;
- 9.4 million low-income college students would lose some or all of their Pell Grants;
- More than 8 million adults and youth would lose job training and other employment services. Job training under the Workforce Investment Act would essentially be shut down until July 2012;
- 81,000 low-income people, mostly seniors and some children, will no longer receive food packages and six states would not be able to join the program after being approved to do so;
- 1.2 million poor households in public housing (two-thirds of whom are elderly or have a disability) would see maintenance and repairs on their apartments deteriorate due to cuts in the Public Housing Capital Fund;
- 10,000 people with significant long-term disabilities would lose their rental assistance; most of these would lose their homes.

FY 2012 Budget

At the same time that Congress is working to resolve funding for the rest of the current fiscal year, the President released his Budget Request for FY 2012. His budget would eliminate or trim more than 200 programs and reduce the deficit by \$1.1 trillion over the next decade. Two-thirds of the savings would come from cuts to domestic spending. Many disability programs are recommended to be level-funded, including the TBI Act programs, and some are recommended to receive small increases, while others have been cut or consolidated. The request makes no cuts to entitlements and would allow the high-income Bush tax cuts to expire in 2012.

Special Education

The President's education budget continues funding for special education and also provides a number of new initiatives that would impact students with disabilities. The Budget provides \$11.7 billion for IDEA Part B grants to States. The Budget request also includes additional dollars - \$50 million - for Part C Grants for Infants and Toddlers for a total of \$498 million. These funds would increase the average State allocation by almost \$1 million, help States serve an estimated 360,000 infants and toddlers, and encourage States to extend early intervention services to children through age 5. Additionally, this request would allow the Department of Education to award up to \$4.4 million for State Incentive Grants (since the request is above the \$460 million "trigger" in the law) to facilitate a seamless system of services for children with disabilities from birth until entry into kindergarten. Preschool Grants and Part D National activities are level funded.

New initiatives include:

- \$30 million for "PROMISE: Promoting Readiness of Minors in Supplemental Security Income (SSI)," a joint pilot demonstration program with the Social Security Administration, the Department of Health and Human Services, and the Department of Labor to improve health, education, and post-school outcomes of children who receive SSI and their families. This program would fund pilots in select States to improve the provision and coordination of services for these individuals.

- \$10 million for "Access through Cloud Computing," a new initiative that would seek to improve Internet and technology access for individuals with disabilities through research and development activities to provide on-demand accommodations that are stored remotely. This new initiative would be administered by the Office of Special Education and Rehabilitative Services' National Institute on Disability and Rehabilitation Research (NIDRR) in consultation with the National Science Foundation, the Access Board, the Office of Science and Technology Policy, and other White House offices.
- \$30 million for a proposed interagency Workforce Innovation Fund that would, in combination with funds from other Department of Education and Labor programs, encourage innovation and support projects to identify and validate effective strategies for improving the delivery of services and outcomes for beneficiaries under the Rehabilitation Act and other programs authorized by the Workforce Investment Act.

Vocational Rehabilitation and Independent Living

The budget recommendations include proposals that would consolidate Title I Vocational Rehabilitation programs, including supported employment, projects with industry, and migrant, personnel training, and seasonal farm workers programs. The \$56.3 million additional funds under the Title I funding line are targeted for the coordination of these consolidated programs. The purpose of the consolidation is to streamline and provide accountability for these programs. A supported employment for youth initiative that was included in last year's request is absent from this year's request.

One hundred and three (\$103.7) million is provided for a consolidated Grants for Independent Living program that would replace the Independent Living State Grants and Centers for Independent Living programs and would provide formula grants to States to support the provision of independent living services through centers for independent living. Each State would receive an amount that is equal to the combined amount received in fiscal year 2011 from the two programs.

The Budget also proposes \$8 million for a new National Activities to Improve Rehabilitation Services program that would consolidate technical assistance and program improvement resources and give the department greater flexibility to strategically direct these resources to improve employment and independent living outcomes for individuals with disabilities. In conjunction with this consolidation, responsibility for conducting studies and evaluations of programs authorized under the Rehabilitation Act would be transferred to NIDRR to provide for a more coordinated and rigorous approach to research, development, and knowledge translation investments in Vocational Rehabilitation and independent living.

Other Legislation

IDEA Funding

Representative David Vitter (R-LA) recently introduced the IDEA Full Funding Act, S. 103. The bill amends the Individuals with Disabilities Education Act to reauthorize and make appropriations for the grant program to assist States in providing special education and related services to children with disabilities. It decreases the authorized funding amounts and makes appropriations for fiscal year 2011 and years thereafter. It would also set a formula for determining authorization amounts in the future.

Dependent Care Act

On January 5, 2011, Rep. Sheila Lee Jackson (D-TX) introduced the Dependent Care Act of 2011, H.R. 79, to direct the VA to provide health care for the physical and mental injuries suffered by a spouse, child, or dependent parent victim of abuse by a veteran who is enrolled in the VA patient enrollment system and has been diagnosed with post-traumatic stress disorder or traumatic brain injury, as long as such victim is not eligible for medical coverage under a federal or state program or otherwise covered by a private medical insurance policy. The legislation requires a report from the Secretary to the congressional veterans committees addressing any VA challenges or concerns in verifying psychological abuse in such individuals.

TBI Treatment Act

Rep. Pete Sessions (R-TX) introduced H.R.159, the TBI Treatment Act, and H.R. 396, directing the DOD and Veterans Affairs to carry out a five-year pilot program to establish a process for providing payments to facilities for treatments of TBI or PTSD received by members of the Armed Forces and veterans in facilities other than military treatment facilities or VA medical facilities. Payments are subject to specified conditions, including approved treatment or study protocols. The bill requires the VA Secretary to notify each veteran with a service-connected injury or disability of the opportunity to receive such treatment or study protocol.

Conussions Act of 2011

On January 26, 2011, Rep. Timothy H. Bishop (D-NY) introduced H.R. 469, the Protecting Student Athletes from Concussions Act of 2011 requiring each State educational agency, in order to be eligible to receive funds under the Elementary and Secondary Education Act of 1965 in FY2013 or subsequent fiscal years, to issue regulations establishing the following minimum requirements for the prevention and treatment of concussions.

The bill also requires each local educational agency in the State to develop and implement a standard plan for concussion safety and management that includes: (1) the education of students, parents, and school personnel about concussions; (2) supports for students recovering from a concussion; and (3) best practices designed to ensure the uniformity of safety standards, treatment, and management. Each elementary and secondary public school would be required to post on school grounds and make publicly available on the school website information on concussions, including information on risks, responses, symptoms, and effects. Public school personnel who suspect that a student has sustained a concussion during a school-sponsored activity would be required to: (1) remove the student from the activity and prohibit such student from participating in school athletic activities until the student submits a written release from a health care professional; and (2) report to the student's parent or guardian regarding such injury and the treatment provided.

Furthermore, the bill prohibits a student who has sustained a concussion in a school-sponsored athletic activity from resuming participation in school-sponsored athletic or academic activities until the school receives a written release from a health care professional that: (1) states that the student is capable of resuming participation; and (2) may require the student to follow a plan designed to aid such individual in recovering and resuming participation in a manner that is coordinated with periods of cognitive and physical rest, and that reintroduces cognitive and physical demands on a progressive basis, based on the student's symptoms.

Congressional Committees

Senators Urge VA to Provide Family Caregiver Benefits

On February 8, Senator Daniel K. Akaka (D-HI) and 17 other Senators wrote to Secretary of Veterans Affairs Eric Shinseki and Director of the Office of Management and Budget Jack Lew to urge the Administration to carry out the provision of the Caregivers and Veterans Omnibus Health Services Act, and begin providing supportive services to caregivers of wounded veterans. The Caregivers and Veterans Omnibus Health Services Act directed VA to begin providing caregiver support by January 30, 2011. To date, VA and OMB have not even set out an initial plan to carry out the law.

The bipartisan group of Senators, led by new Veterans' Affairs Committee Chairman Patty Murray (D-WA), urged VA and the Office of Management and Budget to quickly implement this vital law to provide crucial benefits for very seriously injured veterans. The Senators noted that, as a result of the Administration's inaction, family caregivers across the nation have not received the benefits to which they are entitled. Among the services required by the caregivers law are training in the provision of care, respite care, technical assistance, counseling, and financial support for those who give up the opportunity to work in order to provide needed care to their injured loved ones.

CBITF Awareness Day

The Congressional Brain Injury Task Force will celebrate Brain Injury Awareness Day on Wednesday, March 16. The schedule is as follows:

Brain Injury Awareness Fair

Hosted by the Congressional Brain Injury Task Force

10:00 am -- 1:30 pm

Rayburn First Floor Foyer

Briefing: " Brain Injury Rehabilitation, Research, and Re-entry: Lessons Learned and the Road Ahead "

1:30 -- 3:30 pm

to be determined

Congressional Reception

Celebrating Brain Injury Awareness Month

5:00 - 7:00 pm

Rayburn First Floor Foyer

Administration

HHS Announces New Funds for Community-based Alternatives

On February 22, HHS announced that States will see significant new federal support in their efforts to help move Medicaid beneficiaries out of institutions and into their own homes or other community settings now and in the near future.

The Affordable Care Act provides additional funding for two programs supporting that goal, the Money Follows the Person (MFP) demonstration program and the Community First Choice Option program. HHS announced thirteen States would together receive more than \$45 million in MFP grants to start that program in their States, with a total of \$621 million committed through 2016. In addition, HHS has proposed rules to allow all States to access a potential of \$3.7 billion in increased federal funding to provide long-term services and supports through the Community First Choice Option program.

Many of the same goals under the MFP demonstration are shared and supported by the Community First Choice (CFC) Option, created by the Affordable Care Act. Starting in October, this option will allow States to receive a six percent increase in federal matching funds for providing community-based attendant services and supports to people with Medicaid. Over the next three years-through 2014-States could see a total of \$3.7 billion in new funds to provide these services. States currently receive Federal Medicaid matching funds for these activities at the State's normal matching rate.

Services and supports that can be provided under CFC include, but are not limited to, attendant services and supports that help individuals with activities of daily living such as bathing and eating, and health-related tasks through hands-on assistance or supervision. States may also cover costs related to moving individuals from an institution to the community, such as security and utility deposits, first month's rent, and purchasing basic household supplies.

To qualify for the increased Federal funds, States must develop "person-centered plans" that allow the individual to determine how services are provided to achieve or maintain independence. States must also establish implementation councils with a majority membership consisting of persons with disabilities, elderly individuals and their representatives to advise in the design and implementation of Community First Choice option. The proposed rule, posted today, describes the details of this program and solicits public comment. The rule can be found at: http://www.ofr.gov/OFRUpload/OFRData/2011-03946_PI.pdf.

MONEY FOLLOWS THE PERSON DEMONSTRATION GRANTS

Money Follows the Person Grant Awardees			
State	Grantee	1st YR. Award	Funds committed through 2016
Colorado	Colorado Department of Health Care Policy & Financing	\$2,000,000	\$22,189,486
Florida	Florida Agency for Health Care Administration, Medicaid	\$4,203,999	\$35,748,853
Idaho	Idaho Department of Health and Welfare, Division of Medicaid	\$695,206	\$6,456,560
Maine	Maine Department of Health and Human Services	\$699,970	\$7,151,735
Massachusetts	Massachusetts Executive Office of Health & Human Services, Office of Medicaid	\$13,486,888	\$110,000,000
Minnesota	Department of Human Services	\$13,421,736	\$187,412,620
Mississippi	Mississippi Division of Medicaid, Office of Health Services	\$1,341,394	\$37,076,814
Nevada	Nevada Department of Health & Human Services, Division of Health Care Financing & Policy	\$800,000	\$7,276,402

New Mexico	New Mexico Human Services Department, Medical Assistance Division, Long Term Services & Supports Bureau	\$595,839	\$23,724,360
Rhode Island	Rhode Island Department of Human Services, Division of Health Care Quality, Financing & Purchasing / Medicaid Division	\$2,503,021	\$24,570,450
Tennessee	Tennessee Bureau of TennCare	\$2,357,733	\$119,624,597
Vermont	Department of Disabilities, Aging and Independent Living	\$2,123,975	\$17,963,059
West Virginia	West Virginia Department of Health & Human Resources, Bureau for Medical Services	\$1,267,373	\$22,220,423
TOTAL		\$45,497,134	\$621,415,359

Developmental Disabilities Act

The National Council on Disability recently released a report, *Rising Expectations: the Developmental Disabilities Act Revisited*. The report reflects the results of a year-long study of how the programs authorized by the DD Act are meeting the needs of people with developmental disabilities and their families. The DD Act funds State planning councils and Protection & Advocacy systems, the Family Support Program and two Direct Support Workforce initiatives to address the shortage of workers in the field. The DD Act also funds 67 University Centers for Excellence in Developmental Disabilities to perform interdisciplinary academic research, prepare students and fellows for work in fields related to DD, disseminate information, and provide model direct service programs.

You can find the report at: http://www.ncd.gov/newsroom/publications/2010/rising_expectations_02-15-11.html.

Other

Reports On HCBS Waivers And Money Follows The Person

The Kaiser Foundation released reports on two programs that serve care recipients and family caregivers. The Money Follows the Person (MFP) program was started in 2006 with a goal of transitioning 38,000 people from institutional care to community care, however, as of July 2010, only 9,000 people have been transitioned out of community care. Affordable housing was cited as a large impediment to transitioning more people. The program was extended under the Affordable Care Act until 2016 and participants are now eligible for MFP after receiving institutional care for only 90 days, whereas previously they had to receive institutional care for at least six months.

The second report analyzed the three main Home and Community Based Services (HCBS) programs, including the 1915 (c) HCBS waiver, Mandatory Home health benefit, and the optional State Plan personal care services benefit. All States reported using cost containment strategies in their 1915(c) waivers, including financial and functional eligibility restrictions. As of 2009, there were 139 waivers in 39 States with over 365,000 individuals on waiting lists (221,898 for MR/DD population; 107,563 for aged and aged/disabled populations). The average wait time on the wait list for all waivers was 21 months, and the report provides data and charts with information specific to each State. For more information visit: <http://www.kff.org/medicaid/upload/8142.pdf> or <http://www.kff.org/medicaid/upload/7720-04.pdf> (HCBS waivers).

This *Capitol News* was prepared by Susan L. Vaughn, Director of Public Policy, publicpolicy@nashia.org. William A.B. Ditto, MSW, is Chair of the NASHIA Public Policy Committee.

The National Association of State Head Injury Administrators assists State government in promoting partnerships and building systems to meet the needs of individuals with brain injuries and their families.

National Association of State Head Injury Administrators | PO Box 878 | Waitsfield | VT | 05673