

February 15, 2011

To: WAHSA Members

From: John Sauer, Executive Director
Tom Ramsey, Director of Government Relations

Subject: State Budget Repair Bill

As expected, the Legislature yesterday officially introduced Governor Walker's budget repair bill which seeks to address a \$136.7 million deficit in the current fiscal year of the state budget, which concludes June 30, 2011. The bill, which will be part of the January 2011 special session of the Legislature (actually, two companion budget repair bills have been introduced: January 2011 Special Session Senate Bill 11 and January 2011 Special Session Assembly Bill 11), currently is the subject of a public hearing before the Joint Committee on Finance (JFC) which began at 10:00 a.m. this morning. The JFC has scheduled an executive session vote on the 144-page bill immediately following today's public hearing. Since the hearing is expected to go well into the evening hours, the JFC vote on SSSB 11/SSAB 11 may be postponed until tomorrow.

The JFC is comprised of 12 Republicans and 4 Democrats, so it is fairly certain the budget repair bill introduced at the request of Governor Walker, a Republican, will be recommended for passage by the Joint Committee. In that event, the bill is expected to go to the floor of the State Senate this Thursday. If the bill passes the Senate on Thursday, it could go to the Assembly floor as early as Thursday, although leadership is now hedging its bets by saying the bill might go to the Assembly on Friday or even next week.

State and Municipal Employees

As he stated at his press conference last Friday in which the details of the budget repair bill were outlined, Governor Walker said you would have had to have been "in a coma" if you were surprised by his decision to require state employees to pick up a greater percentage of their pension and health insurance costs. SSSB 11/SSAB 11 would require all public employees who are covered under the Wisconsin Retirement System to pay approximately 5.8% toward their pension. In addition, state employees and municipal employees who participate in the local government health insurance plan offered by the state's Group Insurance Board would be required to pick up approximately 12.6% of their health insurance costs. The Governor estimates these changes would save the State an estimated \$30 million over the next three months and approximately \$300 million in the 2011-13 biennium. For public employees affected by the bill, their pay checks would be reduced by an estimated 8.4%.

The Governor made these reductions in state payment for public employee pension and health insurance costs a key plank in his campaign so their inclusion in the budget repair bill came as no surprise. What surprised many, however, and enraged public employee union leaders, were the revisions to the collective bargaining statutes contained in the budget repair bill.

Under SSSB 11/SSAB 11, public employees (both state and municipal employees), except police, firefighters and State Patrol officers, would no longer be permitted to collectively bargain over hours and conditions of employment. Their collective bargaining rights would be limited to base wage rates (which would exclude overtime and merit pay) and increases in those base wage rates would be limited to no greater than the percentage change in the Consumer Price Index unless authorized by a referendum. The budget repair bill also would prohibit the State or municipality from deducting union dues from employee paychecks, permit an employee to refrain from paying union dues but still remain part of the collective bargaining unit, require an annual certification election of the employees' union and limit the terms of a collective bargaining agreement to one year. Finally, the Wisconsin Quality Home Care Authority would be eliminated.

Medicaid Study and Authority

While most of the attention in the press has focused on the labor relations components of the budget repair bill, SSSB 11/SSAB 11 would provide the Department of Health Services (DHS) with sweeping powers to transform the Medicaid program, which is expected to be \$153 million in the red this biennium and \$1.8 billion in the red in 2011-13.

Under the bill(s), the DHS is authorized to study potential changes to the Medicaid state plan (which would include payments to nursing homes, ICFs-MR, the State Centers for the Developmentally Disabled and the Wisconsin Veterans Homes – it is uncertain as to whether Family Care, COP and the MA home- and community-based waiver programs would be affected) and to federal MA waivers for the following purposes:

- Increasing the cost effectiveness, the efficiency of care and the care delivery system of MA programs;
- Limiting switching from private health insurance to MA;
- Ensuring the long-term viability and sustainability of MA programs;
- Advancing the accuracy and reliability of eligibility for MA programs, claims determinations and payments;
- Improving the health status of MA recipients;
- Aligning MA recipient and service provider incentives with health care outcomes; and
- Supporting responsibility and choice of MA recipients.

If the DHS determines after conducting the above study that statutory or rule revisions are necessary to achieve the purposes listed above, the Department may promulgate administrative rules to do any of the following:

1. Require MA recipient cost sharing payments up to the maximum allowed under federal law;
2. Authorize providers to deny care or services to MA recipients that are unable to share costs, to the extent allowed under federal law;
3. Modify existing benefits or establish various benefit packages and offer different packages to different groups of recipients;
4. Revise provider reimbursement models for particular services;
5. Mandate that MA recipients enroll in managed care;

6. Restrict or eliminate presumptive eligibility;
7. Impose restrictions on providing MA benefits to individuals who are not U.S. citizens, to the extent allowed under federal law;
8. Set standards for establishing and verifying eligibility requirements;
9. Develop standards and methodologies to assure accurate MA eligibility determinations and redetermine continuing eligibility; and
10. Reduce income levels for purposes of determining eligibility to the extent allowed under federal law.

Any proposed changes to the MA program proposed by the DHS that require either a federal MA waiver or revisions to the State Medicaid plan must be submitted to the federal Department of Health and Human Services (DHHS). If the DHHS denies these requested changes, they will not be included in the proposed MA administrative rule. The one exception is for MA eligibility requirements that would be more restrictive than those in place on March 23, 2010, when the federal Patient Protection and Affordable Care Act went into effect. If the DHHS denies these proposed changes in eligibility requirements, the budget repair bill requires the DHS to reduce income eligibility standards for MA recipients on July 1, 2012 for non-disabled, non-pregnant adults to 133% of the federal poverty level. The Legislative Fiscal Bureau estimates this provision would eliminate 63,200 enrollees from the BadgerCare Plus rolls.

Under the bill(s), the DHS would be permitted to promulgate its MA rule as an emergency rule and would be exempt from the requirement to provide evidence that promulgating a rule as an emergency rule is necessary for the preservation of the public peace, health, safety or welfare. However, any proposed MA rule, or any plan developed by the DHS as a result of its study, first must be submitted to the Joint Committee on Finance. If after 14 working days following the submittal of the rule there is no request of JFC members to schedule a meeting to discuss the proposed rule, the proposed rule may be promulgated. If a meeting is requested, it must be held and the rule only can be promulgated upon approval of the JFC.

Stated differently, MA program benefits, reimbursement, eligibility and other policies could be changed with the approval of the 16 members of the JFC rather than the full Legislature under SSSB 11/SSAB 11. (For a copy of the Legislative Fiscal Bureau analysis of SSSB 11/SSAB 11, please go to: http://legis.wisconsin.gov/lfb/2011-13Bills/2011_02_14_budget%20Adjustment%20Legislation.pdf).

Governor to Present State Biennial Budget Bill on February 22nd

There is no doubt these bills would have a significant effect on county nursing homes; the impact on not-for-profit nursing homes, assisted living facilities and other long term care providers is less certain. What is also uncertain is whether the votes to pass this legislation in its current form are there in the State Senate, where Republicans hold a 19-14 majority. It is a virtual certainty that all 14 Senate Democrats will vote against the budget repair bill(s) in its current form; if three Republicans were to join them, passage of the bill would be denied. The pressure on Senate Republicans from public employees will be intense, as will be the pressure from Governor Walker and their Republican colleagues.

To add to the drama, the Governor is prepared to deliver his budget address the afternoon of February 22nd outlining how he plans to tackle the State's projected \$3.6 billion deficit in 2011-13. The day following that address in the first day of the ***2011 WAHSA Public Policy Forum February 23-24 at The Concourse Hotel in Madison. If you haven't already registered for the Public Policy Forum, please consider doing so today:*** you'll never have a more impactful opportunity to advocate on behalf of your organization, your residents and your staff that you will be afforded at this year's two-day session. For registration information, please go to: www.wahsa.org/11pubpol.pdf.

We hope to see you in Madison next week!

[Leading the Way -- WAHSA's 2011 Public Policy Forum:](http://www.wahsa.org/11pubpol.pdf)
February 23-24, 2011 at The Concourse Hotel in Madison
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