State Senate Passes Budget After All Night Session; Medicaid Funding Intact

The State Senate worked through the night and passed a budget early this morning (July 1) by a 17-16 vote. While making some changes to the Joint Finance Committee and the Assembly versions of the budget, the Senate agreed to keep funding for the Medical Assistance budget intact.

WHA President Steve Brenton applauded the State Senate for preserving Medicaid funding. “The State Senate, like the Assembly and JFC, understands the importance of making Medicaid funding a priority to protect Wisconsin’s most vulnerable citizens. And by more appropriately funding the program, this budget commitment begins to chip away at the ‘hidden health care tax’.”

The Senate Democrats offered nearly 50 amendments to the bill including a failed amendment that would have required the Office of the Commissioner of Insurance and the Department of Health and Family Services to develop a plan on how to provide universal health coverage to all Wisconsinites by 2010. (continued on page 2)

Wisconsin Delegation Members Urge Rejection of Hospital Construction Ban

Six members of the Wisconsin Congressional Delegation have co-authored letters to Department of Health and Human Services Administrator, Mark McClellan, urging him to reject proposed regulations that would prevent most Critical Access Hospitals (CAHs) from rebuilding their facilities more than 250 yards from their current campus.

Wisconsin’s Senators Russ Feingold and Herb Kohl, both Democrats, and Representatives Paul Ryan (R-Janesville), Ron Kind (D-La Crosse), Mark Green (R-Green Bay) and Tammy Baldwin (D-Madison) signed letters requesting that CAHs be allowed to relocate as appropriate to improve the care of their rural communities.

The Senate letter, released early this week, contained 17 signatures from a bipartisan roster of lawmakers. The House letter, circulated by members of the House Rural Healthcare Coalition, also included a substantial bipartisan roster of supporters. [See President’s Column on page 3 for additional information on this topic.]
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The Assembly has vowed to take up the Senate version next week after the long July 4th weekend. Some of the changes in the Senate version include the creation of a “taxpayer’s protection fund,” tax credits for adoption and 2.3 percent reductions in agency spending. Although some of the cuts made in the Senate may be a tougher sell in the Assembly, Speaker Gard has indicated his commitment to finishing work on the budget without going to a budget conference committee.

The state’s fiscal year ended at midnight last night (June 30). But unlike many other states, Wisconsin government continues operating under current funding levels. If the Assembly passes the Senate version of the budget next week, the bill will go to Governor Doyle who will have the final word by using the most powerful veto pen of any governor in the country.

Scruggs-led Suits Continue to Face Federal and State Court Dismissals

Plaintiffs challenging not-for-profit hospital billing practices have continued to receive setbacks in federal courts around the country in the last few weeks. Plaintiffs have also seen defeats in state courts as plaintiff’s attorneys, including Mississippi trial attorney Richard Scruggs, have increasingly brought suits against not-for-profit hospitals in state courts.

Since April, U.S. District Courts in Massachusetts, Georgia, Pennsylvania, Texas, Mississippi, Florida, and Michigan have all dismissed with prejudice federal claims against not-for-profit hospitals. Additionally, the courts in Texas and Michigan also dismissed with prejudice state claims against the not-for-profit hospitals. Claims dismissed with prejudice cannot be refiled in another court.

Some of the dismissals have been accompanied with pointed statements from the court:

“A court is not the proper arbiter of the legitimacy of plaintiffs positions or the societal institution to correct the wrong, if it is a wrong. Simply put, the arguments plaintiffs advance in the first amended complaint have no support in law,” stated District Court Judge Avern Cohn of Michigan when dismissing a state breach of contract claim. Judge Cohn also noted “...of significance is that Beaumont has a need-based charity-care policy that provides discounted medical care to certain uninsured patients.”

“The rash of these meritless claims against not-for-profit hospitals has the hospitals bleeding green... The bleeding must stop,” stated District Court Judge Howell Cobb of Texas. He further pointed out that no court has found for the plaintiffs on any substantive legal issue.

Furthermore, some lawsuits brought in state courts have been dismissed. Two separate cases in Georgia have been dismissed since April. In one case, Georgia Superior Court Judge John R. Harvey rejected plaintiffs’ claims that the hospital system’s admission form “has an implied term that [the hospital] will charge no more than a fair and reasonable price for services rendered.” The court ruled that “[u]nder the contract, plaintiffs are bound to pay the charges specified in the chargemaster for the services they receive.”

Following continued setbacks in federal court, Scruggs announced in February a “second legal offensive” in which he would begin to file new claims against not-for-profit hospitals in state courts.

In March 2004, WHA released “Billings and Collections Guidelines for Wisconsin Hospitals,” to help provide guidance to Wisconsin hospitals in balancing their responsibilities to their patients. Wisconsin hospitals have a long tradition of providing needed health care to their communities, 24 hours a day, seven days a week. On a daily basis, Wisconsin hospitals provide free or largely subsidized care to 2,315 patients. The community benefit comes with a significant price tag...$496 million per year, a 10 percent increase from the previous year. The Guidelines can be found at www.wha.org/newsCenter/pdf/2004uncompcare.pdf
President’s Column

Wisconsin Congressman Ron Kind (D-La Crosse) has set the stage for dismantling a proposed Centers for Medicare and Medicaid Services (CMS) rule that would create a *de facto* construction ban for Critical Access Hospitals (CAH) in Wisconsin and across the nation.

Congressman Kind was successful last week in obtaining key support from House Ways and Means Committee leaders who agreed to intercede with CMS to block the onerous regulation. The development occurred after Kind proposed an amendment that would have blocked the new CMS regulation. Congressman Kind withdrew his amendment, which had bipartisan support, only after Ways and Means Chairman Bill Thomas (R-Calif.) and Vice Chairwoman Nancy Johnson (R-Conn.) agreed to intervene directly with CMS leadership.

Both WHA and the Rural Wisconsin Health Cooperative (RWHC) strongly oppose the CAH construction ban, which would thwart CAHs from relocating more than 250 yards from their current campuses, regardless of existing circumstances. Wisconsin hospitals located in Osceola, Hillsboro and Edgerton are directly affected by the pending regulation, and additional Wisconsin hospitals undoubtedly would be prevented from necessary relocations in the future.

Congressman Kind’s yeoman efforts (and those of his able legislative assistant, Betsy Dunford) have laid the groundwork for a CMS retreat from this bad public policy, which is symptomatic of deep-seated CMS staff skepticism (and one might imagine outright opposition) to the CAH program. But CAH advocates in Congress, led by Congressman Kind, will likely win this one given the overwhelming evidence that the CAH program has been a successful safety net for rural health care in Wisconsin and all across the nation...at a cost of less than one percent of total Medicare spending.

It’s also important to note that four members of the Wisconsin Congressional Delegation signed on to a recent letter to Michael Leavitt, Secretary, DHHS, asking for his help in blocking the proposed CAH construction ban. The letter noted that the regulation would usurp community control of rural hospitals from local governing boards to CMS, “an unprecedented loss of control that would threaten all hospitals in all communities.” In addition to Congressman Kind, Wisconsin Representatives Mark Green (R-Green Bay), Paul Ryan (R-Janesville) and Tammy Baldwin (D-Madison) were co-signatories of the correspondence. All four lawmakers are members of the House Rural Healthcare Coalition, a group composed of Republican and Democratic legislators committed to advancing rural health care initiatives.

Steve Brenton
President

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We have had a Robin Hood philosophy in health care, we take care of those who cannot take care of themselves. Free clinics are an excellent way to provide services to poor, while keeping these patients from having to use emergency departments for primary care.

Hospitals need to be able to quantify what they give to the community. If it does not exceed what they would pay in taxes, they should pay taxes.
Governor Notifies CMS of Wisconsin Opt-out of Physician Supervision Requirement for CRNAs

On June 6, 2005 Governor Jim Doyle notified the Centers for Medicare and Medicaid Management (CMS) that Wisconsin would opt out of the CMS regulation requiring physician supervision of Certified Registered Nurse Anesthetists (CRNAs). In his letter, he indicated that as Governor, he had met the requirements for such action, which were: consulting with the Medical Examining Board and the Board of Nursing, confirming that the opt out was consistent with Wisconsin law, and in the best interest of Wisconsin citizens. The opt out is effective upon submission of the letter by the Governor. With this decision, Wisconsin joins 13 other states including Minnesota and Iowa.

This action by the Governor is permissive, which means that hospitals may determine what, if any, supervision will be required of CRNAs working in their facilities. Current supervisory requirements may be located in hospital policy and medical staff regulations.

Reimbursement of CRNAs by all level of payers may be affected by any changes hospitals decide to make. The opt out does not change the CMS requirements that hospitals must have physicians available at all times and that all Medicare patients must be under the care of a physician (or certain other specialists specified in the rule).

Questions and discussion are always welcome. Call Judy Warmuth, vice president, workforce development at jwarmuth@wha.org or 608-274-1820.

Entity Makes Questionable Legal Threats Against Hospitals in Several States

There is an entity calling itself TMA International Trusts that is representing itself as a potential “qui tam relator” and threatening to bring False Claims Act lawsuits against hospitals for alleged violations of the Privacy Act. This entity is now making direct contacts with hospitals, threatening them with False Claims lawsuits, and offering to “settle” the matter if the hospital makes payment to the entity.

The entity is alleging that state Medicaid agencies have flawed Medicaid applications and is attempting to link hospitals to the Medicaid agencies. AHA’s outside counsel is reviewing the claims and demands of the entity and is cautioning against responding directly to the demands. The entity’s Web site is www.tmaittma.com and indicates that hospitals are only the latest target in a series of legal attacks that have been threatened. Contact Laura Leitch at lleitch@wha.org if you become aware of activities in Wisconsin or if you have questions.

Deadline for Quality & Safety Forum Projects Extended to July 15

The deadline has been extended to Friday, July 15 to submit quality and safety improvement projects for inclusion in the 2005 Wisconsin Quality & Safety Forum Project Showcase. Only those projects submitted by July 15 will be eligible to participate in the Project Showcase, be included on the CD-ROM of all submitted projects, and will be considered for offering a breakout presentation focused on your project.

Showcase projects submissions will only be accepted via completion of the new online submission form at www.wha.org/QSFshowcase. The online form is currently available, and all submissions are due to WHA, via the online form, by July 15, 2005. For questions about project submission, contact Brian Competente at 608-274-1820 or bcompetente@wha.org.

Projects that have not previously been submitted are eligible, as are new phases of a previously submitted project. A full project submission brochure, describing all submission criteria, is available on WHA’s Web site at www.wha.org.
Grassroots Spotlight

The HEAT is on this 4th of July!

What does the 4th of July weekend bring?

*Lots of great parades and picnics!*

And what do parades and picnics bring?

*Lots of legislators!*

As you enjoy this holiday weekend with family and friends, WHA’s Hospitals Education & Advocacy Team (HEAT) has several quick & easy ideas for grassroots advocacy:

- While at local picnics and parades (legislators love these!), keep your eyes out for legislators, and be sure to introduce yourself. Tell your legislators where you work and how important your hospital is to your community.

- Make sure your legislator knows the importance of continuing to make Medicaid a priority in Wisconsin.

- Have your photo taken with your legislator – send them a copy (include your name/address) with a follow up note saying you enjoyed meeting them. (Send HEAT a copy, too. We’d love to see our grassroots team in action!)

- Tell your legislator you would be happy to serve as a resource on health care related issues.

- If an opportunity presents itself, ask your legislator to consider visiting your hospital.

- Please let HEAT know if you’ve been in contact with your legislators. Call or email Jenny Boese at 608-268-1816 or jboese@wha.org.

Happy 4th of July!

Hospitals Education & Advocacy Team (HEAT)

_Educating and mobilizing Wisconsin hospitals so your voice is heard by legislators on behalf of your patients and the communities you serve._
Member News: Shabino Announces Retirement

Charles Shabino, MD, president and chief executive officer of Aspirus, Inc. will retire at the end of 2005.

“I have enjoyed providing medical leadership for Aspirus for 12 years,” he said. “And my priority is to help this organization continue to achieve incredible success that benefits our community.”

Dr. Shabino has been a member of the WHA Board since 1998, serving as chair in 2004. He chaired the WHA Council on Medical and Professional Affairs from 1997-2003. Shabino was also on the HFS-124 Task Force, and currently chairs both the WHA Advocacy Committee and the Nominating & Awards Committee.

“Chuck personifies the voluntary leadership that has helped shape WHA’s proactive transparency agenda, especially as it relates to the public reporting of patient quality and safety measures,” said WHA President Steve Brenton. “We look forward to Chuck’s continuing involvement in WHA activities.”

Shabino joined Aspirus Wausau Hospital as its senior vice president of medical affairs in 1993 and served as chief medical officer of Aspirus, Inc. since 1998. He will continue as advisor to the president and CEO through the end of the year.

The Aspirus Board has appointed current board member Alan Verploegh as interim president and CEO until a successor to Shabino can be hired. Verploegh has served on the Aspirus Wausau Hospital Board of Directors since 1999 and on the Aspirus Board of Directors since 2004.

Member News: Secretary Helene Nelson Attends Children’s Hospital of Wisconsin Pediatric Extended Care Program Anniversary

Helene Nelson, secretary of the Wisconsin Department of Health and Human Services, visited the Pediatric Extended Care (PEC) at Children’s Hospital of Wisconsin to celebrate its tenth anniversary on June 22. The PEC provides advanced Children’s Hospital of Wisconsin medical care to medically fragile children who otherwise would require home health care or institutionalization. Children receive up to 11 hours of nursing care a day while participating in social and developmental activities in an early childhood setting that allows them to interact with other children.

“My staff visited Children’s Hospital’s Pediatric Extended Care a few weeks ago and was profoundly affected by these children,” said Nelson. “Every day they make and write policies, but they said they will never write another one without thinking about these kids.”

Since 1995, the PEC has provided services to 140 children. Currently, 13 children are active in the program. The only center of its kind in Wisconsin, the PEC was implemented to offer children on Medicaid receiving at least eight hours of nursing care a day in their homes the opportunity for a group experience at no extra cost. Children are able to socialize with other children and improve developmentally, socially and emotionally. In addition, their parents are provided a respite and can oftentimes return to work.

“This is a wonderful example of how the state and private sector can work together and creatively come up with an idea to improve the lives of children,” said Nelson. “I am proud to say this idea has worked and 10 years later continues to provide children with special health care needs this unique and wonderful care.”
WHA Educational Opportunities

Register Today for July 14 “Medicare 101” Seminar

On July 14, WHA will offer a seminar design specifically for hospital staff who need to understand the fundamentals of the various Medicare hospital payment systems, including cost-based, prospective and fee schedule systems. This may include staff in the areas of public relations and communications, government relations, health information management, finance, and board of trustee members.

Each participate will receive a 140-page reference manual, *Medicare 101: An Overview of Medicare Payment Systems*. This invaluable manual includes 25 tabbed sections, and covers all of the Medicare payment systems in a simplified way with real-life examples. The manual addresses everything from the different PPS systems (inpatient, long-term care, outpatient, rehab, SNF, etc.), different fee schedules, rural payment systems, Medicare Advantage, and physician payments. Additionally, you will receive rule change updates for one year for the manual. Additional manuals may also be purchased.

The seminar will be held on July 14, 2005, from 10 am to 2:30 pm at Stoney Creek Inn in Mosinee. A brochure and a registration form are available on the web site at [www.wha.org](http://www.wha.org).

This program is offered in cooperation with Hospital Financial Management Association of Wisconsin, Wisconsin Forum for Healthcare Strategy, and the Wisconsin Healthcare Public Relations and Marketing Society. For more information on the program content, contact Jennifer Frank at 608-274-1820 or email jfrank@wha.org. For registration questions, contact Sherry Rabuck at 608-274-1820 or email srabuck@wha.org.

Service Excellence & Patient Loyalty Workshop Presented by Author Fred Lee

Register yourself and your team today for the August 18 seminar, “If Disney Ran Your Hospital – Some Things You’d Do Differently” presented by Fred Lee.


The seminar will be held on August 18, 2005, from 9 am to 4:30 pm at Country Springs Hotel & Convention Center in Stevens Point. A brochure and a registration form are available on-line at [www.wha.org](http://www.wha.org). A special team registration rate for three or more attendees per facility is available. This is proving to be a very popular seminar, so get your registrations in today.

For more information on the program content, contact Jennifer Frank at 608-274-1820 or email jfrank@wha.org. For registration questions, contact Sherry Rabuck at 608-274-1820 or email srabuck@wha.org.
Strong Rural Communities Initiative Proposals Due July 31

The Rural Health Development Council, a legislatively appointed advisory group to the State of Wisconsin’s Department of Commerce, is looking for six rural Wisconsin communities to join it in developing the Strong Rural Communities Initiative. The goal of the initiative is for rural communities to improve their health indicators and health status through the development of ongoing, local interventions by coalitions that include (1) the local hospital and representatives of the medical community, (2) the county health department, and (3) representatives of other non-health related local businesses. Involvement of the local business community and the long term potential to reduce health care costs is a particular emphasis of this initiative.

The Rural Health Development Council will work with three selected rural communities to seek a three year implementation grant from the Wisconsin Partnership Fund for a Healthy Future’s Community Academic Partnership Fund at the University of Wisconsin, and it will work with three additional selected rural communities to seek a three year implementation grant from the Healthier Wisconsin Partnership Program at the Medical College of Wisconsin. It is hoped that each of the selected communities will receive a minimum of $100,000 over three years as well as the support of an academic partner from the University of Wisconsin or Medical College of Wisconsin. Funding decisions are expected in early 2006.

The complete Request For Proposal and Application Kit is available at [www.rwhc.com/SRCI.html](http://www.rwhc.com/SRCI.html).

Position Available: CEO in Mauston, Wisconsin

Mile Bluff Medical Center (MBMC) in Mauston, Wisconsin is seeking a President and Chief Executive Officer. With $47 million in net revenues, Mile Bluff includes a 40-bed acute care hospital, two 60-bed nursing homes, a 34-bed retirement home, three clinics, a dialysis center, and home health. Reporting directly to the Board of Directors, the President and CEO will be charged with perpetuating the cooperative and collaborative relationship with the medical staff, while continuing to grow the business to meet the needs of the community and the county. Ideal candidate qualifications include a Bachelor’s degree and 15 years health care experience, including rural experience, with at least ten years at the senior management level and five years as a VP; prior COO or CEO experience is desirable. Candidates must have a successful track record of developing excellent working relationships with an independent and employed medical staff, strong financial acumen, and a demonstrated record of leadership success focused on a strategy for growth and community involvement. You are invited to visit [www.milebluff.com](http://www.milebluff.com) for more information about MBMC. If you are interested in this CEO opportunity, contact Pat Neds, Research Associate, at 816-373-9988, or email patricia.neds@mgmtscience.com. All inquiries will be handled confidentially.