

Legislative Update-January 23, 2012

84TH General Assembly convenes; mental health redesign high priority

Lawmakers returned to Des Moines Jan. 9th after a shorter-than-typical break, one that was made possible by last year's legislative stalemates. There were 38 new lawmakers coming into office at this time last year. Those new representatives and senators shifted the balance of power to the Republicans in the House and narrowed the margin of control in the Senate to a single seat.

The balance of power remains the same: 60-40 in favor of Republicans in the House and 26-24 in favor of Democrats in the Senate. There is one new lawmaker, Liz Mathis, a Democrat and former news anchor, who defeated Republican Cindy Golding in a special election in Linn County on Nov. 7 to replace Swati Dandekar of Cedar Rapids, whom the Governor appointed to a spot on the Iowa Utilities Board.

Sen. Paul McKinley, R-Chariton, stepped down from his leadership post after Golding's loss. Sen. Jerry Behn, a farmer from Boone, was put in the minority leadership post.

Department of Human Services

News

- **Medicaid rates.** LeadingAge Iowa has been notified by IME contractor Andy Johnson that the much anticipated release of the new SFY 2012 nursing facility Medicaid rates, which started July 1, 2011, will now be delayed until March.

News

- **Mental health redesign.** DHS has outlined a five year plan to redesign the state's mental health and disability service system, including grouping of counties into regional administration units, additional state aid to counties, and performance-based contracts to assure quality.

The current county-based method of administering services is inconsistent, with each county's services based on varying resources, capabilities, and values.

Services will be administered in five to 15 regional groups of counties rather than by the 99 individual counties. Under the proposal, counties should begin forming their own groups early next year and that all of the regions should form and begin to organize no later than January 2013.

To assure consistency and accountability DHS would negotiate performance--based contracts with each of the regional units.

Of special interest to LeadingAge Iowa members is how the redesign will be funded. DHS proposes to apply for the Balanced Incentive Payment Program (BIPP), and indeed Sen. Jack Hatch has already introduced a bill (SF 2010) that would require DHS to apply for BIPP. Bipp would provide an additional 2% FMAP if Iowa can adjust Medicaid non-institutional spending from the current 41% to 50%. The mental health redesign proposal includes \$11.25 million in BIPP funds earmark for redesign in 2013.

BIPP's intent is to encourage expansion of HCBS services for the elderly and disabled. SF 2010 proposes to use the money only for mental health redesign. LeadingAge Iowa has concerns on the impact to members, including BIPP requirements of conflict-free case management, a mandatory assessment of seniors; and concerns about future state funding when federal funding expires.

Watch future issues of the *Update* for more information.

News

- **Increase in adult day, CDAC/assisted living, home delivered meals reimbursement.** LeadingAge Iowa drafted language (currently with the Legislative Services Agency) to increase Medicaid reimbursement for Adult Day Services, and Consumer Directed Attendant Care under the Elderly Waiver. LeadingAge Iowa's legislative initiatives also include removing code language locking home delivered meals provider rates to Nov. 30, 2009.

News

- **Remove direct care worker compensation mandates for high-paying providers.** LeadingAge Iowa also developed language allowing nursing providers who compensate direct care workers in the top five percent according to the most recent cost reports to apply for a waiver from the mandate they pay 60% of provider tax money to care staff.

Priority
bill

- **Balanced Incentive Payment Program (BIPP) (SF 2010).** Part of the ACA, this program would increase Iowa's FMAP by two percent; provided the state increases HCBS Medicaid spending to 50% (from current 41%). SF 2010 mandates DHS to apply for the program, with \$11.25 million earmarked for the mental health restructuring. **LeadingAge Iowa position: UNDECIDED/MONITOR.**

Priority
bill

- **Financial supplementation to a nursing facility for provision of a private room to a recipient of medical assistance (SSB 3054).** Family could pay extra for Medicaid recipient to receive private room. Supplementation not available if the private room is therapeutically required under federal regulations or no room other than the private room is available. **LeadingAge Iowa position: SUPPORT.**

Department of Inspections & Appeals

News

- **Sex offenders in long term care (bill pending).** On Jan. 9, Gov. Branstad announced that he would support legislation that would require care facilities to notify their staff, residents, residents' families and the community whenever a registered sex offender is admitted. He said proposed legislation will protect Iowans and instill accountability. LeadingAge Iowa will register on the bill once it's introduced. LeadingAge Iowa's position:

- Combative, aggressive, and demented residents belong in an appropriate setting capable of providing protective restraints both chemical and physical and provide the required supervision.
- The lack of appropriate facilities for these violent criminal and sex offenders is an increasing problem, and one that must be addressed.
- The state should not attempt to have these people admitted to facilities that do not specialize in the management of people who are sexually and/or physically aggressive.
- It's very difficult to discharge a resident from a facility who becomes violent or sexually inappropriate after admission.
- This is an appropriate problem to be addressed and included in Mental Health Reform that is currently being considered by the State of Iowa.

Priority
bill

- **Long-term residential living options (SF 250).** Amends the definition of “assisted living” to include either health-related care or personal care, or both, but that assisted living does not include the provision of housing and assistance with instrumental activities of daily living unless personal care or health-related care is also offered. “Assisted living” includes any entity that meets the definition of assisted living whether or not the entity represents itself to the public as an assisted living program or as a certified assisted living program, including an entity that decertifies a program but continues to provide housing and continues to be or subsequently becomes the sole provider of assistance with instrumental activities of daily living, personal care, or health-related care, by whatever means employed or contracted, including through a subsidiary, parent, or related corporation. Occupancy agreement to include information relating to fees charges, and rates; third-party payment; that guarantor agreements are prohibited; specific information regarding occupancy and transfer criteria; and staffing-related information. Provides a procedure for voluntary cessation of a program and requires as part of the procedure that the program escrow sufficient funds to assist tenants in the transition to subsequent housing and services. **LeadingAge Iowa position: OPPOSE.**

Priority
bill

- **Older Iowans Legislature (OIL) bill 11-17.** Another proposal to further regulate ALPs, although the bill has yet to be introduced. OIL’s purpose is to “improve the quality of life of Iowa’s seniors.” OIL met last fall in a mock legislature where representatives voted on bills to advocate for in the real legislature. One bill of concern to Public Policy Committee is 11-17, a bill to further regulate assisted living. Among its mandates is assessment of prospective tenants’ mental health; redefining ALP to include many IL with services arrangements enjoyed by many Iowa seniors. The committee voted to oppose the bill if and when it’s introduced. **LeadingAge Iowa position: OPPOSE.**

Priority
bill

- **Exempts CMS certified PACE program’s adult day services from state certification (SSB 3037).** Our member Immanuel Pathways-Council Bluffs says there is conflict between state and federal certification requirements. Under this bill, they would be federally-certified, but dually inspected by CMS and DIA, with DIA investigating complaints. **LeadingAge Iowa position: UNDECIDED/MONITOR.**
- **RCF Inspections (SSB 3036)**–Removes the moratorium on inspections by DIA. **ACTION TAKEN: SUPPORT.**

Department of Public Health

News

- **Direct Care Worker Licensing Board.** During the Jan. 20 Public Policy Committee meeting, Jennifer Furler, State Public Policy Group (SPPG), urged LeadingAge Iowa's support for a Direct Care Worker licensing board within the IDPH. Creation of the board is part of a larger initiative to train and credential direct care workers as part of the Direct Care Workforce Initiative. Legislative language to create the board was vetoed by the Governor last session, with the reason that it was an undue expense for direct care workers and the state.

After the veto, SPPG asked LeadingAge Iowa to sign a letter to the Governor urging his support for the board. The committee decided to remain neutral and not sign the letter. We invited SPPG to address the committee and again ask for their support. The committee decided to maintain its status, and not sign the letter and register as undecided on legislation to create the board. The committee felt there were still unanswered questions; and was an added regulatory burden. **LeadingAge Iowa position: UNDECIDED/MONITOR.**

- **Iowa Physician Order for Scope of Treatment (HSB 511).** Would require a 2-sided document consolidating and summarizing patient/resident preferences for key life-sustaining treatments including CPR, scope of treatment, antibiotics, etc. Robin Mixdorf-Meth Wick reported a pilot program in Linn County was successful. **LeadingAge Iowa position: SUPPORT.**
- **Health Information Exchange bill (SSB 3056)**—provides for the creation of a statewide Iowa health information network. The Iowa E-Health Collaborative was created by the legislature in 2008, and has been working to develop the foundations for an Iowa E-Health system. Currently small practice physicians and hospitals are being brought into the system in phased manner. Long term care providers will be next. **LeadingAge Iowa position: UNDECIDED/MONITOR.**

Department on Aging

Priority
bill

- **Advocacy for LTC residents (SF 2032).** IDA to establish a certified volunteer long-term care resident's advocate program to provide assistance to the state and local long-term care resident's advocates. Increases number of local long-term care resident's advocates each year until 15 local long-term care resident's advocates are available. Directs IDA to convene a workgroup to review staffing in nursing homes to make recommendations regarding what constitutes sufficient staffing in meeting resident satisfaction and in providing quality care. Workgroup to consist of interested consumers, providers, and representatives of the office of the state long-term care resident's advocate, the department of inspections and appeals, the department of human services, and other appropriate state agencies or departments. **LeadingAge Iowa position: OPPOSE.**
- **Area Agencies on Aging reorganization (SSB 3039).** Commission on Aging to revoke the designation of existing area agencies on aging, and designate new ones within the planning and service areas effective July 1, 2012. **LeadingAge Iowa position: UNDECIDED/MONITOR.**
- **Iowa Department on Aging (SSB 3035).** Provision of services, older individuals with the greatest economic need, with particular attention to low-income minority older individuals, older

individuals with limited English proficiency, and older individuals residing in rural areas. Changes the elder abuse projects to a prevention of elder abuse, neglect, and exploitation program.
LeadingAge Iowa position: UNDECIDED/MONITOR.

Miscellaneous

**Priority
bill**

- **LTC facilities property tax exemption (HF 2058).** Property tax exemption for property owned solely by a nonprofit organization and operated on a nonprofit basis as a residential care facility, nursing facility, elder group home, an assisted living program an adult day services program, or a retirement community. Once granted, continues to be granted for subsequent assessment years without further filing of applications as long as the property continues to meet the requirements of the exemption. **LeadingAge Iowa position: SUPPORT.**
- **Unemployment insurance-years of experience (HF 2012).** Reduces years of experience to compute employer’s compensation rate for unemployment insurance. Currently unemployment is based on the participant’s average earnings over the previous 5 years. It is being proposed to change the calculation to include only the previous 3 years of earnings. **LeadingAge Iowa position: UNDECIDED/MONITOR.**
- **Unemployment insurance-time & rates (HF 2013).** Reduces time period during which new employers are subject to new employer unemployment insurance rate. **LeadingAge Iowa position: UNDECIDED/MONITOR.**
- **Evaluation of permanent disability (HF 2019).** Opens up the definition of who is a qualified health care provider to include nurse practitioners. **LeadingAge Iowa position: UNDECIDED/MONITOR.**
- **Healthy and Safe Families and Workplace Act (HF 2047).** Would require minimum sick and safe time, paid or unpaid, for all full & part time employees. Accrue a minimum of five and fifty-four hundredths hours of sick and safe time for every forty hours worked. An employer who provides a leave policy that meets the minimum accrual requirements and the same minimum uses and conditions is deemed to be in compliance with the bill. **LeadingAge Iowa position: UNDECIDED/MONITOR.**
- **Bed Bugs-landlord/tenant (HSB 520).** Landlord and the tenant shall maintain the dwelling unit free of an infestation of bed bugs. Tenant’s failure to report a bed bug infestation within seven days of moving in is an acknowledgment that the unit is free of bed bugs. Requires tenant to report any bed bug infestation within 48 hours of when the tenant obtained knowledge of the infestation. Tenant’s failure to notify landlord within 48 hours results in the tenant becoming liable for bed bug control expenses, for the unit and surrounding units, and the expenses may be deducted from the tenant’s security deposit. Landlord’s designated pest control professional must visually inspect a unit within seven days of landlord’s receipt of notice of a potential infestation from a tenant. Landlord shall begin controlling the bed bug infestation in the dwelling unit within 5 days of the conclusion that an infestation exists. **LeadingAge Iowa position: SUPPORT.**