

CREATING PATHWAYS TO WORK

The Newsletter of Rhodes to Independence

FEDERAL NEWS

Congress Passes Appropriations Bill for FY 2008

Congress came to a close with passage of a \$555 billion omnibus appropriations bill, H.R. 2764, that provides funding for 11 of the 12 spending bills Congress must pass each year. (The bill funding the Pentagon's regular budget, not including the wars, passed earlier.) In order to avoid a presidential veto of the omnibus bill, Congress trimmed over-all spending in bills it had passed and added \$70 billion in unrestricted funding for the wars in Iraq and Afghanistan. H.R. 2764 passed the Senate 76-17 on December 18. On December 19, the House passed the bill 272-142. The President is expected to sign the bill.

The main provisions that affect people with disabilities are the budgets for the Departments of Labor, Health and Human Services and Education (L-HHS-ED) and the Departments of Transportation, and Housing and Urban Development (Transportation/HUD).

(For more information on funding levels for programs in FY '08 see:
<http://www.chn.org/pdf/2007/FY08LaborHfinalpres.pdf>)

Status of SCHIP Expansion

In October, the U.S. House of Representatives failed to obtain a two-thirds majority in a vote that attempted to override the President's veto of the State Children's Health Insurance Program (SCHIP) reauthorization. Major issues of concern

tobacco tax, eligibility limits, and coverage of illegal immigrants.

After two Presidential vetoes and days before the program was scheduled to run out, Congress has extended the SCHIP program until March 2009. The President plans to sign the bill. There is no funding to cover any additional uninsured children.

In Rhode Island, from 2003 - 2006 the state's SCHIP block grant funding has already been reduced from \$34.1 million to \$33.1 million. Further cuts will undermine a program critical to children and risk increasing the numbers of those who are uninsured (16,000 kids in 2006).

(President Bush's FY 2008 Federal Budget; Capitol Insider - Disability Policy Collaboration; Vol. 12, Issue 44, December 3, 2007; Federal Funds Information for States Database; Kaiser State Health Facts, 2006; Center on Budget and Policy Priorities, 11/26/06).

TICKET TO WORK AND WORK INCENTIVES ADVISORY PANEL

On December 4, 2007, the Ticket to Work and Work Incentives Advisory Panel announced its final recommendations to Congress and the President. The complete final report "Building on the Ticket: A New Paradigm for Investing in Economic Self-Sufficiency for People with Significant Disabilities" was released on December 17, 2007. The Panel recommends that Congress should extend the Medicaid Infrastructure Grant and Demonstration to Maintain Independence and

Employment program authority through 2014 to stimulate innovation by states seeking to refine comprehensive systems of employment supports for people with disabilities
(Capitol Insider – Disability Policy Collaboration; Vol. 12, Issue 44, December 4, 2007 and http://cwd.aphsa.org/Home/home_news.asp)

RESTRICTIONS ON MEDICAID'S REHABILITATION SERVICE OPTION

In 2007, the President reintroduced a plan to place new restrictions on the types of services allowable under the Medicaid rehabilitation services option (the “rehab option”) to yield federal budget savings of \$2.29 billion over the next five years. Currently 47 states plus the District of Columbia provides at least some type of mental health, substance abuse, and physical health services under the rehab option. States can use the rehab option to provide a variety of services; states predominantly used the option for the rehabilitation of people with mental illness. Compared to other service categories, the rehab option offers states unique flexibility in delivering services.

The SCHIP Extension Act (S. 2499), which has passed the House and Senate includes a moratorium on the Rehabilitation Regulations until June 30, 2008.

(Medicaid's Rehabilitation Option: Overview and Current Policy Issues, August 2007, Kaiser Family Commission; Capitol Insider, November 26, 2007, Disability Policy Collaboration).

Supreme Court Issues Decisions on Placement in a Private School

In mid-October, the U.S. Supreme Court issued two decisions in favor of the parents seeking reimbursement of private school tuition for their children who had never received special education services at a public school. In the first case, *The Board of Education of New York City v. Tom F.*, the court issued a tie decision, 4-4 (so it is only binding in the Second Circuit (Connecticut, New York and Vermont). The Supreme Court refused to review the second case, *The Board of Education of Hyde Park v. Frank G.*, so that the Second Circuit Court's decision remains in effect.

Both cases involved the question of whether parents should be entitled to reimbursement for independently deciding to place their child in a private school, based on their belief that the program offered by the public school was not appropriate. Neither child had been enrolled in special education from the public school system. In both instances, the Second Circuit ruled that the Individuals with Disabilities Education Act (IDEA) did not require that a child be enrolled and attend public school before a parent can claim that the public program was inappropriate and that the public school should pay for the private placement.

While these decisions are not binding outside the Second Circuit, they provide support for the viewpoint that a parent does not have to prove a child has already failed to establish that a proposed Individual Education Program (IEP) or school program is inappropriate.

(Background information on the *Board of Education of New York City v. Tom F.* can be found at: <http://www.law.cornell.edu/supct/cert/06-637.html>. (<http://www.txddc.state.tx.us/resources/publications/fyif/inov07/fyifederal11-07.asp>)

ODEP Forms Alliance with CVS/Caremark

The U. S. Department of Labor's Office of Disability Employment Policy (ODEP) signed its second Alliance agreement with CVS/Caremark (CVS) on October 23, 2007. CVS and ODEP agreed to work together to encourage and promote the employment of people with disabilities through training and education, outreach and communication, technical assistance and other efforts.

CVS is a 2006 winner of the Secretary of Labor's New Freedom Initiative Award. The company was recognized for its innovative program to create opportunities for adults with developmental disabilities by partnering with New Vision Photography in the Washington, D.C. area. CVS duplicated this model training program in other markets across the United States

The Labor Department's Office of Disability Employment Policy (ODEP) coordinates the annual New Freedom Initiative Awards program. (www.dol.gov/odep)

RECENT REPORTS AND PUBLICATIONS

Best Practices For Employers and Policy Makers in Creating Employment Opportunities for People with Disabilities

According to a new report from the National Council on Disability, only 38% of people with disabilities are employed in America and two-thirds of those unemployed say they prefer to be working. "Empowerment for Americans with Disabilities: Breaking Barriers to Careers and Full Employment" summarizes current knowledge on the employment

of people with disabilities in a series of 12 issue briefs based on feedback from employers, people with disabilities, and disability specialists. The report also includes findings from two focus groups and public forums.

(http://www.ncd.gov/newsroom/publications/2007/NCD_Employment_20071001.htm)

<http://www.responsetrack.net/lnk/ncd804676/?13VZQ0LCSG6>).

Smoking Rates Highest Among People with Disabilities / Health Disparities Persist Among People with Disabilities

Smoking prevalence among people with disabilities is nearly 50 percent higher than among people without disabilities (29.9 percent vs. 19.8 percent), according to a new study from the Centers for Disease Control and Prevention (CDC) in Preventing Chronic Disease. The study found that in 2004, smoking prevalence for people with disabilities is highest in Delaware (39.4 percent) and lowest in Puerto Rico (16.5 percent). The prevalence rate for Rhode Island is 23.5.

"About 50 million Americans are living with a disability and most Americans will experience a disability some time during the course of their lives," said Dr. Edwin Trevathan, director of CDC's National Center on Birth Defects and Developmental Disabilities.

Researchers are unsure why the smoking prevalence is higher in people with disabilities, but it is an area for further examination. However, research confirms that people with disabilities are less likely than people without disabilities to receive preventive health care and therefore are more subject to illness and disease.

(These data were collected from the 2004 Behavioral Risk Factor Surveillance System (BRFSS). (http://www.cdc.gov/PCD/issues/2007/oct/06_0179.htm)

New Report Explores Medicaid's Current and Future Challenges in Providing Long-Term Care

A new report (October 2007) from the Kaiser Family Foundation examines the structure and impact of Medicaid's role in long-term care and highlights policy challenges facing the program related to its role.

"Long-Term Service and Supports: The Future Role and Challenges for Medicaid" examines the structure and impact of Medicaid's role in long-term care. Based on a roundtable discussion of policy makers and experts and drawn from a body of health services research, the report highlights policy challenges facing the Medicaid program today and identifies issues in providing long-term care going forward.

By gathering evidence to address key policy issues, such as integrating services, benefit design, quality monitoring and financing, the report can serve as a foundation for the current and ongoing policy debate regarding Medicaid's future role as a provider of long-term care services and supports for low-income elderly and disabled Americans. (<http://www.kff.org/medicaid/7671.cfm>)

U.S. Gets an "Unsatisfactory" Grade on Women's Health

In a recent report, "Making the Grade on Women's Health: A National and State-by-State Report Card", the National Women's Law Center and Oregon Health & Science University find that the nation as a whole and most states are falling behind in their efforts to meet national goals for women's health. The report grades and ranks each state based on 27 health status benchmarks based on goals set by the U.S. Department of Health and Human Services and evaluates each state on 63 policies that affect women's health. Rhode Island received an "Unsatisfactory" grade and was ranked 11th (ranking from best to worst).

(<http://www.nwlc.org/details.cfm?id=1861§ion=health>)

Sharp Increase in Out-of-Pocket Spending for Medicare Beneficiaries

According to an article in Health Affairs (November/December 2007) "How Much 'Skin In The Game' Do Medicare Beneficiaries Have? The Increasing Financial Burden of Health Care Spending, 1997-2003" (authors Patricia Neuman, Juliette Cubanski, Katherine A. Desmond and Thomas H. Rice), rising health costs and an aging population present critical policy challenges. This paper examines the financial burden of out-of-pocket health spending among Medicare beneficiaries between 1997 and 2003. Over this period, median out-of-pocket spending as a share of income increased from 11.9 percent to 15.5 percent. In 2003, the 25 percent of beneficiaries with the largest burden spent at least 29.9 percent of their income on health care, while 39.9 percent spent more than a fifth of their income on health care. Results suggest that

sustained increases in out-of-pocket spending could make health care less affordable for all but the highest-income beneficiaries.

(<http://content.healthaffairs.org/cgi/content/full/26/6/1692>)

National Report Suggests Decline in Americans' Health, Urges Improvement

According to a new report released November 3, the nation's overall health has declined in the last year. The 2007 America's Health Rankings report, which was compiled by the not-for-profit United Health Foundation, American Public Health Association and Partnership for Prevention, rates each U.S. state on 20 health measures related to obesity, cancer, infant mortality, smoking, infectious disease and other wellness indicators. In addition, the analysis indicates persistent racial and ethnic disparities for various conditions, noting that African Americans' premature death rate is 1.5 times higher than that of Caucasians. The "healthiest" state is Vermont. Of the other New England states, New Hampshire ranks fourth, Connecticut fifth, Maine seventh, Massachusetts ninth and Rhode Island eleventh.

(Levine, USA Today, 11/5/07; United Health Foundation release, 11/5/07; America's Health Rankings report [PDF/1.6 MB], 11/5/07)

Report Links Higher Rates of Uninsured and Suicide

The higher the percentage of residents in a state who say they can't afford health care, the greater the prevalence of serious depression and the higher the suicide rate in that state, suggests a report released to USA TODAY.

The state-by-state analysis also links fewer suicides to more adults receiving mental health treatment, greater availability of psychologists and psychiatrists, and "parity" laws requiring equal insurance coverage for physical and mental illness.

The report doesn't prove that lack of care causes depression or suicide, says senior author Tami Mark of Thomson Healthcare. "But it suggests we should be monitoring mental health care and comparing outcomes," she says.

Mark used federal data on mental health and state databases to develop a "depression index," ranking states and the District of Columbia on seriousness and prevalence of depression, as well as suicide rates. When both depression and suicide rates are considered, states that ranked the best are Maryland, New Jersey, Illinois and Hawaii. Among the worst off: Utah, West Virginia, Idaho and Nevada.

Major depression strikes 17% of Americans, and about 30,000 a year commit suicide, government figures show. States with more affluent residents tend to have better mental health ratings, but the tie between barriers to treatment and increases in depression can't be accounted for by different average incomes in the states, says David Shern of Mental Health America, an advocacy and education group that commissioned the survey. It was funded by pharmaceutical company Wyeth, which had no influence on the design or outcome, Shern says.

The results underscore the importance of health insurance as a presidential campaign issue and of a mental health parity bill before Congress, he says. "There are consequences of no mental health treatment; it can cost lives."

The report hasn't been carefully scrutinized and published yet, cautions John Holahan, director of the Health Policy Center at the Urban Institute, "but it's pretty interesting and important because it suggests that having insurance and improving access to care has an impact on mental health and suicide."

The report ranks states by the prevalence and seriousness of depression among residents from the least to the most. Rhode Island is ranked 48th with only Kentucky, West Virginia and Utah with worse rates. However, the State has a comparatively low level of suicide incidence ranking fifth in the nation. (Thomson Healthcare from National Center for Health Statistics and Bureau of Census data; USA Today, December 5, 2007)

United Cerebral Palsy Releases "The State of Disability in America"

United Cerebral Palsy has released *The State of Disability in America*, a document that examines and consolidates current and existing research on the overall state of affairs for individuals with disabilities in America. This report is intended to be an evaluation of the disability experience in America. It includes chapters on disability rights, healthcare, education, employment, housing, and organizing for change. (http://www.ucp.org/ucp_generaldoc.cfm/1/9/10020/10020-10020/7888)

CDC: One-Fifth of Americans Lack Access to Health Care

More than 40 million U.S. adults say they do not have adequate access to the health care they need, and did not receive some services in the past year because they could not afford them, the

Centers for Disease Prevention and Control said Dec. 3 in its annual report on the nation's health.

The report, *Health, United States, 2007*, is a compilation of more than 150 health tables prepared by CDC's National Center for Health Statistics. According to the report, nearly 20 percent of American adults said they did not receive medical care, prescription drugs, mental health care, dental care, or eyeglasses because they could not afford them.

A major finding of the report is that young adults age 18–24 were more likely than children or older adults to lack a usual source of care and to be uninsured. About 30 percent of this group did not have a usual source of health care and the same percentage was uninsured.

(<http://www.cdc.gov/nchs/hus.htm>)

OF INTEREST FROM THE STATES AND BEYOND

United California Promotes Private Health Coverage for Some Adults with Disabilities

California has enacted a law ([AB 910](#)) that promotes continued private health coverage for certain disabled adults. Like most states, California had a mandate (the 1975 Knox–Keene Act) that required insurers to continue covering dependents beyond the usual limiting age if they could not sustain themselves through employment because they were “mentally retarded or physically handicapped.” This outmoded statute was based on a model law written by the National Association of Insurance Commissioners. Under the old law, people with autism or other more newly identified disabilities did not qualify for continued private

coverage. As a result, they often ended up in California's Medicaid program.

AB 910 broadens the definition of persons who may qualify for continued private coverage to include dependents who are "incapable of self-sustaining employment by reason of a physically or mentally disabling injury, illness, or condition." By enabling dependents to remain in their current plan, the new law helps to guarantee that the disabled will continue to obtain needed medical care from specialists, which they might have great difficulty doing on Medicaid.

The new law also requires insurers to notify parents in writing of the option to continue care at least 90 days before the child ages out. Under previous law, a parent who wanted to continue coverage past the typical "age out" date must have known they had that option and asked the insurance company to put it into effect. The law also requires that after a change in carriers, that the new plan or insurer, continue coverage of the dependent party.

(<http://www.ncsl.org/programs/health/shn/2007/sn504c.htm>)

TEXAS: Medicaid Smart Card Project

Following an extensive pilot, the Texas Health and Human Services Commission plans to go statewide with a new smart card system that creates a more convenient and secure way for people to verify their Medicaid coverage.

Much of the new card's appeal lies in its ability to automate a patient check-in process that now requires provider staff to manually copy information from the paper form. It also will give people with Medicaid an I.D. that is less easily lost

or damaged and less likely to be stolen because it requires the client's finger image to use. Other potential benefits include greater security for consumers' health information and protection against provider fraud.

(<http://www.hhs.state.tx.us/news/release.shtml>)

United Nations: Stop Job Discrimination for People with Disabilities

On December 3, the International Day of Disabled Persons U.N. Secretary-General Ban Ki-moon called for an end to the "deplorable" job discrimination against millions of disabled people around the world. Secretary Ban indicated estimates showing that more than half of all disabled people in developed nations, and the vast majority of those in developing countries are unemployed. Others are under-employed.

Difficulties, according to Secretary Ban, include obtaining adequate education and learning skills that would be useful in the job market, fears and preconceptions about abilities, inaccessible workplaces, and discriminatory legislation and customs.

The U.N. General Assembly adopted a new convention in 2006 enshrining the rights of the world's citizens with disabilities. Approval of the 32-page convention culminated a campaign spearheaded by disability rights activists and the governments of New Zealand, Ecuador and Mexico.

According to the latest U.N. figures, about 10 percent of the world's population, or 650 million people, live with a disability and the number is increasing with population growth. Many people with disabilities (80 percent) live in developing countries and the majority is poor.

(<http://www.forbes.com/feeds/ap/2007/12/04/ap4403276.html>, and Associated Press, 2007).

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