# *LAB Audit of the Family Care Program*

***Issue:*** The Joint Legislative Audit Committee held a January 13, 2010 public hearing on whether to direct the Legislative Audit Bureau (LAB) to conduct an audit of the state's Medicaid program. There were concerns expressed at the hearing by several members of the Joint Committee that the scope of a Medicaid audit would be too broad to be effective and that an audit instead should be more narrowly focused on the Family Care program. Similar calls for a Family Care audit have come from several legislators and members of both the Senate and Assembly Long-Term Care Committees. A vote by the Joint Legislative Audit Committee on a Medicaid audit was scheduled for January 28th but was postponed to a later date. That vote has yet to be rescheduled.

***WAHSA Position:*** ***<u>Support for a Medicaid audit which specifically includes a review of the Family Care program or support for a separate Family Care audit.</u>***

***Rationale:*** The inadequacy of Medicaid funding for nursing facilities was discussed at length in the attached issue brief, "*Unspecified Medicaid Cuts – Nursing Facilities*." Over 97% of the state's 369 nursing facilities are not fully reimbursed for the costs they incur to care for the nearly 20,500 MA residents they serve. Inadequate funding has led to the closure of 65 nursing facilities in the past decade and an analysis conducted by the Department of Health Services (DHS) concluded that 41% of the state's facilities are operating at a net loss.

WAHSA support for an audit of the Medicaid program is based primarily on the inadequacy of the Medicaid nursing home reimbursement system. **However, if the Legislature were to adopt two policy modifications to the current system, WAHSA members believe an audit of Medicaid nursing home reimbursement would be less necessary:** (1) In 2009-10, nearly two-thirds of the federal revenues generated by the doubling of the nursing home bed tax to $150/resident/month went to fund the Medicaid base rather than to increase nursing home reimbursement rates; in 2010-11, when the bed tax will go to $170/resident/month, the State "skim" will be approximately 50-50. **If all federal revenues generated by nursing home bed tax increases were made available for rate increases, nursing homes would receive a 3.25% MA rate increase in 2011-12,** a rate increase that approaches inflation for the first time in nearly a decade; and (2) The State also "skims" federal revenues generated by county nursing home losses under the Certified Public Expenditure (CPE) program. The DHS estimates county nursing home losses will generate $96.2 million in federal matching funds in each year of the 2009-11 biennium. Of that total, $38.1 million will be paid annually in supplemental payments to county nursing homes, while the State will retain the remaining $58.1 million. **A 50/50 split of the federal matching dollars generated by county nursing home deficits in 2009-11 would increase annual payments to county nursing homes by approximately $10 million.**

**In the opinion of WAHSA members, however, there is no doubt that an audit of the Family Care program is both warranted and overdue.** There are reports that some providers have not been paid by their Family Care managed care organizations (MCO) since October; other reports indicate at least one MCO was on the verge of bankruptcy.

Among the concerns with Family Care WAHSA members would like to see addressed in a LAB audit are the following:

1. Family Care manages long-term care costs; it does not help finance them. Is a "pay-as-you-go" public assistance program like Family Care fiscally sustainable in the face of the Baby Boomer demographics?

2. Many aging services and managed care experts have noted Family Care is limited by its failure to integrate acute, primary and long-term care services and funding for its enrollees. This limitation restricts the ability of the program to effectively manage an individual's overall health and long-term care services and the corresponding opportunities to achieve overall cost savings. Should the Family Care model be expanded to require integration of care and services similar to the PACE or Partnership models?

3. In 2005, an independent analysis of the program found the average Medicaid funding for Family Care members in 4 of the 5 original Family Care pilot counties was $452 per enrollee per month less than the funding received for the same services by individuals enrolled in other Medicaid programs; the savings in the 5th pilot county, Milwaukee County, was projected at $55/enrollee/month. With today's expansion of Family Care to 2/3 of the State's counties, are those projections still accurate? Is Family Care generating the Medicaid savings originally projected? Is the program "under, over or on budget?"

4. **The DHS has indicated 5 of the 9 Family Care MCOs recently were provided $27 million in "risk sharing" funding to address significant deficits. Where did this funding come from and under what authority could the DHS appropriate these funds without legislative approval? Are these additional dollars being utilized to adequately compensate direct caregivers and/or to fund solvency/reserve requirements?**

5. According to the most recent figures, 5 of the 9 Family Care MCOs failed to meet their reserve requirements and 6 of the 9 MCOs failed to meet their solvency requirements. One MCO (Community Living Alliance in Madison) already has been eliminated from the Medicaid/Family Care program because it failed to meet its financial requirements: will others follow and, if so, what happens to its enrollees? What safeguards are in place if an MCO fails to meet its reserves or solvency requirements and is unable to pay for the cost of care and services provided to its enrollees?

6. Many (most?) MCOs have frozen or reduced their provider rates for assisted living services. Can the LAB project how long these providers will be able to continue operating without a rate increase until they either fail financially or opt out of the program? How many providers are needed to maintain the program's viability and what assurances are there that these providers

will be high-quality providers? What happens to enrollees who reside with providers that leave the program?

7. Are there efficiencies available to the Family Care program through the elimination or reduction of duplicative efforts, such as nursing home staff and MCO staff conducting their own separate, yet nearly identical, enrollee assessments, or through the elimination or reduction of required prior authorization requests? How frequently are Family Care nursing home residents being "counseled" to disenroll from the program in order shift Family Care costs to the Medicaid fee-for-service budget?

Most WAHSA members believe Family Care is a worthwhile program constrained by inadequate resources. An audit either will confirm or refute that position. We believe the elderly and persons with a disability in need of long-term care services deserve the assurance an audit can provide that their future needs will be adequately addressed.

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*The Wisconsin Association of Homes and Services for the Aging (WAHSA) is a statewide membership association of 200 not-for-profit long-term care organizations. WAHSA members own, operate and/or sponsor 189 not-for-profit nursing homes, of which 38 are county-owned and operated, 9 facilities for the developmentally disabled (FDD), 76 community-based residential facilities (CBRF), 60 residential care apartment complexes (RCAC), and 113 senior apartment complexes, as well as community service programs ranging from home care, hospice, Alzheimer's support and child and adult day care to Meals on Wheels. Our members employ over 38,000 dedicated staff that provides care and services to over 48,000 individuals. For more information, please contact the WAHSA staff at (608) 255-7060: John Sauer, Executive Director (jsauer@wahsa.org); Brian Schoeneck, Director of Financial Services (bschoeneck@wahsa.org) and Tom Ramsey, Director of Government Relations (tramsey@wahsa.org).*

*February 17, 2010*