

P. MICHAEL STURLA, CHAIRMAN
414 MAIN CAPITOL BUILDING
P.O. BOX 202096
HARRISBURG, PENNSYLVANIA 17120-2096
PHONE: (717) 787-3555
FAX: (717) 705-1923



HOUSE DEMOCRATIC POLICY COMMITTEE
www.pahouse.com/PolicyCommittee
Policy@pahouse.net
Twitter: @RepMikeSturla

House of Representatives
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

HOUSE DEMOCRATIC POLICY COMMITTEE HEARING

Topic: State Budget Cuts

418 Main Capitol Building – Harrisburg, PA

July 13, 2011

AGENDA

- 10:00 a.m. Welcome and Opening Remarks
- 10:10 a.m. W. Gerard Oleksiak
Treasurer
The Pennsylvania State Education Association
- 10:40 a.m. Brinda Carroll Penyak
Deputy Executive Director
County Commissioners Association of Pennsylvania
- 11:10 a.m. Judy Banks
Deputy Director
Disability Rights Network of Pennsylvania
- 11:40 a.m. Michael Wood
Research Director
Pennsylvania Budget and Policy Center
- 12:10 p.m. Closing Remarks



**Testimony of the
Pennsylvania State Education Association (PSEA)**

**Public Hearing Regarding
2011-2012 State Budget**

**Presented to the
House Democratic Policy Committee
July 13, 2011**

**By
W. Gerard Oleksiak
PSEA Vice President-Elect**



Good morning Chairman Sturla and members of the Policy Committee, I am Jerry Oleksiak, PSEA Vice President-elect and a special education teacher in the Upper Merion Area School District with more than 30 years experience in the classroom. Thank you for inviting me here today to share PSEA's perspective on the recently passed 2011-2012 state budget, a spending plan that will have real impacts on each of our 191,000 members and the students and communities we serve across the Commonwealth.

On March 8th of this year, Governor Corbett set forth a 2011-2012 budget that cut over \$1 billion from public education. Championed by Governor Corbett until its passage on June 30th, this budget is a step backwards for Pennsylvania and its economic future. While we appreciate the fact that the Legislature was successful in restoring some public education funding, these unprecedented cuts totaling more than \$900 million to pre K-12 public education will have both an immediate and long-term impact on the 1.8 million students in our public schools.

We are pleased that legislation permitting school districts to furlough staff for economic reasons was not sent to the Governor's desk for signature. Yet, even without this legislation, school districts are reducing their staff by the thousands. Whether it is through furloughs or attrition, our students will return to school in August and September, and they will do so with fewer teachers and more of their fellow students crowded into classrooms with them. That's real students, Pennsylvania's future, with real needs that will not be met, real programs that support them that won't be in place, and real opportunities that they will never have.

More students in fewer classrooms will absolutely have a direct impact on student learning and achievement. The evidence overwhelmingly indicates that smaller class sizes increase student achievement, yet Pennsylvania is moving away from practices that work, and we are doing this even though it is not necessary. The great strides we have made over the past several years are now at risk.

The political and economic reality is that these cuts did not have to happen. Yet they are happening because of the Governor's refusal to invest more of the nearly \$800 million in surplus revenues back into our public schools and other critical services.

For the past decade, Pennsylvania has made wise, unprecedented, and successful investments into our public school students. Those investments were working. Student achievement has continuously improved. The academic progress our students are making is clearly evidenced not just by test scores, but by other independent variables as well. Much work needs to be done, particularly in districts that are struggling, but the evidence of success is clear. We are prepared to do that work, and our release of "Solutions That Work" last month indicates that commitment.

We are not alone in that assessment. The Governor's own budget proposal demonstrates that student achievement has increased to historically high levels. In 2010, 75% of students were proficient or advanced in math and 72% were proficient or advanced in reading. The funding

cuts enacted by Governor Corbett means this progress is at significant risk, especially in schools with the largest achievement gaps, where funding cuts were the most drastic.

It is said that state budgets are about setting priorities and, in these economic times, about making tough choices. Yet, putting the future of our children at risk and decreasing their access to educational opportunity should never have been a choice. Ultimately, the decision to reduce our children's access to educational opportunities was not just a tough call in hard times. It was a choice to undermine publicly-provided schooling, which is open and free to all.

Until June 30th, the state had made unprecedented investments in targeted programs proven to work to meet our students needs – tutoring, extended classroom time, new courses such as foreign language and advanced math with the most up-to-date curriculum and hands-on learning tools for science and other classes, pre-kindergarten or full-day kindergarten, smaller classes, and additional professional development being provided to their teachers. Today, those programs are in serious jeopardy and have already been cut in certain school districts. The results can be easily predicted.

Governor Corbett's budget means that school districts are eliminating thousands of teaching positions, increasing class size, and reducing full-day kindergarten offerings, tutoring, summer school, and extracurricular activities. Open any newspaper across the Commonwealth and you can see this unfortunate news spill out on the pages. Districts are spending their reserve funds and increasing local tax rates, placing additional burden on their residents.

Aside from the actual funding cuts, this new budget abandons the "Costing Out" funding formula and efforts of recent years to distribute funds based on student needs in the classroom. Instead, it reverts to an inadequate and inequitable system of annual ad-hoc political decisions determining how much state money will go to each school district each year. The Commonwealth's ability to ensure that all students have the opportunity to meet their full potential, regardless of the wealth of their communities, depends upon a foundation of an equitable school funding structure. On this point, the Governor's budget has failed.

It did not have to be this way. A more responsible budget could have been put into place. PSEA is a founding member of the CLEAR Coalition (Coalition for Labor Engagement and Accountable Revenues) – a coalition of public sector and private-sector unions – formed to fight for a balanced approach to the state budget. Our work includes efforts to close tax loopholes and end special interest tax breaks, rather than relying solely on deep cuts to essential public services critical to Pennsylvania's working families.

CLEAR asserts that this budget does not represent shared sacrifice and tough choices for all, but rather only pain for middle class families in the Commonwealth. It cuts funding for public schools and universities, reduces maternal and child health programs and other critical services, and ensures that thousands of Pennsylvanian's will lose their jobs. All of this, while the financial interests of powerful corporations prevail. This budget does not require gas drillers to pay their

fair share of taxes for the natural resource they are taking from Pennsylvania nor did it utilize the almost \$800 million in surplus revenues to restore the painful cuts in health care and education.

We cannot stand by while the needs of our children, the poor, the struggling, and the sick are ignored while corporate stakeholders are not required to invest their fair share in the communities from which they profit.

There are few things that are more American, more truly democratic, than the promise of a free public school education. Public schools have played a key role in making us one of the freest, richest, and best-educated nations in the history of the world. They have taught future presidents, Nobel laureates, great artists, musicians, and writers – leaders in every field of human endeavor, even state legislators! For over two centuries, they have been an essential part of the American experience. If America, if Pennsylvania, is to remain a leader, we must work to correct the deficiencies and injustices of this budget as we move forward into next year. The members and leadership of PSEA look forward to working with you to once again establish public education as a state priority in 2012-2013.

Thank you for this opportunity to speak with you today.

TESTIMONY ON COUNTY-RELATED BUDGET CUTS

PRESENTED TO THE
HOUSE DEMOCRATIC POLICY COMMITTEE

BY

BRINDA CARROLL PENYAK
DEPUTY DIRECTOR

July 13, 2011
Harrisburg, PA

Good morning. I am Brinda Carroll Penyak, Deputy Director for the County Commissioners Association of Pennsylvania. The CCAP is a non-profit, non-partisan association providing legislative and regulatory representation, education, research, insurance, technology, and other services on behalf of all of the Commonwealth's 67 counties. I am pleased to appear before you today to present remarks on the impact of the FY 2011-2012 state budget on county programs, particularly in human services.

In testimony before this committee prior to adoption of the budget, CCAP laid out the history of cuts county human services programs have endured. The ninth consecutive state budget presents a mixed bag for counties, including significant reductions that will continue painful local decision-making.

Counties are disappointed that the funding levels proposed by Gov. Corbett in March, identified by CCAP as the floor for funding after eight years of tight budgets and reductions, freezes and significant cuts, were reduced first in the House and then in the final version adopted in the Senate. While the Human Services Development Fund is restored in part, other cuts will leave significant gaps in the funding counties rely upon for mandated services. Most concerning is a cut of \$45 million for child welfare programs and reduced support for behavioral health. Further, funding proposed by the Governor to invest in programs proven to reduce prison populations may be in jeopardy. The Governor's proposed cuts in education were reversed in part in the final budget through shifting funds from corrections and the welfare budget, resulting in the cuts discussed above.

Other legislation which will implement the budget does contain some good news for counties. A Welfare Code amendment aimed at reducing costs in that agency contains a CCAP priority which will lead to significant reductions in costs for inmate medical services. The savings will come from capping fees at the rates paid by Medicaid, and by qualifying inmates for Medicaid for services provided outside jail and prison facilities, which will draw down the federal share of Medicaid for those services. For counties, payment of the state's share of the cost, rather than the current system where counties pay all costs for their inmates, will result in major savings.

The Fiscal Code amendments, contained in SB 907, provide implementation instructions to the state agencies, and once again include language to protect counties from costs that may result from the federal government's deferral of child welfare funding. An addition for the coming year is a requirement for the Department of Public Welfare (DPW) to work with CCAP in the development of pilot programs for multi-purpose grants that are expected to provide greater flexibility for local human services delivery options. A report on how to implement the pilots is due by October 31, 2011, with an expectation of implementing pilots in the FY 2012-13 budget.

The following paragraphs describe the history of cuts by program area, as well as the impact of the funding levels contained the FY 2011-2012 state budget.

Agriculture and the Environment.

As in other areas, county line items suffered a number of cuts in these areas. Conservation District funding will see less than a one percent cut, down to \$1.03 million. Funding was increased by \$50,000 for gypsy moth control, while black fly and West Nile virus were cut by \$35,000 (one percent) and \$438,000 (ten percent) respectively.

Agriculture conservation easement administration and nutrient management programs were folded into the Department of Agriculture's general government operations, which saw a \$472,000 decrease although it is not yet clear how the individual line items are affected. The farmland preservation program anticipates a state funding threshold of \$22 million for 2011, an increase of about \$2 million. Funding for county fairs, originally proposed by Gov. Corbett to be eliminated, was maintained although with an almost three percent decrease. Food programs also received a slight decrease, while state funds for crop insurance were zeroed out.

The line items for agricultural research and Cooperative Extension have been split out of Penn State University's funding and transferred to the Department of Agriculture's budget lines. Funding for both programs has been reduced by 19 percent, the same as the overall cut to Penn State.

Child Welfare

County children and youth services are entitlement programs that must be provided where there is need, regardless of available funding. Counties have followed a needs-based plan and budget process since 1991 that requires counties to predict their budget needs two years in advance. Since 2002, county agencies have also undergone many changes in the budget process. Increased documentation demands that often are not reflected in changes in funding levels have significantly added to staff preparation time, and therefore costs. Some program areas have been extracted to special grant status and are now being reinstated, but at lower reimbursement rates for counties. It is difficult to track and quantify reductions in funding because in some cases state money has been reduced while federal or local share, or both, have increased. We need a system that is flexible, sustainable and predictable and that brings a higher proportion of allocated funding into direct services to children and families.

Cash flow has been an ongoing problem for children and youth services. This results not only from the FY 2009-2010 impasse, but also from deferrals and disallowances from the federal government related to Title IV-E funding. The impact on each individual county varies, but ranges from hundreds of thousands to millions of dollars. Act 148 dollars provide the largest portion of state funding to children and youth services with a required county match, but this money is reimbursed to the counties.

Administrative requirements on children and youth agencies have also increased, most notably due to new but unclear reporting requirements from the federal Administration for Children and Families related to Title IV-E funding. This leaves less staff time for the core functions of the agency, and complicates the ability to maintain suitable case loads and retain qualified employees in a stressful and low-paying environment. The uncertainties caused by cash flow

issues have caused some counties to delay hiring, while others have reduced staff and programs and are focusing only on mandated services while eliminating things like truancy prevention and programs aimed at improving family relationships to prevent the need for entitlement services.

County children and youth will receive just over \$1 billion in FY 2011-2012, less than amounts proposed in earlier versions of the budget and a full \$45 million below the FY 2010-11 approved level. For FY 2011-12, counties requested \$1.97 billion (in local, state and federal funds) through the needs-based plan and budget process and DPW certified an amount of \$1.75 billion.

The tentative allocations of March 25, 2011, predicated on the Governor's proposed budget, included significant increases in "county non-reimbursables," effectively increasing county match for many counties by 100 to 500 percent or more. Another increase will result from the returning of special grants to the needs-based process, but at a higher county share rate. County match is now anticipated to be even higher.

State funding for community-based family centers is now included, having been zeroed out in the House Republican proposal, but is still cut by half from the revised FY 2010-11 amount. State funding for child care services and child care assistance decreased by \$17 million each, and state funding for the Nurse-Family Partnership program was level funded, although federal funding increased.

The approved budget contains a realistic expectation of federal Title IV-E funding, which reflects the recent trend of reductions in the number and duration of placements, as well as improvements in invoicing procedures. There is no decision yet on deferred reimbursements from previous years.

Concerns remain at the county level regarding the ability to continue to reduce placements in a difficult economic environment for families, and the possible migration of client needs from other human services systems that are being cut.

Juvenile Detention

From 2002 to 2005, Pennsylvania experienced a consistent utilization of secure detention beds. Since 2005, there has been a slow but steady decrease in referrals to detention. The decreased utilization, in addition to the ongoing and increasing costs associated with building maintenance and code compliance, has led some counties to make critical decisions about whether to continue to invest in their building or to contract out for these services. Secure detention facilities in Blair, Beaver, York, Dauphin and Luzerne counties have since closed. Other facilities have reallocated bed space to accommodate other needs within their jurisdiction. Detention administrators support all efforts to maximize alternatives when appropriate. However, it is critical that detention is available and easily accessible when community safety is at risk.

Specific funding levels for juvenile detention are not yet known. Recent local reports indicate detention utilization has increased and, if budgets are based on actual utilization from the past six to twelve months, counties may be faced with overmatch in this line if utilization continues to increase in 2011. County children and youth has the flexibility, with some limitations, to

reallocate budgeted amounts between line items, but due to the lower reimbursement rate for detention services, counties could be forced to pick up the total cost earlier in the fiscal year, also leading to overmatch.

Alcohol, Tobacco and Other Drugs

In the area of substance abuse services, allocations to county programs have steadily declined over the past eight years. The combined reduction of Behavioral Health Services Initiative (BHSI) funding and the total elimination of funding through the Intergovernmental Transfer Agreement have resulted in an overall loss of \$8.8 million through DPW. The Department of Health has been able to maintain fairly stable funding for the Single County Authorities (SCAs) until the current fiscal year.

Funding for substance abuse services will be reduced in the 2011-12 fiscal year, although tobacco prevention and cessation funding remains at the same levels as the current year. The base allocation for the Department of Health remains stable; \$1 million has been set aside for the transition to a new department. A slight reduction in federal block grant dollars for the current fiscal year is anticipated, but it is unclear at this time if those reductions will be passed on to the SCAs. The Behavioral Health Services Initiative, which funds both drug and alcohol and mental health programs, was reduced for the ninth year in a row. This funding stream has now been reduced 16 percent in the past eight years. The loss of funds through these two initiatives will significantly impact access to treatment and the level of service available through local programs.

While DPW has been successful in expanding treatment services through HealthChoices, these services are only available for individuals and families who qualify for medical assistance. SCAs have not been able to assist the working poor and the uninsured at a time when the need has dramatically increased. Providers are not able to sustain continuous cuts or flat funding. In many areas, smaller facilities have closed, or are no longer able to provide services for the fees that county programs are able to offer. The 2011 -2012 budget included a proposal to transfer Act 152 funding from SCAs to the managed care organizations. We have learned, but are unable to confirm, that this proposal has been withdrawn, and the funds will be allocated to the SCAs for this fiscal year.

Prevention services are dramatically reduced. The federal Safe and Drug Free Schools programs has been eliminated; Pennsylvania school districts will no longer be able to fund local programs, and the SCAs do not have the resources to sustain the current efforts as they reduce staffing complements and struggle to keep the treatment network in place.

Mental Health/Intellectual Disabilities, Early Intervention and Autism

Since 2002, demand for mental health services has increased significantly. During FY 2002-2003, 207,853 Pennsylvanians used mental health services. That number rose to 534,030 in FY 2009-2010, an increase of 257 percent in the number of individuals receiving services. Yet in FY 2002-2003, state funding in the mental health baseline was higher at \$626,996,000 than the proposed \$609,169,000 for FY 2011-2012. This reflects a decrease of three percent.

DPW has established the Behavioral HealthChoices Program statewide for individuals eligible for Medical Assistance (MA). HealthChoices permits counties to contract with managed care organizations to fulfill basic services while supporting local flexibility to address community needs. Counties are able to plan and oversee both MA and community service dollars to direct resources to local needs effectively and efficiently and will be able to work within the current proposed funding to meet stated outcomes.

The final FY 2011-2012 budget restores mental health base state dollars nearly to the level proposed by the Governor, so total funding available will represent a cut of less than one percent from 2010-2011. State mental health base dollars were increased by nearly \$22 million above the amount appropriated last year to backfill ARRA funds and other federal funding cuts. As noted above, the budget maintains the cut to BHSI that was included in the House Republican budget, which will amount to a ten percent cut (\$5.3 million) in the amount available for FY 2010-2011. A proposal included in the Governor's budget to generate cost savings by privatizing two forensics units is prohibited by language in the fiscal code.

Most appropriations for services to people with intellectual disabilities are funded consistent with the Governor's proposal and will allow maintenance of effort for individuals served. There is an overall increase of approximately \$9 million in the amount of funds available for MR base compared to FY 2010-2011. The final budget includes an increase for the community waiver line beyond the funding level proposed by the Governor – we do not currently know the impact or intended use of the funds, but the amount of state dollars is increased by \$9 million beyond the Governor's budget proposal.

FY 2009-2010 was the first year the proposed budget separated the Title XIX waivers from the community program budgets. This change reflects DPW's decision to assume responsibility for direct provider contracts, rate setting and payment to providers of Title XIX services. This shift in policy reduced allocations to county programs significantly and reduced interest earned by counties, leaving very little money to provide minimal supports to people on waiting lists or to maximize local contracts to increase capacity. The FY 2011-2012 budget has no initiatives to assist graduates leaving the educational system, child welfare and other systems who will join the already identified waiting list of 16,378 individuals requesting community services.

The FY 2011-2012 budget falls short of meeting federal requirements under the waivers to fund enrollees' individual needs. There is no waiting list initiative, which is the means to enroll new individuals and meet the federal standard to address current enrollees' changes in need. The constraints of the budget exacerbate the administration's inability to construct and manage a statewide administrative structure while stripping counties of administrative fiduciary and operational oversight that proved successful in the past. Further complicating the situation is the diminishing level of county-based program funds and resources channeled to meet waiver standards resulting in fewer people served while waiver enrollees continue to receive more benefits.

Early intervention has legislative and regulatory guidance for services to children from birth to age three as established in the Pennsylvania Early Intervention System Act (Act 212 of 1990)

and also under federal law under Part C of the Individuals with Disabilities Education Act (IDEA). In 2007, the state administrative oversight transferred from DPW's Office of Developmental Programs to the Office of Child Development and Early Learning with shared oversight by the Department of Education. In FY 2002-2003, the budget allocated \$66,394,000 to provide early intervention services to 29,141 children. The number of children receiving early intervention services rose 23 percent to 35,845 in FY 2009-2010 and the allocation more than doubled to \$134,821,000.

The final state funding level for Early Intervention represents a reduction in the amount proposed by the Governor but still provides an increase beyond the amount available in FY 2010-2011. State funding was increased about \$5 million from FY 2010-2011 for EI. Funding for autism is reduced about \$1.4 million below the amount available in FY 2010-2011, which is consistent with the amount proposed by Gov. Corbett.

On January 1, 2011, the state initiated a state rate and reimbursement system for providers. This change decreased the county's ability to contain contract rates, control their match liability and to maximize capacity through contract negotiations. County programs also faced meeting the state-set rate for children who are not eligible for Medical Assistance, but are eligible for early intervention services. Counties continue to monitor the implications of new administrative structures, rates and oversight as the office continues to develop their approach to federal compliance of the waiver standards.

Long-term Care

In 2002, county nursing homes were paid for the care of their Medicaid residents through what is known as a case-mix payment system. This payment method began in 1996 after years of sometimes contentious debate among the significant parties. Generally, this system provided payments based on the acuity level of the residents, as those needing a higher level of care received a higher reimbursement rate. These acuity rates were adjusted quarterly based on the changing medical condition of the residents.

Historically, costs have increased approximately five percent annually, and from 1996 through FY 2004-2005 nursing homes were compensated through this formula while taking into account costs of similar-sized and geographic locations of comparable facilities across the commonwealth. This method of payment was permanently altered beginning in July 2005 when the approved budget placed a cap on the amount of rate increases, rather than the facility receiving a rate increase based on the case-mix acuity and actual needs. This artificial cap resulted in funding levels that have trended far short of actual increases in costs over the last five fiscal years. Even the highest cap of 4 percent in FY 2006-2007 fell short, and in FY 2008-2009 as well as FY 2009-2010, the cap was one percent. Furthermore, in July 2006, county nursing homes were also officially carved out of the case-mix payment system, meaning that the acuity level of the residents became even less important for county facilities.

Five years of reduced reimbursements has taken its toll on county nursing homes. With less reimbursement from the commonwealth available, many counties have had to contribute more money to operate their facilities, and with facility budgets hemorrhaging red ink, one county

closed its home outright and ten counties have sold their nursing homes since 2002. Currently, at least two counties are actively considering a sale of their nursing homes and several others are reviewing operations for decisions in the next one to two years. There are only 34 remaining county homes to serve as the safety net facilities for patients that are eligible for Medicaid on day one.

County nursing home funding will remain the same as 2010-2011 under the 2011-2012 budget. The original budget presented by Gov. Corbett in March proposed a two percent reduction in nursing home rates, but that was restored to flat funding in the final budget through implementation of a prudent payor option that will defer one payment to nursing homes until the 2012-2013 fiscal year. This action saves enough money in the budget to eliminate the proposed two percent decrease. At the request of PACAH and the other nursing home associations, the allocations for long-term care have now been separated into three line items in the budget: long-term care (nursing homes), home- and community-based services and long-term care (managed care).

During discussion on potential changes to the public welfare code, the nursing home associations and DPW agreed on some timeframes and general parameters to help providers catch up on payments, hold discussions on the payment system and provide additional input on regulations governing the addition and/or transfer of licensed Medicaid nursing home beds.

Human Services Development Fund

The Human Services Development Fund (HSDF) is a resource on which counties have relied over the past 27 years to meet the needs of their most vulnerable citizens and to fill holes in local service needs. One of the more disappointing aspects of the budget for counties is the large cut to HSDF. The FY 2011-12 funding allocation for HSDF is \$14.96 million, which is more than 36 percent below the FY 2010-11 allocation of \$23.48 million. However, Gov. Corbett had originally proposed to zero out funding to this line entirely. The 2011-2012 reductions will mean that HSDF has now been cut by more than 72 percent in the past three years, even though it funds programs that help to reduce the need for more costly alternatives. Such a large cut will only result in an increased demand for alternative services in the long run. At a time when these flexible funds are increasingly important to meet local needs, crucial human services programs at the county level will undoubtedly be affected as demand continues to grow.

HSDF funds a variety of critical programs across the commonwealth that serve people of all ages. In many counties, HSDF provides weekly meals and personal care services to individuals who are disabled, homebound and who have no other support system, preventing eviction or institutionalization. Providing the same services through Medicaid could cost up to three times more than what is used through HSDF. HSDF is also used to fund programs that provide low-income, unemployed individuals with basic job skills and help them to find employment, leading them to becoming self-sufficient and economically viable members of society.

Homeless Assistance Program

The Homeless Assistance Program (HAP) funding is used to provide temporary shelter to homeless individuals and rental assistance to those in danger of becoming homeless. In FY 2011-2012, this program is allocated at \$20.55 million, a decrease of ten percent in state funds from the FY 2010-11 allocation. This cut, combined with the large reduction in the Human Services Development Fund, will have a noticeable impact on the programs most effective in assisting homeless individuals and families with finding and maintaining shelter at a time when they are continuing to identify increasing numbers of homeless individuals due to economic issues beyond their control.

Medical Assistance Transportation Program

State funding to provide non-emergency medical assistance transportation is proposed at \$75.3 million. The demand for Medical Assistance Transportation Program (MATP) services continues to grow due to several factors including an increased utilization of transportation for medically necessary appointments, vehicle maintenance, increasing fuel costs, purchasing replacement vehicles, increasing fleet sizes to meet needs and increasing insurance costs.

State funding to provide non-emergency medical assistance transportation is allocated at \$65.22 million which is a decrease of more than \$10 million from the FY 2010-2011 amount of \$75.3 million.

Conclusion

Once each year, CCAP members deliberate and decide on their top priorities for the year. One of the top county government priorities for 2011 is to strengthen the partnership between the state and local level regarding human services delivery. Counties have repeatedly focused funding issues because they are inextricably tied to property taxes. If the state does not maintain its responsibility for funding a share of its services, the burden is shifted to local property taxes. At a time when the focus of state and legislative leaders seems to be to find a way to save costs and to develop a streamlined budget, it makes sense for state and county leaders to work toward continuing our partnership. Working together will help to ensure more efficient and effective delivery of human services.

Counties believe that economies can be achieved through an examination of administrative demands, and reduced focus on paperwork can allow dollars to be utilized for more direct service delivery. The current times should demand a quick examination of regulatory burdens that add unnecessary costs, and seek ways that greater flexibility can lead to better outcomes with scarce dollars. To that end, we look forward to working with DPW in the development of the pilot grant projects to create more flexibility in human services delivery.

CCAP looks forward to working with you throughout future budget processes to address the impacts of funding cuts and mandates on the provision of human services at the county level. I'll be happy to answer any questions you may have.

**TESTIMONY OF JUDY BANKS, DEPUTY DIRECTOR
DISABILITY RIGHTS NETWORK OF PENNSYLVANIA**

**Before the House Democratic Policy Committee
418 Main Capitol Building, Harrisburg, PA**

July 13, 2011

Good morning. My name is Judy Banks and I am the Deputy Director for the Disability Rights Network of Pennsylvania (DRN). DRN is the organization designated by the Commonwealth of Pennsylvania pursuant to federal law to protect the rights of and advocate on behalf of Pennsylvanians with disabilities, including adults and children with intellectual disabilities, autism, physical disabilities, and mental illness. I appreciate the opportunity to testify today about the impact of the Pennsylvania budget cuts on our most vulnerable citizens -- those with disabilities.

The truth is that the budget will impact Pennsylvanians with disabilities in multiple harmful ways. In the interest of time, I want to focus on five issues: (1) the Legislature's grant of authority to the Department of Public Welfare (DPW) to make far-reaching changes in the Medical Assistance program with little input and oversight; (2) the cuts to the Medical Assistance Transportation Program; (3) the cuts to the Behavioral Health Services Initiative; (4) the imposition of copayments for Medical Assistance services for many children with disabilities; and (5) the \$13 million reduction in funding for the Office of Developmental Programs. The focus on these issues, however, should not be interpreted as an endorsement by DRN of the other changes embodied in the budget, many of which will negatively impact people with disabilities. .

First, and perhaps most harmful, the budget legislation grants unprecedented authority on the Department of Public Welfare (DPW) to fundamentally change the Medical Assistance program with little public input and no legislative oversight. The Legislature's appropriation to DPW is far less than what will be required for DPW to continue its current programs without change. Rather than specifying precisely how DPW's budget should be cut, the Legislature instead directed DPW to promulgate regulations to limit Medical Assistance eligibility, benefits, and payments so as to assure that the expenditures for FY 2011-12 do not exceed the amount appropriated by the Legislature.

In conferring this authority on DPW, the Legislature required these regulations to be finalized by June 30, 2012 and exempted DPW from Pennsylvania's requirement that regulations must be submitted to the Attorney General for review and to the Independent Regulatory Review Commission (IRRC) for review and approval. These provisions will allow DPW to push through regulations with little opportunity for input by stakeholders and the public and with no opportunity for independent review by the IRRC and appropriate legislative committees.

Moreover, the Legislature authorized DPW to make its regulations *retroactive* to July 1, 2011. This has the potential to create utter chaos in the Medical Assistance program. For instance, how likely is it that an entity that operates a group home for individuals with intellectual disabilities be willing to continue to do so knowing that the rate that DPW now says it will pay for those services this year may be retroactively reduced? The provider has no way to know whether the rate that DPW ultimately will

establish and may retroactively impose will be less than the costs it actually pays during the year to serve its clients. So, too, why would a durable medical equipment retailer continue to participate in Pennsylvania's Medical Assistance program when DPW might retroactively decrease the fees for such equipment so that it will end up taking a loss on the equipment (such as wheelchairs) that it provides to Medical Assistance clients this year?

Medical Assistance is undoubtedly the single most important program for people with intellectual disabilities, physical disabilities, and mental illness. Medical Assistance does not merely pay for doctors' visits and hospitalization. For people with disabilities, Medical Assistance has become a lifeline that enables them to live in the community. Medical Assistance is the primary funder of programs for people with intellectual disabilities, including: group homes; respite care to provide needed relief for families; vocational training and supported employment; and speech, occupational, and behavioral therapies. Without Medical Assistance, these individuals would be confined in state institutions, which are not merely more segregated than the community but are far more expensive than community services as well. Similarly, Medical Assistance programs enable people with physical disabilities to remain in their homes, work, attend school and live full and meaningful lives in the community by funding personal assistance services (to help these individuals with critical activities of daily living), assistive technology (such as motorized wheelchairs), and home adaptations (such as stair glides). Without these services, many of these individuals would be forced into more costly and segregated nursing homes.

The Legislature has thrown the entire Medical Assistance program into a state of disarray through this misguided grant of authority to DPW. At this point, there is no certainty in the system. The absence of certainty makes providers more wary of participating, and thus undermines the ability of people with disabilities to access essential community services.

Aside from transferring a great deal of authority to DPW to make Medical Assistance funding cuts, the Legislature did identify a few specific targets for reduction. All of them are woefully ill-advised.

First, the Legislature reduced funding for the Medical Assistance Transportation Program (MATP). Expecting this reduction, DPW already has decided that it will no longer pay for MATP to enable Medical Assistance recipients with mental illness to travel to psychosocial rehabilitation programs. Psychosocial rehabilitation programs provide a place for people with mental illness to get support from their peers and professionals in an informal, non-medical, recovery-oriented setting. Although DPW had intended to add psychosocial rehabilitation programs to Pennsylvania's Medical Assistance plan as recently as February 2011, it has not done so. Since psychosocial rehabilitation is not a Medical Assistance program, MATP is not required to provide transportation to those programs.

Psychosocial rehabilitation programs have proven to be both more effective in facilitating the recovery of people with mental illness and less costly than "partial hospitalization" programs, which used to be the more commonplace type of day program for people with mental illness. Partial hospitalization programs, unlike psychosocial

rehabilitation, are covered in Pennsylvania's Medical Assistance program (and, thus, MATP would be provided to transport people to those programs). Without MATP transportation, many individuals with mental illness will be cut off from the psychosocial rehabilitation programs on which they depend. The outcomes are not too difficult to predict. In the best case scenarios, these individuals will switch to partial hospitalization services that, while not optimal, might provide some benefit. The worst case scenarios are that these individuals will become isolated, and will decompensate and require ER and inpatient treatment or institutionalization. Either outcome certainly will place a bigger burden on taxpayers as both partial hospitalization programs and institutional care are more expensive than psychosocial rehabilitation.

Second, the Legislature imposed a significant cut on the Behavioral Health Services Initiative (BHSI), which is the second year in a row that this small but vital program has faced cutbacks. BHSI provides mental health and substance abuse treatment for people who do not qualify for Medical Assistance. In most instances, the people who benefit from these services are the working poor -- people who are already struggling to make ends meet and support themselves and their families. The small amount of funding for BHSI services has enabled many such individuals over the years to secure the behavioral health treatment they need to continue to work. If individuals cannot access these services, their illnesses will likely worsen and they will be unable to continue to work. These individuals will then simply end up receiving public benefits, including Medical Assistance, or will be institutionalized or possibly jailed -- all at a higher cost to the public than the BHSI program.

Third, the Legislature's cuts will adversely impact families of children with disabilities who receive Medical Assistance benefits. The Legislature has authorized DPW to impose copayments on Medical Assistance services provided to children with disabilities whose family incomes exceed 200 percent of the federal poverty line. The imposition of copayments on these families -- particularly those who are poor (like those whose income is only 200 percent above the extremely low federal poverty line) -- will create added financial stress on these families, most of which already incur large out-of-pocket expenses to care for their children with disabilities. The added financial stress will take an emotional toll on families whose responsibility to care for children with disabilities 24-hours-a day, 7-days-a-week, 365-days-a-year.

It is not only the families of children with disabilities who will suffer from the imposition of copayments. Local school districts -- which are already facing significant financial constraints -- will be faced with paying at least part of the costs of many services that are now fully funded by Medical Assistance. School districts have a responsibility under the Individuals with Disabilities Education Act (IDEA) to provide a free, appropriate public education and early intervention services to children with disabilities. Schools currently can bill Medical Assistance for many services -- from behavioral health care to nursing to therapies -- that are required for children with disabilities by the IDEA. The IDEA prohibits schools from billing parents for these services. Since the IDEA bars schools from billing families, schools at minimum will be required to pay the copayments in order to bill Medical Assistance for services that are subject to copayments.

Moreover, the new law permits DPW to promulgate regulations that will authorize providers to condition the delivery of Medical Assistance services on the payment of applicable copayments. DPW could thus bar schools from providing Medical Assistance-funded services if parents do not pay the authorized copayments. Since the IDEA does not allow schools to impose such charges, schools thus might not be able to bill Medical Assistance for any part of the services provides and would have to pay the full cost of the services.

If DPW chooses to utilize its authority to impose copayments on Medical Assistance services to children with disabilities, it is imperative that DPW use a transparent process that includes an opportunity for comments by families, schools, and other stakeholders. DPW must consider, for instance, the impact of copayments on schools as well as whether copayments can or should be imposed on services provided through Medical Assistance home and community-based waivers. Careful assessment of the all the ramifications of copayments will help to assure that, if copayments are imposed, they do not create undue harm.

Finally, the Legislature imposed a \$13 million reduction in funding for the Office of Developmental Programs (ODP) based on anticipated savings from fraud and abuse identified in ODP-funded programs. There is no evidence from any source to support the conclusion that there is fraud and abuse in ODP-funded programs, much less that there is such rampant and obvious fraud and abuse in those programs that DPW can realize \$13 million in savings merely by rooting it out. Since DPW will be unable to realize \$13 million in savings in ODP-funded programs by addressing fraud and abuse, it will be

forced to realize those savings by cutting services for individuals with intellectual disabilities and autism.

Each and every one of these cuts will ultimately result in higher costs so that, in the long run, the cost savings that the Legislature anticipates will be illusory. In contrast, the impact of these budget cuts on people with disabilities will be all too real. They will bear the brunt of the Legislature's ill-advised cost-cutting measures.

Testimony before the House of Representatives Democratic Policy Committee
July 13, 2011

Michael Wood, Research Director, Pennsylvania Budget and Policy Center

Thank you, Representative Sturla, for the change to speak to you and the Democratic Policy Committee about the impact that the newly enacted 2011-12 budget will have on the citizens of Pennsylvania. I can't say that I foresee a pretty picture.

The Governor and lawmakers faced a formidable goal and a formidable challenge in 2011. The goal? To maintain Pennsylvania's relatively strong job growth coming out of the recession and keep the economy humming. The commonwealth added 44,300 jobs from May 2010 to May 2011, ranking fifth in number and 18th in percentage terms nationally.¹ Could we keep the momentum going?

The challenge? To manage the loss of federal funds that helped Pennsylvania to avoid the worst cuts in education and health care, and to preserve thousands of jobs through the darkest days of the recession with spending on transportation, infrastructure and clean energy.

In March, the Pennsylvania Budget and Policy Center and PennFuture jointly crafted a set of principles to reflect these circumstances and to serve as a benchmark when the final budget agreement was ratified.

First, a good state budget should create jobs today and ensure our long-term economic success. It should improve the efficiency and transparency of government and maintain expenditures that produce long-term savings. It should avoid shifting costs from the state to local taxpayers.

So how did lawmakers and our governor do? Unfortunately, not well. The budget prioritizes spending reductions to meet an arbitrary spending figure regardless of consequences — a priority that few Pennsylvanians share. To accomplish this, the budget cuts the number of teachers in the classroom, raises college tuition for middle class families, and forces increases in local property taxes in many places. It leaves most of a \$785 million revenue surplus from last fiscal year untouched and frees natural gas drillers once more from paying a tax in Pennsylvania that they pay everywhere else. Let me briefly address each principle and how the budget measured up.

Job creation: With nearly \$900 million in cuts to education, school districts are likely to cut thousands of jobs. We are already seeing this across the state as school budgets are enacted. Here in the midstate, Harrisburg Public Schools are eliminating 214 positions, 153 of them being teachers. York City schools are eliminating 140 positions in the coming year, while Lancaster is losing 78 positions. This isn't limited to just the poorer, urban districts. Even suburban schools like Dallastown, Middletown, and Elizabethtown are cutting staff.

Cuts to job training programs, nutrition services, adult literacy and child care will lead to additional layoffs. Job cuts are nothing to celebrate: They have ripple effects throughout the economy that slow the economic recovery.

¹ Mark Price, *May Jobs Report Weak Growth Cause for Concern; Jobs Deficit Persists*, Keystone Research Center, June 20, 2011, <http://keystoneresearch.org/publications/research/may-jobs-report-weak-growth-cause-concern-jobs-deficit-persists>.

Improving efficiency and transparency: The budget takes a step backward on transparency. It relies on gimmicks that shuffle funds between bank accounts and fiscal years, which conceals actual spending and hides the revenue surplus. It also gives unprecedented authority to the secretary of public welfare to sidestep existing rulemaking processes to impose sweeping changes in services for vulnerable Pennsylvanians.

Ensuring long-term success: Pennsylvania's future depends on a skilled workforce, innovation and sound infrastructure. This budget invests less in all of these things. In education, student test scores have gone up, but deep cuts, larger class sizes, and fewer choices threaten that progress. Reduced funding for universities, meanwhile, will hamper innovation and put college out of reach for more students.

Preventing a tax shift: Pennsylvania has a history of shifting education costs onto local taxpayers and this budget continues that tradition. School districts and counties will be under enormous pressure to increase taxes to make up for lost state funding for schools, child abuse protection and other social services.

Investments that produce long-term savings: Early childhood programs and full-day kindergarten are cut in this budget, despite research showing that such investments pay long-term dividends through savings in education and prison costs.

While the budget cuts funding for a variety of services, lawmakers missed several opportunities to cut actual costs and save money. No efforts were made to slow growth in the state prison population and nursing home utilization, two of the highest-priced items in the budget.

Pennsylvania's economy is slowly improving, but we have not fully recovered from the recession. The budget decisions made by our governor and lawmakers could have helped to stabilize the economy to make a successful transition from recession to recovery. Instead, these choices could very well make things worse.

We don't have to look far to see what this budget could bring. Neighboring New Jersey made deep cuts in aid to schools and municipalities in their 2010-11 budget. This triggered the loss of thousands of jobs across the state. A recent analysis from the Keystone Research Center found that from May 2010 to May 2011, New Jersey's economy lost almost 20,000 jobs, one of the worst performing states in the nation. This is not a blueprint for success, but one we seem to be following anyway.

In the coming months, the full impact of these cuts will be felt in schools and communities across the commonwealth. Then it will be up to the people of Pennsylvania to take out their red pens to grade the choices made in this budget and the priorities that guided them.