

Summary of 2009 HHS Omnibus Bill

HF1362*/SF695

Budget changes for the 2010 – 2011 biennium for MDH

Governor Pawlenty signed the Health and Human Services omnibus budget bill, HF1362 into law on May 14, 2009. The law makes the following adjustments to the Minnesota Department of Health (MDH) budget.

Behavioral Risk Factor Surveillance Survey (BRFSS). (\$550,000 in FY10 and FY11.) The section reflects the governor's proposal and provides a stable funding source for the BRFSS. The program will now be able to increase sample size to allow for comparison results across racial/ethnic categories.

e-Health initiative. (\$350,000 in FY10 and \$175,000 in FY11.) This funding enables MDH to retain a leadership role with e-health statewide and will help the department achieve current mandates. This funding will also be used to meet the match requirements for a Section 3013 grant under the federal HITECH Act.

Electronic health record loan program. (\$4 million in FY10; \$1.2 million paid back to the Health Care Access fund in FY13.) The provision reflects the governor's recommendation for matching funds to federal stimulus electronic health record loans. It then adds to what the governor recommended by requiring the commissioner to repay the HCAF \$1.2 million in FY12.

State loan repayment program. (\$128,000 in FY10.) This provision reflects a governor's recommendation. This proposal provides a one-time increase in state match funds of \$128,000 for the National Health Service Corps (NHSC)

State Loan Repayment Program. The federal dollars available for loan repayment will be distributed through a competitive process and the matching funds need to be available for an application to be fully competitive.

Tuberculosis prevention and control. (\$50,000 in FY09 and \$50,000 in FY10.) Provides one-time funding for tuberculosis (TB) prevention and control. This funding will help stop the spread of TB by ensuring prompt laboratory diagnosis, as well as prompt access to treatment and prevention services to patients.

Colorectal screening. (\$234,000 in FY10 and \$100,000 in FY11.) The section provides for an 18-month demonstration program for colorectal screening and provides full funding of grants, evaluation and administration of the program.

Statewide health improvement program (SHIP). The program maintains its original funding of \$47 million appropriated in the 2008 Legislative session.

Uniform formulary exception. (\$40,000 in FY10.) This requires MDH to develop a uniform formulary exception from that allows health providers to request exceptions from the group purchasers' formulary using a uniform form. It also requires the department to outline how best to standardize drug prior authorization requests between providers and group purchasers.

Grant elimination. (\$1 million reduction in FY10, \$1.208 million reduction in FY11, \$208,000 reduction in FY12.) The provision includes the governor's recommendation of eliminating the temporary, general fund MERC grant to Mayo and a three-year Health Care



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Demonstration Program grant. The enacted budget allows one additional year of funding for the Health Care Demonstration Grant compared to the governor's recommendation.

Local public health grants – payment shift. (One-time savings of \$5.193 million in FY11; shifts payment into the next biennium.) This section includes the governor's recommendation. The monthly payment schedule has been changed to a quarterly payment, delaying the April – June 2011 payment to counties and cities until July 2011. The delay results in one-time general fund savings in state fiscal year 2011 and one-time costs in FY 2012.

Support services for families with children who are deaf or have a hearing loss. (\$223,000 in FY11, \$241,000 in FY12.) This provision is for the commissioner to contract with a nonprofit organization to provide support and assistance to families with children who are deaf or have a hearing loss. The family support provided must include direct parent-to-parent assistance and information on communication, educational and medical options.

General fund administrative reduction. (\$2 million reduction.) This is an 8.2 percent reduction to the administrative base budget which covers rent and agency program administration.

2007 and 2008 Session Law correction. (\$290,000 ongoing.) This provision resolves a discrepancy in the 2007 Health and Human Services (HHS) Omnibus bill and HHS session tracking and in 2008 Laws. This was a recommendation from the governor. This increase reflects a portion of a general fund lead abatement program (\$163,000), support for department emergency preparedness and response activities (\$100,000) and to restore reductions from the Federally Qualified Health Centers (\$27,000).

Pentachlorophenol risk assessment. (\$55,000 in FY10.) This section directs the department to determine whether there are excessive health risks to residents, utility workers and others from exposure to pentachlorophenol treated utility poles used in certain Minneapolis neighborhoods. The department will conduct this health risk assessment in collaboration with appropriate local, state and federal agencies.

PFC advisory workgroup. (\$20,000 in FY10.) The provision requires the commissioner to convene and consult with a citizen advisory group in researching exposure pathways for perfluorochemicals, focusing on food sources. The study is to be funded with non-state resources. Funding is for the advisory work group.

Hennepin County cancer registry. (\$100,000 in FY10.) Funds a one-year feasibility pilot project for Hennepin County Medical Center to collect occupational, residential and military service history data from newly diagnosed cancer patients.

Fee supported activity

Well program fees. (\$325,000 in revenue in FY10 and \$325,000 in FY11 to the State Government Special Revenue fund.) The section reflects the governor's recommendation and amends the well program fees. This will ensure the well program can protect the health of Minnesotans by protecting drinking water and sealing abandoned wells.

Fees for ionizing radiation-producing equipment. (\$460,000 in revenue in FY10 and \$460,000 in FY11 and \$250,000 in increased appropriations for FY10 and FY11 from the State Government Special Revenue fund.) The provision reflects the governor's recommendation to ensure compliance with statutory requirements to inspect all x-ray facilities every four years.

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Newborn screening fee. (\$360,000 in revenue to the General fund per year beginning in FY 11.) This section increases the fee from \$101 to \$106 for the newborn screening program. This fee increase will pay for the cost of services for children found to be deaf or hard of hearing through newborn hearing screening.

Youth camp license and inspection fees. (\$50,000 in revenue in FY10 and \$50,000 in FY11 to the State Government Special Revenue fund.) The provision reflects the governor's recommendation. The department has previously carried out youth camp inspections and illness investigations without a fee, accruing a cost to the state. Youth camps will now be licensed as they were granted permits in the past, based on size, which will create a level playing field for camp operators statewide.

Occupational therapy duplicate license fee. (\$1,000 in revenue in FY10 and \$1,000 in FY11 to the State Government Special Revenue fund in each biennium.) This fee reflects the governor's recommendation. This fee is intended to recover the administrative cost only from those licensees needing a duplicate license.

Hearing instrument dispenser certification fee. (\$118,000 in revenue in FY10 and \$119,000 in FY11 to the State Government Special Revenue fund.) The fee adjustments reflect the governor's recommendation with some modification to amounts for certification, surcharge and examinations. The program was annually accruing significant deficits without a fee adjustment and the increased revenue will produce a positive balance in the account by 2016.

This section requires that the cost of investigations of unlicensed hearing aid dispensers be apportioned between all licensed hearing instrument dispensers. This will ensure that consumers of hearing instruments will continue to be protected regardless of

credential status of the practitioner. This provision is effective July 2011.

Vital records technology improvement fee. (\$1.2 million in revenue in FY10 and \$1.2 million in FY11 to the State Government Special Revenue fund.) This provision reflects the governor's proposal and maintains the current \$2 surcharge for Vital Records Technology Improvement in the vital records fee structure. This surcharge funds the development, maintenance and upgrades for a highly secure, rapid and accurate statewide vital records system.

Adverse health events program fee. (\$73,000 in revenue in FY10 and \$73,000 in FY11 to the State Government Special Revenue fund.) This fee reflects the governor's proposal. This fee increase will provide an additional \$73,000 annually to support the adverse health events reporting program for hospitals and ambulatory surgical centers. This change will allow the program to accomplish the work required to administer the requirements of the adverse health events law that have expanded significantly since the program began.

Swimming pools inspection and plan review. (\$211,000 in revenue in FY10 and \$211,000 in FY11 to the State Government Special Revenue fund.) This provision reflects the governor's recommendation to ensure proper design, construction, maintenance and operation of swimming pools and spas. This is an adjustment to the Abigail Taylor Pool Safety Act from 2008.

Food manager certification program. (\$61,000 in revenue in FY10 and \$61,000 in FY11 to the State Government Special Revenue fund and \$163,000 per year in increased appropriations.) This fee and appropriation adjustment reflects the governor's recommendation. The increase will enable improved services to the public and regulated parties by increasing the number of food establishments with a certified food

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manager; and provide needed program oversight and transparency.

Food, beverage and lodging and sanitarian registration and licensing fee modification. (\$559,000 in revenue in FY10 and \$559,000 in FY11 to the State Government Special Revenue fund and \$823,000 per year in increased appropriation.) This section reflects the governor's recommendation and reflects cost of service, adjustment to staffing levels and restructuring of programs needed to perform legislatively mandated requirements.

Manufactured home parks and recreational camping area fees. (\$224,000 in revenue in FY10 and \$224,000 in FY11 to the State Government Special Revenue fund and \$320,000 per year in increased appropriation.) This provision reflects the governor's recommendation. This legislation includes standardization and simplification of the fee structure and moves license fees for manufactured home parks and recreational camping areas from rule to statute. In addition, the legislation codifies standards that reflect the conditions that are currently applied through a variance process for special event camping areas.

Lead program: pre-renovation. (\$50,000 in revenue in FY10 and \$75,000 in FY11 to the State Government Special Revenue fund and \$100,000 per year in increased appropriation.) This section reflects the governor's recommendation that the department be given the authority to develop rules to adjust fees for pre-renovation notification of lead hazards and the regulation of renovation, repair and painting activities that impact lead-based paint in child occupied facilities.

Infected health care worker program. (\$50,000 in FY10 and \$50,000 in FY11 to the State Government Special Revenue fund.) This section reflects the governor's recommendation. This increase will ensure that the state is able to effectively evaluate and

monitor all health care workers who are infected with HIV, hepatitis B (HBV) and hepatitis C (HCV).

Environmental certification fee. (\$100,000 in FY10 in revenue and 150,000 in FY11 to the State Government Special Revenue fund and \$150,000 per year in increased appropriation.) This provision reflects the governor's recommendation. This legislation increases the appropriation and fees for the Environmental Laboratory Accreditation Program to meet current service demands and ensure statutory requirements are met. Municipal and private labs that perform tests for the state are inspected and accredited.

Summary of policy changes

In addition to the policy changes noted above, the following policy changes were also signed into law.

e-Health. While no additional funding has been included in the budget for the expansion of activities required by the HITECH Act, it is expected that the base funding provided may be leveraged to access Section 3013 HITECH grants, to support the expansion of e-health efforts in Minnesota which are represented in this law. These expansions include:

- Assisting in the development and support of regional extension centers.
- Providing supplemental information to the best practices disseminated at the regional and national level to ensure resources are meaningful to Minnesota providers.
- Supporting an expanded role for the Minnesota e-Health Advisory Committee in convening industry experts to form consensus and provide feedback on policy, standards and quality measures recommended for nationwide adoption.
- The collection and assessment of data on the adoption, implementation and effective use of health information technology in Minnesota.

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- Completion of studies and mandatory reports submitted to the Office of the National Coordinator to demonstrate Minnesota's progress toward meeting statewide e-health goals.
- Assistance in the determination of eligibility for incentives available to hospitals and other health care providers under the HITECH Act.

The budget sections of the law include a \$4 million appropriation to be deposited in the existing revolving loan account that would provide the necessary match to capture up to \$20 million in federal funds. The rider sections of the law stipulate that the \$4 million can only be spent if the matching funds are received. The law allows the commissioner to apply for and use all federal funds available through the HITECH Act to administer the loan program.

Pharmacy benefit managers. This section makes medication therapy management services available to enrollees taking four or more prescriptions to treat or prevent two or more chronic medical conditions. This requirement is consistent with requirements that already exist in the Medical Assistance program that have generally been cost neutral or resulted in savings.

Medical Education Research Cost (MERC). This section caps the amount of revenue available for MERC distribution under Minnesota Statutes, section 62J.9692 by limiting the amounts transferred from the Medical Assistance (MA) program to the MERC fund to newly established federal limits. The new federal regulations limit the MERC distribution to the FY09 levels. In addition, this section shifts the timing of the transfer to coincide with the fiscal year of the MERC distribution. This law appropriates \$38 million for the FY09 MERC distribution to restore the FY09 unallotment.

Dental Subcommittee of Health Services Policy Committee. MDH is required to serve as a member of the Dental Subcommittee of the

Department of Human Services Health Services Policy Committee. This will require staff time to participate in the committee.

Asthma coverage demonstration project. The Minnesota Department of Human Services (DHS) is required to establish a demonstration project to provide additional medical assistance (MA) for up to 200 American Indian children living in Minneapolis, St. Paul and Duluth. MA must pay for durable medical equipment such as air cleaners, vacuum cleaners, allergy bed and pillow coverings etc. MDH is required to seek nonstate funding and if funding is available, report to the Legislature on the results of the demonstration project.

Autism task force. A 15-member Autism Task Force is created to develop recommendations and report on a number of topics related to autism including ways to improve services and the service delivery system; education of providers, parents and the public; and sources of private and public funding for autism treatment. The commissioners of education, employment and economic development, health and human services are required to provide assistance to the Task Force if funding is available. The Autism Task Force is required to provide a report to the legislature by January 15 of each year and expires on June 30, 2011.

Nursing facility level of care. While this legislation does not impact the determination of Case Mix resident classifications, the impacts on MDH are a potential increase in requests for reconsiderations by residents no longer meeting the level of care criteria for continued MA payment. However, MDH staff estimate the numbers of requests to be limited.

Extension of approval of moratorium exception projects. This provision adds an extension of 18 months to commence construction for projects approved under the moratorium exception process in Minnesota Statutes, section 144A.073, subd. 12. Since 1983, there has been a competitive process to

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renovate or replace existing nursing homes that involve medical assistance money. The project moratorium statute outlines a process in which MDH approves final projects after receiving recommendations from a committee. Under current law, projects have 18 months to commence construction after approval and if they do not, they lose the funding. This proposed legislation extends that period by another 18 months. The provision will only apply to projects approved during FY 2008 and FY 2009 in recognition that many establishments have had a hard time obtaining financing during this unusual economic period.

Interpretation and enforcement of rights.

The legislation provides better clarification of existing law that already requires that Personal Care Attendants (PCAs) provide a home health care bill of rights document to each home health care client. There had been some confusion by PCAs about whether they must provide the bill of rights, and this legislation provides much better clarity.

Facility in receivership. This adds a reference to nursing home receiverships to DHS provisions about overpayment debts. Current law allows that new owners of *residential homes* licensed by DHS after a receivership are not liable for a former owner's debt to DHS. The change adds *nursing homes* in receivership. The exception for new owners after a receivership does not limit the liability of the former owner. Receivership authority is very limited in state law.

Personal care assistance program. The Minnesota Department of Human Services (DHS) regulates Personal Care Assistance services as a Medicaid benefit. This legislation improves DHS' regulatory oversight of PCAs and encompasses the recommendations made by the Office of the Legislative Auditor (OLA) in January 2009. This section does not affect MDH's regulation of its home health care providers because these regulations are separate. It does raise the qualifications

standards of PCAs so that they are more in par with home health care providers licensed by MDH and that provides a fairer playing field for the home health care industry and marketplace.

Reporting of maltreatment of minors and vulnerable adults act. The OLA January 2009 report recommended changes to the maltreatment investigations statutes for allegations against PCAs. Current law requires MDH to investigate maltreatment allegations against PCAs when the victim is a minor. DHS is required to investigate maltreatment allegations against PCAs if the victim is an adult. Counties are required to investigate maltreatment complains for adults and children served by PCA providers, but are not responsible for the investigation of the PCA provider.

Smoking cessation. This section requires the commissioner of health to prioritize smoking prevention and cessation activities in minority populations.

Body art. This section requires the commissioner of health to review the proposed regulation of body art technicians.

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