



# LSA Washington

April 7, 2008

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## LSA Annual Conference Features Public Policy Track

It is not too late to register for the LSA Annual Conference taking place in St. Louis from April 22 to 25. Participants will enjoy breakout sessions on child welfare, health care and housing public policy issues. The housing breakout session will also describe how David Roberts, President and CEO of Lutheran Homes Society in Holland, Ohio, came to Washington, D.C. to testify before Congress on affordable housing. Mr. Roberts will outline the important steps he took to make his testimony a success.

A Friday intensive session will feature the author of the book *Seen But Not Heard: Strengthening Nonprofit Advocacy* and Executive Director of OMB Watch, Gary Bass. Mr. Bass will discuss how to break through barriers to effective advocacy. Larry Ottinger, President of the Center for Lobbying in the Public Interest (CLPI), will join Mr. Bass in discussing successful advocacy. LSA members will share their successful advocacy efforts on the state and federal level.

The LSA Disability Network is also hosting a public policy session during their pre-conference on Tuesday. The LSA-DN Open Forum will feature April Forsythe, Social Science Research Analyst in the Disabled and Elderly Health Programs Group at the Centers for Medicare and Medicaid Services, on home and community based services. The Open Forum is free and open to all conference participants

The public policy sessions are:

Tuesday, April 22, 1:00 – 2:45 pm  
Pre-conference Open to all Conference Participants  
LSA Disability Network Open Forum

Thursday, April 24, 10:15 – 11:45 am  
Session A8  
Who is Minding the Children? What Advocates Can Do to Promote Sound Child Welfare Public Policy

Thursday, April 24, 1:30 – 3:00 pm  
Session B8  
The Future of Health Care Reform

Thursday, April 24, 3:30 – 5:00 pm  
Session C8  
Mr. Roberts Comes to Washington: An LSA Member Testifies Before Congress on Affordable Housing

Friday, April 25, 10:00 – 12:30 pm  
Session D8  
Seen But Not Heard: New and Improved Nonprofit Advocacy

If you are attending the conference, please check your conference brochure for the room location.

----Lisa Carr, MSW

## Legislation Introduced to Place a Moratorium on Medicaid Regulations

Representatives John Dingell (D-MI), Chairman of the Energy and Commerce Committee, and Tim Murphy (R-PA), introduced [H.R. 5613](#), the [Protecting the Medicaid Safety Net Act of 2008](#) on March 13. The legislation seeks to extend or enact a general moratorium on seven of the Administration's Medicaid regulations. The moratorium would expire on April 1, 2009.

Senator John Rockefeller (D-WV) has introduced a similar bill in the Senate, [S. 2819](#), the Economic Recovery in Health Care Act. S. 2819 includes moratoria on the Medicaid regulations as well as provides \$12 billion of targeted state relief. Legislation introduced earlier this year by Senator Norm Coleman (R-MN) and Representative Keith M. Ellison (D-MN) ([S. 2578/H.R. 5173](#)) would also impose a moratorium on the case management rule until April 1, 2009. The case management rule is the only rule that has gone into effect.

The Majority Staff of the House Committee on Oversight and Government Reform issued a [report](#) this month examining on a state-by-state basis the impact of seven Medicaid regulations issued by the Administration in 2007. The regulations reviewed by the Committee included rules that impact state provider tax laws and decrease coverage for rehabilitative and case management services. The Committee Report states that the regulations would reduce federal payments to the states by nearly \$50 billion over the next five years. These cuts are especially of concern to service providers at a time in which many states are suffering from severe funding shortfalls. States may not be able to make up the gap in spending, which could result in providers having to deny services and cut programs.

The Medicaid rehabilitation services option would change the definitions of providers of services and of rehab services and shift \$2.5 billion to states.

The federal financial participation (FFP) would be changed, forcing states to make reductions in services. People who would be adversely impacted include people with mental illness, people with intellectual and other developmental disabilities, and children in the foster care system. This regulation is now on hold as Congress passed legislation, a moratorium, which is delaying implementation until Congress and others can consider other public policy options.

The Case Management and Targeted Case Management (TCM) regulations would restrict the scope of case management services and save \$1.3 billion in government funding. The rule specifies that federal Medicaid funding is not available for TCM if there are other third parties liable to pay for those services. The rule would make it more difficult to transition from institutional to community care by reducing federal reimbursement for targeted case management from the last 180 days of an individual's institutional stay to the last 60 days. The regulation was effective March 3.

Note that all states will not be impacted in the same way, as many states are providing services under a Medicaid waiver. As Medicaid is a state/federal program, the impact of various regulations differs by jurisdiction.

The provider tax regulation makes conforming changes to comply with the Tax Relief and Health Care Act (TRHCA), P.L. 109-432. This provision would reduce federal spending by \$85 million in Fiscal Year 2008 and by \$115 million per year in Fiscal Years 2009 through 2011. TRHCA reduces the permissible provider tax rate from six to three percent. The statute temporarily reduces the permissible rate from January 1, 2008, through September 30, 2011, to 5.5 percent. On October 1, 2011, the cap on tax rates is scheduled to revert back to 6 percent. The rule makes changes to the hold harmless test and allows CMS broader flexibility in identifying relationships between provider taxes and payment amounts.

**Action Needed:** Please contact your Representative and ask him or her to co-sponsor H.R. 5613, which would provide a moratorium on all of the regulations, and

H.R. 5173, which would provide a moratorium on the case management regulation

Please also contact your Senator and ask him or her to [co-sponsor](#) S. 2578 and S. 2819. This is especially important if your Senator is a Republican, because of the desire to have wide, bi-partisan support.

To determine your Representative, enter your zip code on the [House](#) website at [www.house.gov](http://www.house.gov). To determine your state's Senators, go to the Senate website at [www.senate.gov](http://www.senate.gov).

--Heather Ansley, JD, MSW

### **Section 811 Supportive Housing for Persons with Disabilities Legislation Proposed**

We understand that Representative Christopher Murphy (D-CT) will be introducing legislation in the next few weeks that would reform the Section 811 Supportive Housing Program for Persons with Disabilities. The main feature of the proposed legislation is the creation of a new demonstration program utilizing project rental assistance contracts (PRAC) to increase new housing units available to persons with disabilities.

The PRAC-only demonstration program is designed to create "deeply affordable" supportive housing units in developments financed with low income housing tax credits and HOME-financed rental housing. States and localities would either provide builders with incentives to include supportive housing for persons with disabilities in their developments or require the builders to set units aside. The demonstration program would be funded through the retention of Section 811 funds currently used to fund mainstream housing vouchers. Funding for those vouchers would instead be available through the housing choice voucher appropriation (Section 8).

Proponents project that the PRAC-only demonstration would result in 2,500 to 3,000 new housing units each year. The demonstration program would also allow persons with disabilities to enjoy a higher level of integration into the community by allowing no more than 25 percent of the units in housing developments to be Section 811 supportive housing. Other states and localities have successfully implemented approaches similar to this proposal.

Although the legislation would create a PRAC only demonstration, it does not eliminate the current program's use of capital advances and long-term rental assistance to create supportive housing units. Instead, the legislative proposal provides for improvements that would eliminate certain project barriers to mixed financing and facilitate processing of awards.

The need for improvements to the current Section 811 program is underscored by the findings discussed in a recent report titled [The Hidden Housing Crisis: Worst Case Housing Needs Among Adults with Disabilities](#). The report estimates that 2.3 to 2.4 million non-elderly adult disabled households with and without children have worst case housing needs. In 2007, only 1,008 units were funded under the current Section 811 program. Furthermore, Section 811's tenant-based rental assistance funds have been essentially used to decrease voucher waiting lists for persons without disabilities, instead of being strictly available to meet the critical housing needs of persons with disabilities.

More information about the proposed legislation is available on the [LSA Public Policy Advocacy](#) website.

--Heather Ansley, JD, MSW

### **House and Senate Pass Budget Resolutions**

Members of the House and Senate recently passed budget resolutions that reject the President's proposed budget for domestic discretionary spending for Fiscal Year 2009. A budget resolution, which the President does not sign, provides a framework for federal spending and revenues for the fiscal year.

The [Senate's budget resolution](#) passed in the early morning hours of March 14, by a 51-44 vote. Republican Senators Susan M. Collins and Olympia J. Snowe of Maine joined the majority in voting for the resolution. Democratic Senator Evan Bayh of Indiana voted with the minority. The [House's resolution](#) passed on March 13, by a vote of 212-207. Sixteen Democrats joined with the minority in voting against the resolution.

Although there are differences in the House and Senate resolutions, both provide for moderately higher levels of domestic discretionary spending than that allocated in the President's budget. The House resolution appears to provide for a slightly higher amount of discretionary dollars than the Senate's resolution. The Senate's resolution, however, includes provisions for a second economic stimulus package.

Both the Senate and House resolutions include budget neutral reserve funds that would allow members to address moratorium legislation targeting seven Medicaid regulations (see article above). The resolutions also provide reserve funds for expansion of the State Children's Health Insurance Program (SCHIP).

After returning from their spring recess, members of the Senate and House will start negotiating the differences in their budget resolutions. Once the differences are resolved, the negotiated resolution will come before the full membership of the Senate and House for a vote.

As soon as the budget resolution is finalized the Appropriations Committees will begin working on the spending bills. However, if Senate and House members are unable to resolve their differences, the Appropriations Committees will start work on spending bills for Fiscal Year 2009 without the benefit of a framework. Due to the continuing divide between Congress and the President, it is possible that Congress may not come to agreement on funding and will pass a continuing

resolution to fund the federal government until the next Congress and Administration.

--Heather Ansley, JD, MSW

### **Comprehensive Child Welfare Legislation Introduced in House**

The Invest in KIDS Act (H.R. 5466) was introduced on February 14, 2008 by Rep. Jim McDermott (D-WA), Chairman of the House Ways and Means Subcommittee on Income Security and Family Support. H.R. 5466 is a comprehensive child welfare bill which includes several issues of concern to LSA members. Sections of the large, comprehensive bill have been introduced as separate legislation.

Key issues included in the Invest in KIDS Act include:

**De-linking eligibility requirements for adoption and foster care assistance programs from AFDC standards set in 1996.** Currently, only special needs children whose birth parents qualify for federal support are eligible for foster care and adoption assistance programs. The number of children in foster care qualifying for federal support fell from 54 percent in 1996 to 43 percent in 2006, resulting in a \$1.9 billion loss of federal funding to states for foster care and adoption assistance. It is estimated that another 5,000 children will lose eligibility each year.

The current law also ties the funding available for the placement of a child in a safe and supportive environment to the financial status of the child's birth parent or parents, rather than the current caregivers. Removing the link to federal assistance eligibility would allow for all special needs children in foster care to become eligible for adoption assistance. Special needs are determined by each state and can include age, ethnicity, disability, medical condition, or other factors that can make a child difficult to place. This section of the Invest in KIDS Act is also the key component of the Adoption Equality Act (H.R. 4091/S.1462) introduced by Senator John Rockefeller (D-WV) and Representative Jim Cooper (D-TN) in 2007.

**Supporting a qualified child welfare workforce.** Title III of this bill includes increased funding for training, retention and supervision of child welfare case workers, reduction of caseloads per worker, and expanding training payments to private child-serving agencies working with state and local agencies to serve foster and adopted children. Currently this funding only goes to provide short-term training of current or prospective foster or adoptive parents and state and local agency staff, not private state-approved agencies. This section is also the key component of a bill introduced last May (H.R. 2314) by Representative Jerry Weller (R-IL).

**Supportive services, family, health care, and educational stability for children in foster care.** This section includes the authorization of Kinship Guardianship Assistance Payments, which allow states to provide assistance to relatives who become the legal guardian of a child in foster care, with these payments being at least equal to what a non-relative foster or adoptive parent would receive. Title II of this bill also allows states to establish separate standards for foster homes where the foster parent is the relative of the child, with criminal background checks and protection of the safety of the child as minimum standards.

There are many other pieces of this complex piece of legislation, including an entitlement program for states to safely reduce the number of children in foster care, the length of stay in foster care, and increase the number of children cared for in family-like settings; providing funding for foster care services for children until the age of 21; adoption incentive programs; placement of sibling groups; and educational stability for children in foster care. A summary of the act can be found at [http://www.alliance1.org/Public\\_Policy/welfare/Invest\\_KIDS.pdf](http://www.alliance1.org/Public_Policy/welfare/Invest_KIDS.pdf)

---Lisa Hassenstab, MSW, MA

## **National Affordable Housing Trust Fund Act Introduced in Senate**

On December 19, 2007, Senator John Kerry (D-MA) introduced the National Affordable Housing Trust Fund Act (S. 2523) in the Senate. Similar to a bill passed by the House of Representatives on October 10, 2007, the Senate bill sets a goal of producing, rehabilitating, and preserving 1.5 million units of affordable housing over the next 10 years. As of March 28, 2008, the bill had 11 co-sponsors with bipartisan support.

Both the House and Senate bills direct housing assistance to households with incomes of less than 80% of the area median income, with at least 75% of the funds going to extremely low income households with incomes below 30% of the area median. In addition, 30% of the total dollars must be used for households whose incomes are the equivalent of the federal SSI payment level or less.

Regulatory reform legislation regarding government-sponsored enterprises (GSE) Freddie Mac and Fannie Mae would provide an estimated \$500 million a year for an affordable housing trust fund. The House passed such legislation, H.R. 1427, in 2007; the Senate has not taken up this legislation, but it was introduced as the Government Sponsored Enterprise Mission Improvement Act (S. 2391) on November 15, 2007, by Senator Jack Reed (D-RI) and has been referred to the Senate Committee on Banking, Housing, and Urban Affairs.

Lutheran Services in America has endorsed the National Housing Trust Fund Campaign. The NHTF Campaign is currently seeking more Senate co-sponsors for S. 2523, and is asking Senators to commit to voting for the Trust Fund Act and to pass GSE reform legislation. More information on the Trust Fund and the Campaign can be found at <http://www.nlihc.org/template/page.cfm?id=40>

---Lisa Hassenstab, MSW, MA

## Anti-Immigrant Bill Moving Through Congress

Lutheran Immigration and Refugee Service (LIRS), a partner with LSA, is asking advocates to contact their congressional representatives and urge them to oppose the Shuler-Tancredo bill (The SAVE Act, HR 4088), an anti-immigrant measure that would not fix the fundamental problems with the immigration system. Specifically, we ask that you contact your member of the House of Representatives and urge them NOT to sign a "discharge petition" that would enable the Shuler-Tancredo bill to move forward in Congress.

Reps. Shuler (D-NC), Bilbray (R-CA) and Tancredo (R-CO) introduced "the Save Act" (HR 4088) in November 2007, a bill which would mandate employer verification of all employees within four years, compel police officers to enforce immigration law, and add 1,000 new detention beds among other punitive measures. The bill does not offer any solutions for the millions of undocumented people in this country or to the visa backlogs which keep families separated for years.

The minority party is circulating a discharge petition which, if it receives the requisite 218 signatures, would force the House of Representatives to vote on the bill without giving any of the relevant committees the opportunity review the bill's merits or allowing members to offer any amendments to improve the bill.

Advocates are encouraged to call their federal Representative and ask that he or she not sign the discharge petition and to ask the Representative or his or her staff person what their position is on the issue. As written communication is also helpful, advocates are encouraged to follow up by writing a letter to their Representative.

Please email LIRS at [esigmon@lirs.org](mailto:esigmon@lirs.org) and explain what happened in your exchange(s) with

the Congressional office(s). It would be helpful if you could also fax a copy of your letter to Eric Sigmon at 202/783-7502. Thank you for your advocacy on this important issue!

- Gregory Chen, JD, Director for Legislative Affairs, LIRS

## LSA Public Policy Staff Contact Information

The LSA public policy staff will be at the LSA Annual Conference and looks forward to meeting you. We can also be reached at:

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