

A Communication
from the Policy
Information Exchange

Slice of Pie

A Slice of Pie is an ongoing publication keeping our readers informed about important public policy issues.

It is the mission of the Policy Information Exchange to **educate and inform Pennsylvanians with disabilities, their families and advocates, and the general public, regarding public policy issues and to further the exchange of policy information between the Pennsylvania Developmental Disabilities Council and federal, state and local policy makers.**

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STATE NEWS

STATE BUDGET

On June 30, 2017, the General Assembly passed a spending bill, HB 218, for the 2017-18 fiscal year, and it became law without the Governor’s signature. They did not, however, pass legislation on how to generate revenue to pay for it. For an analysis of items of interest to the disability community in the enacted spending bill, see Volume 18, Issue 2 of the Slice of PIE or contact the PIE Office.

In July, the State Senate amended HB 542, passed it and sent it to the House. It would generate about \$2.3 billion in new revenue for 2017- 18. This includes: reinstatement of the gross receipts tax on natural gas and rate increases on the gross receipts tax on electricity and on telephones; a severance tax on natural gas drilling; a transfer from

the Joint Underwriting Association (JUA); some gaming expansion; and \$1.255 billion borrowed from the Tobacco Settlement Fund. The Tobacco Settlement Fund, which is also tapped as a revenue source in the House bill, provides funding for the Aging Waiver, Medical Assistance for Workers with Disabilities and nursing homes.

The House returned to the Capitol in mid-September. Rather than take up HB 542,

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the Senate's revenue bill, the House passed its own revenue bill, HB 453. It includes: \$20 million from legislative reserve accounts; \$1 billion by selling a portion of the Tobacco Settlement Fund's Master Settlement Agreement funding stream over a 10-year period; \$400 million in multi-year agency lapsed funds; \$225 million in gaming reform proceeds; \$50 million from additional Pennsylvania Liquor Control Board license transfers to privately owned "agency stores"; a \$200 million transfer from the Joint Underwriters Association Fund; and \$631 million in special fund transfers. The transfers come from a number of funds including several transportation and environmental funds. On September 20, 2017, the Senate voted not to concur in the House amendments to HB 453. This paves the way for a possible appointment of a conference committee to resolve the differences between the House and Senate versions. The Senate President pro tem and the Speaker of the House would each appoint three members to a conference committee; two from the majority party and one from the minority party.

The Governor supports the Senate version of the bill, noting that it provides for recurring revenue, not just a onetime fix. The leadership of the House opposes the Senate bill because it requires tax increases. As of this writing, September 28, it is unclear how the differences will be resolved. The state had been able to borrow money to pay its bills, but State Treasurer Torsella and Auditor General Eugene DePasquale have indicated that that is no longer an option. The administration has announced that payments of \$1.169 billion to managed-care providers for Medicaid services are being delayed. The state will also delay a \$581 million payment for the state share of pension obligations

to the Pennsylvania School Employees Retirement System.

Medicaid Changes

HB 59, introduced by Representative Moul (R-Adams), was amended in the House to become the vehicle for changes to the Human Services Code. Among other things, it would have imposed work requirements on certain Medical Assistance (MA) recipients, required DHS to lock MA consumers into a managed care plan for a 12-month period and charged premiums to some families of children with disabilities. The Senate amended HB 59 to remove provisions related to Medical Assistance lock-in and to imposing premiums on some children with disabilities on Medical Assistance. Provisions related to work requirements for some people on MA remain in the bill.

Bills of Interest

Below we summarize some bills of interest to the disability community from the 2016-2017 session. For more information about these or any other state bills, go to: <http://www.legis.state.pa.us/cfdocs/legis/home/session.cfm>. At the top of the page in the box labeled, "Legislation Quick Search," enter the bill number and click on "Search". The site contains lots of useful information. So, take a few minutes and check it out.

HB1535. Introduced by Representative Judy Ward (R-Blair). This bill would amend the Human Services code to provide for transparency in the setting of home and community based rates for service to individuals with autism or intellectual disability. Referred to Insurance, June 12, 2017.

HB1650. Introduced by Representative Kerry A. Benninghoff (R-Centre). This bill would provide for the closure of state facilities for individuals with intellectual disabilities,

for transfer to community settings, for the disposition of state facility property and for establishing the home and community-based services fund. Referred to Health, July 8, 2017.

HB1701. Introduced by Representative Dan L. Miller (D-Allegheny). This bill would amend the **Public School Code** to add curriculum requirements for Health classes across Pennsylvania to educate students in an age-appropriate manner about mental health, physical disabilities, and developmental disabilities. Referred to Education, Aug. 15, 2017.

HB 1765. Introduced by Representative Tedd C. Nesbit (R-Butler). This bill would remove the requirement that **disabled voters** must reapply every four years to be on the permanent absentee ballot list. Referred to State Government, Sept. 7, 2017.

HB 1772. Introduced by Representative Dan L. Miller (D-Allegheny). This bill would seek to improve the transition to post-secondary schools for **students with disabilities** by incorporating parts of Senator Bob Casey's federal RISE (Respond, Innovate, Succeed and Empower) Act. Referred to Education, Sept. 12, 2017.

SB 781. Introduced by Senator Michele Brooks (R-Crawford). This bill would allow constituents to obtain a **disability placard** in their respective legislative district offices rather than waiting to receive them in the mail. Referred to Transportation, June 19, 2017. Reported as amended, June 30, 2017. First consideration, June 30, 2017. Second consideration, July 8, 2017. Re-referred to Appropriations, July 8, 2017. Re-reported as committed, July 8, 2017. Laid on the table, Sept. 20, 2017. Removed from table, Sept. 20, 2017.

SB 888. Introduced by Senator John C. Rafferty Jr. (R-Berks). This bill would improve access to **disabled parking spaces** of this Commonwealth with a focus on prohibiting the obstruction of access aisles and strengthening enforcement measures. Referred to Transportation, Sept. 15, 2017. Reported as committed, Sept. 20, 2017. First consideration, Sept. 20, 2017.

Department of Human Services

Teresa D. Miller assumed the duties of acting secretary of the Department of Human Services on August 21, 2017. Previously, she served as Pennsylvania's insurance commissioner since January, 2015. Under her leadership, one of her top priorities was enforcing mental health parity laws that ensure consumers have access to the mental health and substance use disorder treatments they need. Miller received her J.D. from Willamette University College of Law, and her B.A., magna cum laude, from Pacific Lutheran University.

CHC

The Department of Human Services continues to prepare for the launch of Community HealthChoices (CHC) on January 1, 2017 in 14 counties in Southwestern Pennsylvania. The managed care program will serve participants in the OLTL waivers except OBRA, nursing home residents on Medicaid, and additional individuals living in the community who are eligible for both Medicare and Medicaid. The Department has begun to educate the affected individuals about the new program and to provide them with the information they will need to choose a managed care organization (MCO) this fall. The three MCOs for HealthChoices are AmeriHealth Caritas, PA Health & Wellness, and UPMC Community HealthChoices. Updated information is available at this

link including registration for participants to attend an educational session near them: <http://www.healthchoices.pa.gov/info/about/community/>.

EVV

The Department of Human Services sought and received input from stakeholders on the use of electronic visit verification (EVV) systems for Medicaid-funded personal care and home health care services in Pennsylvania. EVV systems are programs that providers use to electronically verify that personal care and home health care services were delivered. A federal law enacted in 2016 – The 21st Century Cures Act - requires that all states implement EVV for personal care services by January 1, 2019, and for home health care services by January 1, 2023, or risk losing federal matching funds. The affected services are in the OLTL and ODP waivers, the Act 150 Attendant Care Program, the Adult Community Autism Program, HealthChoices and Community HealthChoices, and Fee-For-Service Medicaid. The Department has said it intends to implement the EVV requirements so that the system is minimally burdensome and will take into account the input from stakeholders. The federal law is available here and Section 12006 describes the EVV requirements: <https://www.congress.gov/114/plaws/publ255/PLAW-114publ255.pdf>.

OLTL

The Department of Human Services, Office of Long-Term Living has received approval from the Centers for Medicare and Medicaid for the two waivers that govern the Community HealthChoices program. The 1915(c) waiver called Community HealthChoices describes the services and provider qualifications for all the community services to participants. The service list includes all of the services currently available in the OLTL waivers plus

pest extermination and supports broker. The 1915(b) waiver describes the rules for using managed care to administer the new program and how it will be overseen by the Department. The approved waivers are available at this link: <http://www.healthchoices.pa.gov/info/resources/publications/community/waiver-application/index.htm>.

The Office of Long-Term Living asked for stakeholder input in August on several amendments to their waiver programs. For the OBRA, Independence, Aging, and Attendant Care waivers, the amendments include reducing from 90 to 30 the number of days of residence in a nursing home for eligibility to get transition services, adding the service “Support Broker”, adding tenancy and pre-tenancy activities to Service Coordination, and revising the number of participants served. In addition, the OBRA and Independence waivers amended the service definition for “Vehicle Modifications.” The proposed changes to the waivers effective January 1, 2018 are listed at this link: <http://dhs.pa.gov/learnaboutdhs/dhsorganization/officeoflongtermliving/oltlwaiverinfo/index.htm>.

ODP

The Department of Human Services, Office of Developmental Programs (ODP) has developed a new program called the Community Living waiver. The 1915(c) waiver application was distributed on August 26, 2017 for a 30 day public comment period before submission to the Centers for Medicare and Medicaid. The proposed services include services in the home, employment services, respite care, community participation supports, and supports to live independently. The anticipated implementation date at this time is January 1, 2018. The new program aims to serve 1,000 individuals who have autism, intellectual disability or developmental

disability and who meet eligibility criteria. The waiver application is at this link: <http://dhs.pa.gov/learnaboutdhs/waiverinformation/communitylivingwaiver/>.

The ODP has issued one new Bulletin:

Claim and Service Documentation Requirements, 00-17-02, was issued on July 21, 2017, and was effective on that date. The Bulletin provides direction on expectations for claim and service documentation for services provided through the Consolidated and P/FDS waivers and Targeted Service Management.

OMHSAS

The Office of Mental Health and Substance Abuse Services has issued two new Bulletins:

- Special Pharmaceutical Benefits Program- Mental Health (SPBP-MH), OMHSAS-17-03, was issued on August 29, 2017 and was effective immediately. The Bulletin notifies providers of the new application for SPBP-MH, the drugs and services available, and the reimbursement process.
- Physician/Certified Registered Nurse Practitioner Collaboration Procedures, OMHSAS-17-04 was issued on August 29, 2017 and was effective immediately. The Bulletin communicates the collaboration policy for its state mental health hospitals to utilize, to their fullest extent, the skills and abilities of the Certified Registered Nurse Practitioner classification.

NATIONAL NEWS

Federal Budget 2018

The new fiscal year for the federal budget begins October 1. The House passed its

budget bill (H.R. 3354) on September 14, 2017, but since the Senate would likely amend the spending plan, Congress would not be able to complete work on a final bill by September 30 to keep the government operating, an extension was needed. In recent years, an extension – called a Continuing Resolution (CR) - has been passed. Congress has passed a bill (H.R. 601) that was negotiated with the President which included a CR and also raising the debt limit through December 8, 2017. The CR will fund the government at last year's spending levels. The House and Senate now have several months to negotiate a compromise budget.

Healthcare

A proposal to repeal and replace the Affordable Care Act (ACA), called "Graham-Cassidy" was introduced in the Senate in September that included significant changes to Medicaid funding. The bill would have made substantial cuts to Medicaid funding to states through block granting and various caps. Pennsylvania's Senator Bob Casey provided an estimate that the state would lose \$850 million in Medicaid support between now and 2026. The Senate Finance committee held a hearing on September 25 and received strong testimony from disability advocates and others on its harmful impact.. The bill did not have sufficient support and was not brought up for a vote before September 30, after which a bi-partisan approach to any healthcare reform will be needed for further action to occur this year.

CHIP

Congress was required to act to extend the Children's Health Insurance Program (CHIP) before the September 30, 2017 deadline. This action would have ensured no interruption would happen in the insurance coverage for 8.9 million children across the country, including 176,677 in Pennsylvania who

benefit from the federal-state partnership. Information about CHIP is at this link: <http://www.chipcoverspakids.com/AboutCHIP/Pages/default.aspx>.

Bi-partisan proposals under discussion to extend CHIP for five years were not passed by the deadline. Pennsylvania's CHIP program is now administered by the Department of Human Services, having been transferred from the Department of Insurance last year to increase efficiencies. A survey found that in 48 out of 50 states, the current year's budget assumes that CHIP will continue. Pennsylvania is one of those states and estimates that it will exhaust its federal funding by December 31, 2017 unless Congress acts. Read the report and survey here: <http://www.kff.org/medicaid/fact-sheet/current-status-of-state-planning-for-the-future-of-chip/>.

WIOA

Nineteen Organizations that advocate for the full inclusion and integration of individuals with disabilities in the general workforce registered their strong opposition to efforts to make changes in the Workforce Innovation and Opportunity Act (WIOA) definition of Competitive Integrated Employment (CIE). On September 5, 2017, they sent a letter to Department of Education Secretary DeVos urging her to make no changes to Title IV of WIOA despite being requested to do so by 45 members of Congress. The organizations, including the Disability Act partners, contend that "the regulations are very much aligned with Congressional intent and long-standing Department of Education policy." View the response at <http://www.aucd.org/template/page.cfm?id=574> under "letters".

RESOURCES

ABLE Guidance to States

Last month the Center for Medicare and Medicaid Services (CMS) issued guidance to State Medicaid Directors on the treatment of various issues that affect ABLE accounts. The guidance reinforces the language, spirit, and congressional intent of the Stephen Beck, Jr., Achieving a Better Life Experience Act of 2014 (the ABLE Act) so that public benefits are not affected, including receiving Medicaid services and supports. The guidance covers treatment of funds in and contributions to the ABLE account, distribution of funds from the account, post-eligibility treatment of income, and transfer of ABLE funds to state estate recovery. The letter is available at the ABLE National Resource Center at this link: <http://www.ablenrc.org/news/center-medicare-and-medicaid-services-cms-releases-guidance-able-accounts>.

Financial Inequality Report

The National Disability Institute (NDI) released a new report, Financial Inequality: Disability, Race, and Poverty in America that explores the prevalence of disability by race, the changing rate of disability by age and race, and the impact of race and disability on education, employment, banking status, health insurance, medical debt, and food insecurity. An example of a finding is that African Americans are more likely to have a disability than any other demographic group at 14%. A digital copy of the report is available for download in the Document Library section of the NDI website at this link: <http://www.realeconomicimpact.org/docslisting.aspx>.

Contact PIE

Contact the PIE Team with any questions, comments, suggestions, or information to share at PIE, c/o The Arc of Pennsylvania, 301 Chestnut Street, Suite 403, Harrisburg, PA 17101, by email at pie@thearcpa.org or by phone at 800-692-7258.

- o **A Slice of Pie** is available by email and contains hyperlinks for ease of accessing websites and internet documents and resources.
- o PIE Alerts, PIE Information, and PIE Job Postings are available by email to keep people informed about disability issues between newsletters.
- o Sign up for A Slice of Pie or PIE electronic messages by phone at 800-692-7258 or by emailing pie@thearcpa.org.
- o Individuals who already get A Slice of Pie and/or PIE electronic messages can make changes at any time by clicking "Update Profile/Email Address" at the end of any PIE email message.
- o A Slice of Pie is available at the Developmental Disabilities Council website www.paddc.org, by clicking on "Publications" and "Slice of Pie". Archived editions can also be found there.
- o **A Slice of Pie** is available in alternate format upon request.
- o The PIE office will download, copy, and mail information mentioned in A Slice of Pie upon request.

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or by email to pie@thearca.org.
Thank you.
