

LEGISLATIVE REPORT

The 426th Session of the Maryland General Assembly came to a close at midnight on April 13, 2009.

The main focus was first how to improve public policy within current fiscal constraints, and second how to use the stimulus package to the advantage of special interests. It was a challenge to pass any bills with a “fiscal note” of more than \$25,000.

BUDGET INITIATIVES

The Public Mental Health System was facing a projected deficit for community services resulting primarily from an increase in Medicaid enrollment. The Governor’s first Supplemental Budget included \$20 million for the 2009 fiscal year for mental health services (\$10 million in state funds and \$10 million in federal Medicaid match) and another \$20 million is also appropriated for fiscal year 2010. This is remarkable in these very challenging times.

LEGISLATION ENACTED

CULTURAL AND LINGUISTIC HEALTH CARE PROVIDER PROGRAM. We supported and amended HB 756 to include clinical social workers in establishing a Cultural and Linguistic Health Care Provider Program.

MEDICAID

- (1) Substance abuse services will be provided to individuals in the Primary Adult Care (PAC) Program. HB 739/SB 952 requires those additional services. Proponents believe this will improve the coordinated treatment of co-occurring disorders.
- (2) MEDICAID - HB 462 increases transparency and opportunity for public comment, requires DHMH to provide notice of an amendment to the State Medicaid Plan by publication in the _____ (for public comment) and submission to the Medicaid Advisory Committee (MAC) for discussion. DHMH must also provide a copy of any Medicaid Waiver application to the MAC.
- (3) LONG TERM CARE REFORM - HB 113 and SB 761 was a major initiative. MD ranks close to 47th in long term care. The new law requires a report on the feasibility of creating a coordinated care program to reform the provision of

long-term care services under the Medical Assistance program. Amendments ensure mental health services and hospice carve-out if the recommended program is managed care. This is a huge priority and long term care clinical social workers should be represented in this reform discussion

SYSTEM DELIVERY OF SERVICES

ELECTRONIC HEALTH RECORDS - HB 706: passed after much controversy between carriers, providers, and state regulators. It began as a proposal to require all health insurance payers in Maryland (including the Medicaid Program) to reimburse doctors and other health care providers for expenses related to electronic health records.

RIGHTS OF INDIVIDUALS WITH MENTAL DISORDERS IN FACILITIES (HB 415/SB 874): passed after two years of collaboration among advocates, consumers, providers, private facilities and the Mental Hygiene Administration. The bills clarify the rights of individuals in psychiatric facilities including the right to an advocate of their choice, the right to receive treatment in accordance with a mental health advanced directive and the right to be free from prone restraint.

DISABILITY Legislation was enacted (HB 393, SB 670) to change the definition of disability relating to employment discrimination. The definition was expanded so that "disability" includes a record of having a physical or mental impairment or being regarded as having a physical or mental impairment.

"SILVER ALERT" SYSTEM HB 317/SB 303: establishes a system for rapid dissemination of information to assist in locating an individual 1) whose whereabouts are unknown; 2) who suffers a cognitive impairment and 3) whose disappearance poses a credible threat to the safety of the individual due to mental or physical disability, as determined by a law enforcement agency.

REGULATION OF PROVIDERS

HEALTH OCCUPATIONS - LICENSURE OF SOCIAL WORKERS HB510: required the State Board of Social Work Examiners to notify applicants for licensure whether the applicants have been approved to take a specified examination within 30 days after the applicant submitted an application to the Board; and altered requirements for a waiver of examination requirements for applicants who are licensed or registered to practice social work in other states. As amended by the House the bill now requires that the

board notify each applicant whether the applicant has been approved to take the pertinent licensure examination within 60 days from the date the board received a completed application from the applicant and adds the following study language: That the Board of Social Work Examiners establish a workgroup consisting of Board members, representatives of social worker associations, human service providers who employ social workers, and other interested stakeholders, to: (1) examine and make recommendations on the licensure statute and the process by which licenses are issued; (2) examine issues affecting the status of the workforce in the State, including examination requirements, reciprocity with other states, supervision requirements, and other relevant issues; and (3) on or before January 1, 2010, report its findings and recommendations, to the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee.

LEGISLATION NOT ENACTED BUT EFFECTING CHANGE FOR NEXT YEAR

END OF LIFE OPTIONS FOR CARE HB 30, SB 546 and SB 221: focused on end of life options for care including disclosures of options for services available to patients and their proxies. These bills stimulated a spirited debate over patient protections and potential for assisted suicide. The intense discussion culminated in a directive to the Attorney General to convene a work group during the Interim and the agreement to include a clinical social worker representative to study and “make recommendations on the critical matter of how to increase and improve end of life counseling and hospice care.” The specific subject matter refers to that which is included in the language of SB 546 and the Attorney General has formally agreed that a clinical social worker should participate.

MARYLAND COMMISSION ON AUTISM - SB 963: establishes the commission to make recommendations regarding services for individuals with autism spectrum disorders; develop a statewide plan for a system of training, treatment, and services for individuals with autism; and evaluate ways to promote autism spectrum disorder awareness. It is to report on the desirability of amending State law to require more extensive insurance coverage of autism diagnosis and treatment services. The commission reports recommendations to the General Assembly by June 1, 2011. Another bill to give reimbursement for treatment of autism as drafted did NOT include clinical social workers. The sponsors of the bill agreed to add clinical social workers to those

who receive reimbursement but that particular bill died for fiscal reasons. It will be very important to have a clinical social worker become an informal participant in this process and provide information to the study commission so that their recommendations on reimbursement include clinical social workers.

SUBSTANCE ABUSE SERVICES - HB 1096: would have required ADAA to establish a new delivery system for substance abuse services, reimbursing providers on a fee-for-service basis at a uniform rate. Although the bill did not pass from its originating House committee, discussions will continue during the interim.

ACCESS TO A 30-DAY SUPPLY OF MEDICATION - HB 1099: required a local correctional facility (jail) to provide an inmate with access to a 30-day supply of medication if the inmate has been diagnosed with a mental illness and has been incarcerated in a local correctional facility for at least 120 days. Similar legislation passed in 2007 requiring a 30-day supply of medication for inmates in Baltimore City jail and State prisons. This year's legislation expands that mandate to local jails. Amendments made the provision of medication optional rather than mandatory. Although the bill passed four subcommittees, stall tactics prevented a vote on the Senate floor.

EMOTIONAL OR BEHAVIORAL DISABILITY" HB 1558: put forward by the Maryland Coalition of Families for Children's Mental Health, would have changed the term "emotional disturbance" in the Education Article to "emotional or behavioral disability" to dispel the stigma of the current terminology used in school settings.

PROVIDER REIMBURSEMENT LEGISLATION

HEALTH MAINTENANCE ORGANIZATIONS - PAYMENTS TO NONPARTICIPATING PROVIDERS -SB 380 / HB 255: is a product of the Governor's Task Force on Health Care Access and Reimbursement. As passed, the bill alters the rates that a health maintenance organization (HMO) must pay for a covered service rendered to an HMO enrollee by certain noncontracting health care providers. The Maryland Health Care Commission (MHCC) must annually review payment to health

care providers to determine compliance with the bill and report its findings to the Maryland Insurance Administration (MIA). PASSED

PROMPT PAY - SB 439 / HB 440: requires that an insurer, nonprofit health service plan, or health maintenance organization, when reprocessing a claim, fails to pay a claim or violates the existing law concerning the rules of process, shall pay interest on the amount of the claim that remains unpaid 30 days after receipt of the initial claim for reimbursement. It specifies that health insurers are obligated to pay statutory rate of interest to a doctor who submits a proper bill which is not paid promptly. One current practice is to initially deny a proper bill and then require it to be resubmitted. This will often result in a bill not being processed for 60 days while the insurance company is provided the “float” of the money that should have been paid. The bill provides that Maryland’s Prompt Payment Law applies immediately if the claim – when it is initially submitted – was a “clean” claim. In this way, the health insurer is required to process the claim properly the first time or to pay the required interest on the amount due. PASSED

CREDENTIALING OF HEALTH CARE PROVIDERS BY MANAGED CARE ORGANIZATIONS AND HOSPITALS - SB 646: specified provisions of law relating to credentialing of health care providers by carriers apply to managed care organizations, and requires the Secretary of Health and Mental Hygiene to designate a specified form as the uniform standard credentialing form for hospitals. This is hoped to enable providers to be reimbursed more quickly and retroactively to when they applied for credentials. It marks the first step in a process to make uniform the credentialing process used by both health insurers and hospitals in Maryland by requiring the Secretary of Health & Mental Hygiene to recognize the CAQH form with respect to hospitals. PASSED

ASSIGNMENT OF BENEFITS SB 852 HB 1366: provides that a HMO must recognize the voluntary assignment of benefits by a patient to his or her physician. FAILED

CONTRACTS BETWEEN INSURERS AND HEALTH CARE PROVIDERS HB 141: requires that an insurer may not use an insurer provider panel if the provider contract for the insurer provider panel requires a provider to participate on the insurer provider panel as a condition of participating on an HMO provider panel or a non-HMO provider panel. House Bill 141 applies the same rules to property and casualty insurers which have applied for a number of years to health insurers. Specifically, a property

and casualty insurer would not be able to assign a doctor's contract to another party without the doctor's express consent. The issue arises when a doctor is treating a patient claiming benefits under a Personal Injury Protection (PIP) coverage of an auto policy or Workers' Compensation coverage. While a doctor could agree to treat PIP or a Workers' Comp patient for a reduced fee, House Bill 141 will guarantee that his or her consent is first given. PASSED

HE INSURANCE - RESCISSION CONTRACTS AND CERTIFICATES - HB 235:

limits the "rescission" of health care contracts where the insurer has not performed due diligence in issuing an individual medically underwritten policy. "Rescission" is an extraordinary remedy and should only be allowed where there has been fraud or active misrepresentation in procuring a policy. Too often, the alleged "misrepresentation" is discovered after the patient has sought and been provided medical services. Where a health insurance carrier conditions coverage "on evidence of individual insurability..." the health insurance carrier should bear the burden of properly underwriting the policy before it is issued. PASSED

A heartfelt thank you to the Society members who volunteered to cover seminars. We appreciate the time and effort provided by Lynne Farbman, Marianna Mujica, Martha Miller, Marjorie Falk, Cathy Weber, Amy Peck, and Lori Mostofsky.

Dr. Geoffrey Greif, PhD has been appointed by Maryland Governor Martin O'Malley to the Board of Social Work Examiners. Dr. Greif was the Keynote Speaker at the MSCSW Annual Meeting and Spring Gala on March 14th.

Stuart R. Fishelman, LCSW-C, BCD, has been appointed by Maryland Governor Martin O'Malley to the Sexual Offender Advisory Board. This Board was established via legislation in Maryland in June 2006. Among the Board's numerous tasks are developing standards for sexual offender treatment, certifying state sexual offender treatment programs, and reviewing the effectiveness of the state's laws concerning sexual offenders.

Stuart reports being very honored, pleased, and excited about the tasks given to this board, and about his appointment.