The General Assembly fully funds the CHOICE In-Home Services Program; the Division of Aging increases its support for HCBS

August 2009

Recent Developments Regarding CHOICE, Waivers and Re-Balancing

On June 30, 2009 the Indiana General Assembly passed in special session a new state budget that fully funds the CHOICE In-Home Services Program at $48,675,643 per year during the two year state budget cycle that began on July 1st. The funding was contained in House Enrolled Act 1001(ss), the new budget law authored by State Representative Bill Crawford of Indianapolis and co-sponsored by State Representative Jeff Espich of Uniondale. In the Senate the bill was sponsored by Senator Luke Kenley of Noblesville and co-sponsored by Senator John Broden of South Bend. These four legislators were among the many members of the legislature who offered eager bipartisan support for the CHOICE program.

HEA 1001(ss) also included language to retain any unspent money in the CHOICE program's budget from the previous biennium in the new budget cycle. When the billings incurred by the CHOICE program prior to July 1, 2009 are finally tallied the non-reversion clause will add about $3,000,000 to the program current two year budget.

This is exceptionally good news. By way of contrast, many state funded programs had their budgets cut because of the recession that is gripping the economy. That did not happen to CHOICE because of the program's many positive benefits that actually save taxpayers money.

The CHOICE program is exceptionally versatile and dollar per dollar is the most cost effective publicly funded home and community based services (HCBS) program for senior citizens and persons with disabilities in Indiana. Combined, CHOICE and Medicaid HCBS waivers give Indiana a powerful one, two punch to re-balance its publicly funded system of long term care (LTC). Re-balancing LTC to enable any and all Hoosiers who want and need HCBS to get those services, is at the heart of the mission of The Generations Project.

The full funding of CHOICE will also reduce Indiana's reliance on Medicaid funded nursing home care, the most expensive form of LTC. This means savings for taxpayers. Full CHOICE funding also reduces the odds of Hoosiers being forced into nursing homes and like institutions.

Another important development is the growing support of the Indiana Division of Aging for home and community based services. Since early 2009 the Division has increased its communications and cooperation with the Indiana Home Care Task Force, The Generations Project and statewide senior citizen organizations. This has led to productive and positive discussions regarding creative and effective ways to re-balance Indiana's LTC system. These include growing the availability of home and community based services through Medicaid waivers and the CHOICE program, utilizing nursing home dollars more effectively, establishing viable brain injury services in the state, and improving the HCBS single point of entry system locally administered by the area agencies on aging.

Much of this progress has been led by Megan Ornellas, the Director of the Division of Aging, who will become the chief financial officer of the Indiana Family and Social Services Administration in September 2009. The Generations Project and leaders of the Indiana Home Care Task Force are hopeful that her replacement, Faith Laird, will continue the very positive developments that have recently characterized the policy and programs of the Division. Nancy Griffin, a board member of The Generations Project, said: "We have seen lots of changes in the leadership of state agencies over the past few years. Many of those changes have been disruptive for policies, program and services. But we are optimistic going forward. Faith Laird worked closely with Megan Ornellas at the Division. She is steeped in the state's LTC history and policies. We are eager to work with Faith to complete the process of re-balancing long term care in Indiana."

State House Testimony Regarding the CHOICE Program

In order to give readers a better understanding of recent long term care developments and the importance of full funding for the CHOICE program and HCBS funded by Medicaid waivers, The Generations Project has reproduced below the testimony presented by John Cardwell on behalf of the Indiana Home Care Task Force to the Senate Appropriations Committee of the Indiana General Assembly on June 19, 2009.

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One North Capitol Avenue, Suite 1025
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June 19, 2009

Testimony Before the Senate Appropriations Committee Regarding the CHOICE IN-Home Services Program

To Chairman Kenley and all the Members of the Senate Appropriations Committee, let me thank you for this opportunity to testify regarding the CHOICE IN-Home Services program.

My name is John Cardwell and I serve as the chairperson of the Indiana Home Care Task Force, a voluntary statewide alliance of senior citizens, persons with disabilities, and long term care professionals founded in 1986 specifically to advocate for the establishment and expansion of home and community based services. I also serve as the president of Hoosiers First, Inc. and as the director of The Generations Project, a policy research and education organization.

In 1987, the first big dream of the Task Force was realized with the passage of the statute creating the Community and Home Options to Institutional Care for the Elderly and Disabled Act, or CHOICE. Although the original legislation carried by John Thomas died without a vote on the Senate's third reading calendar, the entire bill was later amended into HEA 1094, authored by Jeff Espich. That bill passed both houses of the General Assembly on final passage with only one dissenting vote. From the beginning, CHOICE was truly bipartisan and entirely positive in its focus and intent.

To everyone's delight, CHOICE worked as advertised and in many ways it has been better than anticipated. The program's client centered and driven design has kept families engaged in the care of their loved ones and has kept costs down.

The program's intentional use of case managers from the private non-profit area agencies on aging has proven remarkably efficient, has virtually eliminated fraud, has allowed the brokering of quality care from private providers based in the community, and has kept costs down.

Because of these features and results, the CHOICE program was cited in 1995 by the conservative Hudson Institute as a rare example of a publicly funded program that truly works. It was also cited by the Clinton administration as the best state funded home and community based services program in the nation.

CHOICE has also provided a positive framework for our Medicaid waiver system and that has kept costs down.

Most importantly, CHOICE has kept people out of nursing homes and like institutions and that has done several important things including keeping families intact, stopping forced institutional placements, and reducing the number of persons on Medicaid in nursing homes. The latter has really kept costs down.

Without a doubt every dollar spent on CHOICE produces a net savings for taxpayers and the state when compared to any other publicly funded long term care program.

According to FSSA, in state fiscal year 2005 (July 1, 2004 through June 30, 2005) the average annual cost of a CHOICE client was $6,796. This was cheaper than the average annual cost per person in state matching dollars for the Medicaid aged and disabled waiver, which was $7,788 in 2005 when the average state Medicaid plan costs for each waiver enrollee was included. When total state and federal costs for the Medicaid aged and disabled waiver were calculated the average per person cost was $20,760 a year in 2005. (Source: May 2005 *Lewin Group* report for FSSA.)

As of November 1, 2008 the cost numbers on Medicaid waivers had risen dramatically. According to FSSA's Financial Quarterly Review for the period of July 1, 2008 through September 30, 2008 (which is the most recent quarterly report on the agency's website) the annual average cost per person ranged from $32,868 to $36,084 (based on September '08 data only) when Medicaid state plan costs are included. These numbers placed the state's matching share per year per person in a range of nearly $12,390 to $13,603. Through the end of January 2009 the Division of Aging reported the average annual cost of CHOICE per person to be $6,862, or virtually no change since

2005. (When a person is only on CHOICE the state does not incur Medicaid state plan costs. A small percentage of Medicaid waiver clients also get limited services from CHOICE in order to make the Medicaid waiver services more functional.)

The per person per year costs really zoom for Medicaid funded nursing home care. According to the September FSSA QFR report cited above those costs range from $42,072 to $43,452 with the state match ranging from $15,861 to $16,381 per person per year. Conversely, the savings zoom up whenever a person is kept out of an institution because of the CHOICE program.

So what will happen if $4,000,000 is cut from the CHOICE program each year? That means nearly 583 persons, on average, could lose their CHOICE services. The actual number may be lower or higher.

In recent years, the state has placed enormous pressure on the area agencies on aging to remove people from CHOICE who are Medicaid waiver eligible. So what happens if 583 people who are dependent on CHOICE to maintain their independence are forced off the program? Where can they go to get services? The obvious answer is a nursing home.

Since CHOICE clients are almost always low income, even if they don't qualify for a Medicaid waiver, will members of the General Assembly want to take the risk of driving 583 people, over time, into nursing homes? All research studies demonstrate that low income persons that are forced into nursing homes quickly become Medicaid clients because of the high costs and the legal entitlement status of nursing home care under federal Medicaid law. Is the General Assembly willing to assume that enormous financial exposure just to cut $4,000,000 per year from the state budget? You must also consider this: it is a $4,000,000 cut per year for two years: meaning, a different set of people will be affected each year of the biennium.

Studies by Indiana University in 1989 and 1991 found that 75 percent of CHOICE clients were at immediate risk of institutional placements if they did not have home and community based services. **Cutting 583 people at $4 million per year from CHOICE then translates into an eventual annualized Medicaid nursing home placement risk of $19 million to over $25 million with the state match ranging from $7 million to about $9.5 million. Where is the fiscal logic in assuming that risk? If that risk**

is not fully realized in the first year of the biennium then it will certainly come home to roost by year two. This begs another question: why harm so many Hoosiers and their families with the threat of forced institutional placement and place taxpayers at risk at the same time?

Should a person who is CHOICE and Medicaid waiver eligible always stay on CHOICE? No, not when that person needs Medicaid state plan medical services in order to stay healthy and safe. However, for a person who only wants and needs CHOICE, who has access to medical coverage without going on Medicaid, it makes no sense to drive that person onto a Medicaid waiver and then assume the added cost of Medicaid state plan services. The solution is to stop interference in the decisions between area agency on aging case managers and CHOICE clients and let the program continue to work as originally designed and intended. That model has been fraud free, low cost, remarkably effective and very popular.

Clearly, the need for CHOICE services remains despite attempts in the past few years by the state to make access to the CHOICE program difficult including the use of discriminatory provider rates, delays in releasing CHOICE appropriations, pressuring AAAs to prioritize Medicaid waiver enrollments over CHOICE, and driving persons from CHOICE onto the waivers without taking into consideration the cost of Medicaid state plan services. Of course, the latest example was the January 9th order by the Division of Aging to the AAAs to stop CHOICE enrollments. Given the new and positive communications that have recently started between the Division of Aging and consumer advocates we hope the biased policies against CHOICE will soon be assigned to the past.

So it is rather remarkable that CHOICE enrollments are now rising and as of yesterday the Division of Aging reported that over 2,400 people are still on waiting lists for CHOICE services. (It should be noted that current enrollment and waiting list numbers will easily exceed the $48.8 million CHOICE appropriation level because of the dollars taken from CHOICE for Medicaid waiver match.)

Frankly, nearly 7,000 Hoosiers should be enrolled in CHOICE each and every day of the year, and over 14,000 should be getting CHOICE services during the course of the year. Enrollment at that level would fully utilize the $48.8 million CHOICE appropriation including the portions now used for Medicaid match and administrative costs. CHOICE utilization at that level would also drive down Medicaid funded nursing home usage, reduce the enrollment of persons in Medicaid waivers who could be served equally well on CHOICE and at a lower overall cost while saving taxpayer money, and free up Medicaid waiver slots for additional Hoosiers who need and qualify for those services.

So what is the best course today and in the special session? The General Assembly endorsed that course during the regular session and it follows below:

1. Keep the yearly appropriation for CHOICE flat-lined at $48,765,643 per year.
2. Keep the Medicaid waiver match from CHOICE flat-lined and capped at $12.9 million per year.
3. Continue to keep CHOICE dollars from reverting to the state's General Fund so the area agencies on aging can rationally budget for the program from year to year and maintain the continuity the home care population needs.

These steps were wisely endorsed by the House and the Senate in the budget bills considered during the regular session. These steps are compatible with current state policy as established by the General Assembly in SEA 493 and in SEA 438, and as endorsed by FSSA and the Daniels administration.

Conclusions

Can we do better in the management and coordination of publicly funded home and community based services (HCBS) in the future? Yes. There are encouraging signs with the recent changes that have been made at FSSA. But the General Assembly must stay engaged. The General Assembly must insist on the full implementation of the wise and prudent HCBS reform act it passed in 2003, SEA 493, and renewed with the passage of SEA 438 in 2009.

We know things can improve, and we still have the remarkable foundation of the CHOICE program to build on that you so wisely established in 1987. Fully funding and utilizing CHOICE remains the keystone to a better system of home and community based services in Indiana. Thank you.