

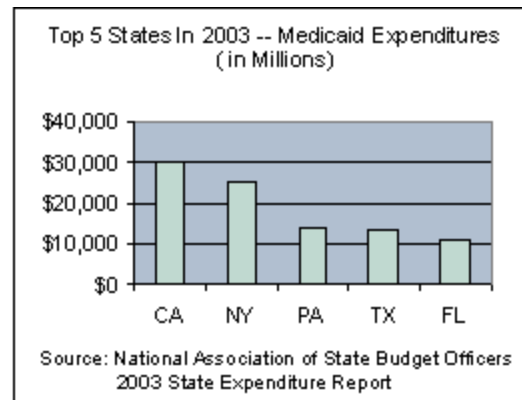
Eye on elder issues

EYE on ELDER ISSUES
February 2005, vol. 2, issue 2

Balancing State Budgets on the Backs of our Elderly and Disabled

At their winter meeting earlier this week in Washington, DC, governors from across the country met with President Bush to discuss state issues, including Medicaid budget cuts proposed by the President. As a jointly funded venture between the Federal and State governments to assist states in providing adequate medical care to eligible needy persons, Medicaid is the largest program providing medical and health-related services to the elderly, disabled and blind.

No one would have thought that Medicaid funds for necessary medical treatments for our elderly and disabled populations would become pawns in balancing state budgets. What most people don't understand is that the federal government allocates a "pot" of Medicaid dollars to each state and then allows the state to administer the Medicaid program within specified guidelines. **States are allowed to apply for "waivers" to the program to allow for program expansions and ways to meet other policy goals. Thus, in what most of us consider a federal program, it is surprising to see that Medicaid benefits may actually fluctuate from state to state.**



Over the past 20 years the Centers for Medicare and Medicaid Services (CMS), has allowed and, even sometimes encouraged, states to experiment with the Medicaid Program. "Medicaid waivers" were originally conceived to allow the states to expand coverage and to experiment with the program to further certain public policy goals. For example, many states have Medicaid waiver programs which assist the elderly and disabled in staying in their own homes as this meets two public policy goals: the first to reduce the cost to the state by avoiding institutionalization, and the second to provide a higher degree of independence and quality of life for the disabled or elderly person. Similarly in 1992, Medicaid waivers were permitted for the purpose of encouraging the purchase of long term care insurance, although only four states were permitted to initiate this effort.

Recent Medicaid waivers proposed by the states of Connecticut, Massachusetts, New York, and Minnesota are not waivers that would expand coverage or provide for experimentation to achieve other public policy goals. **These waivers are intended solely for the purpose of reducing state expenditures by reducing Medicaid coverage or by restricting those who qualify for certain coverages. These state agencies are requesting permission from CMS to ignore federal statutory law relating to look-back periods for gifts, estate recoveries, lien processes, and other technical items that ultimately restrict the number of eligible Medicaid recipients in these states.** CMS has not yet approved any of these waivers; however, pressure is being placed upon the Administration to approve these "negative waivers."

The National Academy of Elder Law Attorneys (NAELA), whose members represent thousands of individuals in the affected states, has concerns with both the process and the policies themselves. **NAELA believes it is in the best interest of our elderly and disabled citizens that Congress should control and govern significant public policy decisions when federal benefits are affected.** Furthermore, state and federal

bureaucracies should not be empowered to make substantive policy decisions that affect the health and welfare of our most vulnerable populations. The act of a state employee asking a federal employee to ignore an act of Congress is fundamentally flawed and leaves the elderly and disabled to the mercy of the those who are simply looking to balance budgets and are not attuned to what the benefits were developed for or what they mean for our citizens.

Public policy concerns aside, the overall goal should not be to restrict coverage or reduce benefits, but rather to assist the states in their budgetary dilemmas. The states and federal government should first look to the very inefficient administrative processes within the Medicaid program itself. They should take a fresh approach to health care, in general, and the irrational patchwork of programs that have been implemented. Finally, policy makers must consider the likely unintended results, including significant shifts in social norms as our citizens are forced to desperately look for ways to work around the system.



One of the core values of our country is to take care of our own citizens. We have programs in place, albeit, they are not ideal. Until we address the real health care issues in our society and develop alternative ways of dealing with these problems, we cannot remove benefits from those who count on them and need them the most. Balancing state budgets is a weak defense for not upholding our core values.



For more information about elder law attorneys and the National Academy of Elder Law Attorneys, visit <http://www.naela.org>. Established in 1987, NAELA provides a resource of information, education, networking and assistance to those who deal with the many specialized issues involved with legal services to the elderly and people with special needs.

Next EYE on ELDER Issue: Can Social Security Benefits Be Guaranteed?

Note to Our Readers: This e-newsletter, ***Eye on Elder Issues***, is presented as a public service by the National Academy of Elder Law Attorneys (NAELA). We are pleased to send you this issue and welcome your comments. You can expect to receive this newsletter monthly as NAELA explores, reports and provides insight on timely topics affecting our nation's seniors and their families. In addition, the growing population of Baby Boomers is addressing issues for themselves and their families that are new and unique. This publication is intended to explore those issues from all sides and to educate consumers, aging network professionals, law makers, and members of the media.

Please feel free to forward this e-newsletter or suggest additional recipients to us (use the "opt-in" below). ***Eye on Elder Issues*** is for your free and unrestricted use; permission to reprint in whole or part is granted provided appropriate credit is given to NAELA.