

Harris County Healthcare Alliance Report on Legislation of Interest

82nd Texas Legislative Session

The 82nd Texas Legislative Regular Session ended on May 30, 2011 and the First Called Session began the next day for a total of 170 days that was one of the most difficult in 30 years. At the core of the difficulty was a severe budget shortfall total of about \$25 billion (including a deficit of more than \$4.2 billion for the current 2010-2011 biennium). Below is a chart that provides an overview of bills filed and bills passed during the 82nd session compared to the 81st session in 2009.

82nd Legislature Statistics

Bill Type	2011			2009			Filed		Passed	
	Filed	Passed	%	Filed	Passed	%	+/-	%	+/-	%
House Bills	3,865	797	21%	4,836	867	18%	-971	-20%	-70	-8%
Senate Bills	1,931	532	30%	2,583	592	23%	-652	-25%	-10	-2%
House Joint Resolutions	154	3	2%	140	9	6%	14	10%	-6	-67%
Senate Joint Resolutions	53	8	15%	50	0	0%	3	6%	8	100%
House concurrent Resolutions	173	101	58%	285	203	71%	112	-39%	-102	-50%
Senate Concurrent Resolutions	60	41	68%	86	55	64%	-26	-30%	-14	-26%
Totals	6,236	1,532	25%	7,980	1,726	22%	-1,744	-22%	-194	-11%

BUDGETARY IMPACT ON MEDICAID

The overall budget finally adopted (HB 1) for SFY 2012-2013 during the last week of the regular session expends \$172 billion from all fund sources, a \$15 billion cut from the SFY 2010-2011 budget. For health and human services, which is contained in Article II of the state budget, the total approved was \$54.2 billion in state General Revenue funds (GR) over the 2012-2013 biennium, an \$11 billion (or 17%) decrease in current spending levels. The adopted budget under-funds Medicaid by almost \$4 billion in GR and is expected to fund the Medicaid program only through February 2013. This shortfall will require a supplemental appropriation for Medicaid in the first month or two of the 83rd Legislative Session. Reductions in Medicaid during the biennium include unspecified rider directed savings of almost \$900 million and hospitals and related services reimbursement cuts of \$805 million. Reimbursement rates to hospitals will be reduced 8% in FY 2012-2013 – on top of a 2% rate cut in FY 2011. Other benefit and spending cuts amount to approximately \$843 million. Reductions in Medicaid expenditures due to expansion of managed care spending of about \$372 million were assumed and are also a part of the adopted budget.

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	SFY 2010-2011 Funding	SFY 2012-2013 Funding
TOTAL MEDICAID FUNDING	\$35.4 Billion 2010: \$16,822,683,536 2011: \$18,544,371,070	\$29.0 Billion 2012: \$18,239,495,151 2013: \$10,783,336,472
TOTAL CHIP FUNDING	\$2.2 Billion 2010: \$1,119,115,986 2011: \$1,108,521,496	\$2.0 Billion 2012: \$997,289,644 2013: \$1,005,152,581

Department of Disability and Aging (DADS) cuts include:

- Intermediate Care Facility for the Mentally Retarded (ICF-MR), not including State Supported Living Centers – 2 percent rate cut on top of a 3 percent cut in FY 2010-2011
- Health and Community Services (HCS) – 1 percent rate cut on top of a 2 percent cut in FY 2010-2011
- Nursing-facility-related hospice – 1 percent rate cut on top of a 2 percent cut in FY 2010-2011
- Other community care waivers – \$12.5 million GR reduction in administrative fees for agencies that manage attendant services
- Nursing Homes – no 2012-2013 rate cut on top of a 3 percent cut FY 2010-2011

Health and Human Services Commission (HHSC) cuts include:

- Medicaid and CHIP physicians – 2 percent cut in FY 2010-2011 only;
- Hospitals – 8 percent cut on top of a 2 percent cut in FY 2010-2011; Children’s, most rural hospitals and state hospitals were exempted from inpatient rate reductions, but not outpatient portion
- Medicaid Durable Medical Equipment and Labs – 10.5 percent cut on top of a 2 percent cut in 2010-2011)
- Other Medicaid providers – 5 percent cut on top of a 2 percent cut in FY 2010-2011
- Other CHIP providers – 8 percent on top of a 2 percent cut in FY 2010-2011
- FQHC Incubator program funding was eliminated
- Family Planning funding was reduced from \$111.5 million in FY 2010-2011 to \$37.9 million in FY 2012-2013

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Other miscellaneous Medicaid budget cuts of approximately \$843 million include:

- Reduced Community Services - \$31 million
- Nursing Facility Cost Reductions - \$58 million
- Prescription management fee reductions - \$34.7 million
- Community care wrap-around services - \$15 million
- HHSC fee cuts - \$34.7 million
- Reduced optional adult Medicaid benefits \$45 million
- Reduced HHSC administrative spending \$38.2 million
- Limiting payments for Medicare disability services to seniors and adults dual enrollees to Texas Medicaid fee schedule - \$295.8 million
- Reduced Medicaid Managed Care administrative costs - \$27 million
- Savings estimated from “Medicaid Funding Reduction” rider - \$264 million

KEY MEDICAID PROGRAMMATIC CHANGES

Star and Star plus Medicaid managed care programs were expanded statewide.

Medicaid providers must cover HIV, mental health prescriptions but were not provided additional funding to do so.

The Texas Health and Human Services Commission (HHSC) is repealing the current Inpatient Hospital Reimbursement methodology for Medicaid and is replacing it with a state-wide base standard dollar amount (SDA) with adjustments. This new approach was authorized in HB 1, 82nd Legislature which directed the development of the SDA while considering adjustments for high-cost hospital functions and services, including regional differences. Children’s, most rural hospitals and state hospitals were exempted from these inpatient rate reductions, but not the outpatient portion. Twenty million dollars was appropriated by the Legislature to assist in mitigating the impact of some of these reductions.

SB 7 by Sen. Jane Nelson (R-Flower Mound) and HB 7 by Representative John Zerwas (R-Katy) was an omnibus health bill in the First Called Session that combined three of the major health bills (SB 7, 8, 23 as amended) from the Regular Session. One of the goals of the bill is to reduce spending in Medicaid and CHIP while improving efficiencies. It creates a new Medicaid and CHIP Quality-Based Payment Advisory Committee that would tie a portion of Medicaid HMO premiums to improved health outcomes and quality.

Medicaid will now utilize a “carve in” approach for pharmaceuticals. Medicaid managed care organizations (MCOs) that are paid on a capitated basis will now include pharmacy services in the capitated benefits package.

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HEALTH INSURANCE

Despite several attempts by Representative John Zerwas and other members, no health insurance exchange bill passed during the 82nd Session. The most notable legislation was HB 636 by Zerwas. Governor Perry indicated that he would veto any legislation related to implementation of the Accountable Care Act. Several efforts to attach amending language similar to HB636 to other bills failed and Governor Perry vetoed a bill (HB 335) relating to reporting information on health reform efforts.

The Texas Department of Insurance (TDI) Sunset bill (HB 1951) passed reauthorizing the agency through 2023. The Office Public Insurance Counsel (OPIC) was retained.

The TDI was authorized to carry over unexpended funds for the Healthy Texas program into the FY 2012-2013 biennium. Healthy Texas is a public reinsurance program designed to lower the costs of health insurance for small business owners and their employees. The State's funding for three share programs was reauthorized at current biennium levels.

One of the major goals of SB 7 is to create new health care collaborative in Texas (similar to the Accountable Care Organizations (ACO) described in the Affordable Care Act). The creation of this new type of health care organization is intended to encourage all segments of health care - insurers, hospitals and doctors - to work together and improve quality and increase efficiency. The collaborative formed by their joint effort would collect payments from consumers for health care provided and set fixed costs for medical procedures and be regulated by the state.

HEALTH INFORMATION TECHNOLOGY

Protection of health information was the goal of HB 300, by Representative Lois Kolkhorst, chair of the House Public Health Committee, and Senator Jane Nelson. It increases civil penalties the Attorney General may assess for violations of the Texas Medical Privacy Act. It requires covered entities to train staff on sharing or exchanging protected health information and requires all health care providers to supply a person's health record in electronic form within 15 days of request. Importantly, it creates a Task Force on Health Information Technology appointed by the Attorney General and charged with developing recommendations for the improvement of informed consent protocols, the improvement of patient access to Protected Health Information (PHI), and any other critical issues related to the exchange of PHI.

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MENTAL HEALTH

Mental health services were at the forefront of discussions regarding the Texas Health and Humans Services Commission budget. What seemed dismal and bleak in January improved as the Session continued. In the adopted budget, adult mental health services were reduced only 2% from the current biennium. Mental health crisis services were held at the same levels as FY 2010-11 and children's mental health services were increased by \$21 million. A rider to the Appropriations bill was added to limit hospital mental health bed reductions and additional mental health support services were directed to be covered by Medicaid. Significantly, Harris County efforts were successful in reforming the process of criminal court ordered competency restoration for defendants and providing judges with more options in that process. And finally, the Legislature, through a budget rider, ordered that one state mental hospital (to be determined) be privatized.

FEDERALLY QUALIFIED HEALTH CENTERS (FQHC)

The FQHC Incubator Program was eliminated but Managed Care Organizations (MCO) are required in the FY 2012-2013 biennium to pay FQHC prospective payment rates within a short time after delivery of services. Hopefully, this will reduce or eliminate the payment delays of the past. FQHCs will continue to receive preferential treatment from the state in awarding family planning funding. HHSC was authorized to take a more active role in FQHC provider contracting.

HEALTHCARE WORKFORCE

The Nursing Shortage Reduction funding was cut by almost half to \$30 million although nursing education did receive an additional \$5 million in tobacco settlement monies. Residency programs of all types were cut in the Legislative budget deliberations (see detail in chart below for final figures).

	FY 2011-2011	FY 2012-2013	Amount (millions)	% Change
Baylor College of Medicine	\$83.3	\$75.9	-\$7.4	-8.9%
Family Practice Residency	\$21.2	\$5.6	-\$15.6	-73.6%
Physician Education Loan Repayment Program	\$25.4	\$5.6	-\$19.8	-77.9%
Children's Medicaid Loan Repayment Program	\$32.9	\$0.0	-\$32.9	-100.0%
Joint Admission Medical Program	\$10.6	\$7.0	-\$3.6	-34.0%

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	FY 2011-2011	FY 2012-2013	Amount (millions)	% Change
Primary Care Residency Program	\$5.0	\$0.0	-\$5.0	-100.0%
Preceptorship Program	\$0.9	\$0.0	-\$0.9	-100.0%
Professional Nursing Aid	\$1.8	\$0.0	-\$1.8	-100.0%
Vocational Nursing Aid	\$0.1	\$0.0	-\$0.1	-100.0%
Professional Nursing Shortage Reduction Program	\$49.7	\$30.0	-\$19.7	-39.6%
Hospital-based Nursing Education	\$5.0	\$0.0	-\$5.0	-100.0%
Dental Education Loan Repayment Program	\$0.7	\$0.0	-\$0.7	-100.0%

Legislation was adopted that allows Sheriff's Departments and Hospital Districts in the largest counties of Texas to hire physicians subject to provisions for the protection of the physician-patient relationship. There were no scope of practice changes for mid-level providers but an interim study was approved for the scope of practice for nurse practitioners. An additional broad study of the usage and training of community health workers was authorized. Hospitals are now required to have an employee vaccination policy.

MISCELLANEOUS

There were a number of other important pieces of legislation of interest to Harris County Healthcare Alliance members. The omnibus health care bill (SB 7) filed in the First Called Session was passed and sent to the Governor but as of this writing the veto period for that special session is still open. SB 7 has language designed to save the state more than \$400 million over the 2012-2013 biennium by making Medicaid more cost-effective and expanding Medicaid managed care into the Rio Grande Valley (see Medicaid section of this report). It also includes language added by amendment designed to shift state family planning funding away from Planned Parenthood, and prevent hospital districts that use tax revenue to finance abortions from receiving state funds, except in the case of a medical emergency.

SB 7 has two lengthy and significant amendments: 1) Providing for an interstate health care compact, which would allow Texas to join other states in requesting that the federal government allow states in the compact to have control over both Medicare and Medicaid funding and policy; and 2) Directing HHSC to request a waiver to provide Texas with a federal block grant for Medicaid funding.

Trauma program funding was reduced from \$75 million to \$57.5 million and red light camera monies were eliminated.

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Thanks to those of you who participated with us in tracking these important developments throughout the Session and attempting to assure that our strong safety net healthcare delivery system in Harris County remains so. There are certainly other developments of the 82nd Legislature that will impact Alliance member organizations not known yet or not captured in this report. Please bring any additional to the attention of and/or contact Karen Love or Harry Holmes for additional information at 713-368-3285.