Unspecified Medicaid Cuts-- Nursing Facilities

Issue: In an effort to address a projected $325 million AF deficit in the Medicaid program by the end of this biennium, the Department of Health Services (DHS) has informed providers it intends to slash Medicaid funding by $100 million GPR beginning in July of this year. The cuts/savings to the Medicaid program apparently will be undertaken by the DHS without legislative approval or oversight. These additional cuts will follow on the heels of the $633 million AF in Medicaid cuts recently implemented by the DHS as required under 2009 Act 28, the 2009-11 biennial budget.

WAHSA Position: ***<u>Oppose any further Medicaid nursing facility cuts</u>***

Rationale: **Any additional Medicaid cuts to nursing homes will threaten resident quality of care and access to care.** The financial condition of the state's nursing homes is precarious, as illustrated by the following:

- For the second year in a row, ***a comprehensive study of the nation's Medicaid nursing home payment systems ranked the Wisconsin system the worst in the nation.*** ("A Report on Shortfalls in Medicaid Funding for Nursing Home Care," released in November 2009 by Eljay, LLC, an accounting and consulting firm specializing in long-term care).

- In the 2008-09 Medicaid payment year (the most recent year for which data is available), the difference between the total cost of the care nursing facilities provided their Medicaid residents and the Medicaid reimbursement they received for providing that care (i.e., the "Medicaid deficit") was **$285,592,212**, excluding Family Care-related losses. Approximately 97% of the 369 nursing facilities in the State's database received a Medicaid payment in 2008-09 which failed to meet the cost of care they provided their Medicaid residents.

- **Wisconsin nursing homes on average lose $40.39 per day for each of the approximately 20,500 Medicaid residents they serve, up 7.3% from the previous year.** For the average Wisconsin nursing home, that results in an annual loss of $795,521 to provide care and services to its Medicaid residents.

- Private pay nursing home residents are being asked/forced to partially subsidize this Medicaid underfunding: on average, the private pay rate for a nursing home resident is $73/day higher than the facility's Medicaid payment rate for virtually the same care. The average 2008-09 Medicaid payment rate to facilities was $139.52 per day. In addition, private pay residents are paying a $150/month nursing home bed tax that will increase to $170/month on July 1, 2010.

- The picture painted by the DHS Division of Long-Term Care (DLTC) is equally dreary. In its November 2009 analysis "Wisconsin Nursing Homes Overview" (for a copy of the analysis, go to: www.wahsa.org/nhbrief.pdf), DLTC staff concluded:

  - "The acuity of all nursing home residents has increased over the last 5 years."
  - "Nursing home rate increases have not kept pace with inflation."
  - "A recent national study of all states found that Wisconsin has the lowest Medicaid nursing home reimbursement rate and consequently, the highest level of unreimbursed costs for Medicaid nursing home services."
  - "In general, nursing home buildings are old, with an average age of 31.3 years, and therefore do not incorporate modern design elements that are cost-efficient and person-centered."
  - "Almost all" of the 65 nursing home closures since 1999 "have been motivated by a business decision by the nursing home board and/or director that the home no longer is financially viable."
  - **According to the DLTC, 149 nursing facilities, or 41%, are operating at a net loss.**
  - **"Nursing home industry faces financial stress; county nursing homes experience highest levels of deficits."**

- The 2009-11 budget provided nursing homes with a 2% MA rate increase in each year of the biennium, funded solely through a more than doubling of the nursing home bed tax, from $75/resident/month to $150/resident/month in 2009-10 and $170/resident/month in 2010-11. However, when the DHS slashed $24 million in funding for nursing homes as part of the $633 million in MA cuts under Act 28, **the DHS in effect has reduced the 2% MA rate increase for nursing homes to 1.275% in 2009-10 and .823% in 2010-11. That, despite the fact that in Act 28, nursing homes "contributed" over $113 million toward balancing the State budget** ($72.8 million in bed tax increases used to fund the Medicaid base rather than nursing home rates; $564,000 in ICF-MR bed tax increases used to fund the Medicaid Relocation waiver rather than ICF-MR rates; $31.9 million in Certified Public Expenditures (CPE) used to fund the Medicaid base rather than county nursing home rates; $5.2 million in CPE dollars used to fund Family Care expansion rather than county nursing home rates; $120,400 for a nursing home survey "revisit" fee; and $2.7 million for the elimination of the Nursing Home Appeals Board supplemental payments).

- President Obama's FY 2011 budget bill, as well as H.R. 3962, the House health care reform bill, and several other pieces of individual legislation, contains an extension of the enhanced federal MA matching rate (FMAP) which States received as part of the federal economic stimulus legislation ("American Recovery and Reinvestment Act of 2009"). According to DHS Secretary Karen Timberlake, if States are provided this enhanced FMAP funding, Wisconsin's MA deficit for the 2009-11 biennium virtually will be eliminated. That prospect, however, has not derailed the DHS plan to cut Medicaid funding by $100 million GPR beginning July 1, 2010.

- Members of the Assembly Aging and Long-Term Care Committee heard testimony November 12th from several Family Care managed care organizations (MCO) acknowledging they are experiencing significant financial struggles (for a copy of the WAHSA testimony on Family Care before the Committee, go to: www.wahsa.org/fc111209.pdf). According to DHS figures from the second quarter of 2009, 6 of the 9 Family Care MCOs are losing an aggregate total of $5.9 million; 6 of the 9 have negative working capital; 5 of the 9 fail to meet their restricted reserves requirement; and 6 of the 9 fail to meet their solvency requirements. **Of greater significance, the DHS recently appropriated $27 million in "risk sharing" funding to 5 Family Care MCOs in financial trouble and did so without direct legislative approval.** This action raises a number of policy and budget oversight questions: Where did this $27 million come from? What impact does all this have on the Medicaid program? Is the DHS seeking additional Medicaid cuts/savings in part to address the fiscal woes of the Family Care program? From the perspective of the nursing home provider community, it would be unconscionable to balance the Medicaid/Family Care budget on the backs of our seniors and the caregivers providing their care.

- During last year's deliberations on how to cut $633 million in Medicaid expenditures, WAHSA offered the DHS a series of recommendations which would save Medicaid funding without reducing nursing home reimbursement (see: www.wahsa.org/forwardhealth.pdf). Among those recommendations were the following: 1) Close Medicaid divestment loopholes, which would save an estimated $11.5 million in 2009-11; 2) Accelerate the expansion of the Family Care PACE/Partnership model; 3) Explore the increased use of telemedicine and emerging technologies as MA cost savings tools; and 4) Reduce unneeded duplication of efforts by federalizing the nursing home enforcement system. Of the 10 cost-cutting recommendations offered by WAHSA, the DHS chose to adopt only the divestment proposal, but did not factor any savings with its implementation.

Nursing homes recently saw an inadequate 2% MA rate increase, funded entirely by the doubling of the nursing home bed tax, reduced almost in half when the DHS cut their funding by $24 million as part of a $633 million expenditure reduction to the Medicaid program. Despite the fact Wisconsin's nursing facilities operate under the poorest Medicaid reimbursement system in the country and on average lose over $40 each day for the care of each of the over 20,000 Medicaid residents they serve, the DHS is seeking to cut Medicaid funding by $100 million GPR more. The DHS' own analysis found that 41% of the state's nursing homes are operating at a net loss; that 97% of the facilities aren't being reimbursed for their costs; and that 65 facilities have closed over the past decade, primarily due to insufficient Medicaid reimbursement: How much worse must things get before *nursing homes* are provided MCO-type funding relief? How long will it be until inadequate nursing home funding impacts quality of care and access to care?

Simply put, nursing homes, their staff and the residents they care for can't afford any more cuts to the Medicaid program.

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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).

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