

MAO Legislative Update: End of Session Wrap-Up

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Frantic Weekend Leads to Budget Compromise

In a weekend that included conference committees meeting into the early morning, multiple budget packages being vetoed, and a final all-night session, in the end the DFL Legislature and Republican Governor Tim Pawlenty reached a final compromise on the state budget bills that required a short Special Session to get it all done. This session could be labeled a missed opportunity.

With the Constitutional deadline of Sunday night at midnight approaching a final agreement was announced at 11:30 p.m. Sunday May 16. Because the Constitution prohibits the passage of any bill on the last day of Session, there was not enough time to process the bill before midnight. At 11:55 p.m. both the House and Senate adjourned the 2010 Regular Session sine die, and at 12:01 a.m. Pawlenty called the Legislature back for a Special Session to pass the one budget bill to complete the deal. The Legislature then immediately recessed to await the printing of the final package. Finally, after spending a sleepless night waiting, the House and Senate passed the budget deal at 10:30 Monday morning and adjourned the 2010 Special Session sine die.

The final package addresses a nearly \$3 billion budget deficit with no new taxes, large cuts to local governments, and additional cuts the health and human services programs. It also balances the budget without relying on an estimated \$408 million of federal money from the next round of stimulus money. This money is tied up in Congress and if it comes through it will go to the state's cash account.

The major sticking point to the budget negotiations was over the state option to become an early adopter state and enroll adults without children with incomes less than 75% of the poverty level into the Medical Assistance (MA) program. Starting this past April 1 the federal health reform bill allows states to enroll this new category of citizens into MA and receive 50% federal matching money. Supporters argued that MA would provide much better coverage than the scaled back GAMC program that is only a hospital-based program and is funded with 100% state money. Critics opposed this because the state had to fund the 50% match and that it was tied to "ObamaCare," which they philosophically oppose.

To fund the early adoption the original bill implemented a number of surcharges on hospitals, nursing homes, group homes, and HMOs. These surcharges were used to draw down more federal money and be used as our state share for MA. Governor Pawlenty and Republican legislators opposed these surcharges because they viewed them as new taxes.

In the end the surcharges were not a part of the final budget bill and the early adoption can only take place by Executive Order of the current Governor or the next Governor.

Pawlenty has made it very clear that he will not execute the Executive Order so the earliest any early adoption can take place is January 2011.

Provider Reimbursement Cuts

The House and the Senate closed a nearly \$3 billion budget hole primarily by ratifying the \$2.7 billion in unilateral unallotment cuts that the governor made in 2009. As a result, the final budget included \$293 million in health and human services cuts. The cuts include significant reductions in payment rates for medical services, including a 7 percent cut in the fee-for-service rate for non-primary care services provided to MA enrollees. This rate reduction, which takes effect July 1, 2010, comes on top of last year's 6.5 percent specialist services rate reduction. .

In addition, rates paid by the state to managed care plans will be reduced by nearly 3 percent for MA enrollees and nearly 15 percent for MinnesotaCare enrollees for the next three years. The law does not guarantee that health plans will not pass on these reductions to providers.

The final piece of the budget that will result in even further payment cuts is a provision that caps Medical Assistance rates for physician services at Medicare levels. These cuts will mostly affect surgical and other procedural payment codes. A scheduled 21 percent cut to Medicare reimbursement taking effect June 1 could also impact the state MA payments.

Peer Grouping

The governor signed a peer-grouping bill that was promoted by the MMA. Peer grouping is a statewide initiative to compare clinics and hospitals based on the cost and quality of the care they provide. It was created through the 2008 Health Care Reform Act.

The 2010 legislation corrects some flaws in the initiative. It includes the following provisions that were endorsed by physicians:

- a new requirement that the peer-grouping data must meet standards for reliability and validity before being released to the public;
- a repeal of language that precludes providers who score in the bottom 10 percent on the quality and cost measures from treating patients covered by state-subsidized health insurance plans, and
- an extension of the deadline for health plans to start using the data to January 2012.

The goal of the legislation is to create stronger assurances for the development of valid and reliable information, to remove the punitive aspects of the initiative, and to have a more realistic legislative timeline.

GAMC

Last year, Gov. Pawlenty jeopardized the fate of the GAMC program, and the 37,000 people enrolled in it, when he line-item vetoed its funding. At the start of the session, he proposed ending the program and transferring GAMC enrollees to MinnesotaCare.

DFL lawmakers countered with a plan to pay for the program with revenue generated through Medical Assistance surcharges on hospitals. The Governor vetoed this proposal after it passed the House and Senate with bipartisan majorities.

In March, Pawlenty and lawmakers agreed to support a GAMC program in which hospitals would be able to form care coordination delivery systems (CCDSs) that would receive lump-sum payments to provide care to all GAMC enrollees in a given geographic area. All GAMC care would be delivered through the CCDSs by December 1, 2010.

Many health care groups told lawmakers that this proposal was neither realistic nor sustainable. The plan severely cut payments to hospitals and expected them to provide GAMC enrollees both outpatient and inpatient services. Only four metro-area hospitals signed up for the new GAMC program and none of the outstate hospitals agreed to participate.

The passage of national health care reform in March opened up the possibility of transferring people in GAMC to Medical Assistance (MA). The MAFP supported this approach and argued that expanding MA would result in stable, comprehensive benefits for the men and women currently covered by GAMC, as well as better reimbursement rates for hospitals and physicians and a more streamlined public health care system. Under the proposed MA expansion, Minnesota would have received \$1.4 billion in additional federal money over three years to cover about 100,000 Minnesotans. The cost to the state would have been an additional \$188 million.

But Pawlenty and Republican lawmakers rejected the expansion saying the state could not afford it and that they were philosophically opposed to it because it was made possible by national health care reform. As a result of last-minute negotiations, the state has funded and created the legal structure for the MA expansion and Pawlenty or the next governor will have until January 15 to shift GAMC enrollees to MA by simply issuing an Executive Order.

Birthing Centers

Legislation to license independent birthing centers was included in the final budget bill that was signed by the Governor.

It creates a licensing process for birthing centers that are located outside a hospital or clinic setting. Birthing centers can only provide care for uncomplicated pregnancies and cannot utilize surgery or anesthesia. They can be staffed by physicians, nurse midwives, or licensed traditional midwives. They must have an emergency backup plan developed for cases that need hospitalization.

Big Changes at the Legislature Next Session

Along with a new Governor, there will be big changes at the Legislature next session as 13 members of the House and 8 members of the Senate have announced their retirements.

In addition, all members of the House and Senate are up for re-election.

Six of the members are retiring because they are running for different offices. Those announcing their retirements include the following:

Representatives

- Karla. Bigham (DFL-Cottage Grove-57A)
- Jeremy Kalin (DFL-North Branch-17B)
- Margaret Anderson Kelliher (DFL-Mpls.-60A)—candidate for Governor
- Cy Thao (DFL-St. Paul-65A)
- Laura Brod (R-New Prague-25A)
- Rob Eastlund (R-Isanti-17A)
- Randy Demmer (R-Hayfield-29A)—candidate for Congress
- Tom Emmer (R-Delano-19B)—candidate for Governor
- Paul Kohls (R-Victoria-34A)
- Doug Magnus (R-Slayton-22A)—candidate for State Senate
- Mary Seifert (R-Marshall-21A)
- Dan Severson (R-Sauk Rapids-14A)—candidate for Secretary of State
- Larry Haws (DFL-St. Cloud-15B)

Senators

- Terryl Clark (DFL-St. Cloud-15)—candidate for Congress
- Steve Murphy (DFL-Red Wing-28)
- Jim Vickerman (DFL-Tracy-22)
- Steve Dille (R-Dassel-18)
- Pat Pariseau (R-Farmington-36)
- Dennis Frederickson (R-New Ulm-21)
- Debbie Johnson (R-Ham Lake-49)
- Mee Moua (DFL-St. Paul-67)