"Do-Nothing" Session Mixed Blessing for Health and Human Services

The 2004 Legislative Session officially ended on May 15th without the passage of a legislative solution to the state's projected deficit of $160 million for the 2004-05 biennium and $441 million for the 2006-07 biennium. The Governor, House, and Senate each offered a distinct plan for solving the deficit, but were unable to come to an agreement on a compromise before the Legislature's constitutional adjournment date.

Although the three proposals included adjustments to virtually every part of the budget, the changes proposed in Health and Human Services are of particular interest because of their importance to those Minnesotans most in need. The Health and Human Services funding area includes health care, welfare-to-work, child care assistance, nursing and in-home care for the elderly and disabled, and numerous other services supporting the state's most vulnerable populations. In the end, although the Legislature missed the opportunity to undo some of the most damaging impacts of cuts made last year to the state's health and human service programs, their failure to pass a budget bill also means some negative proposals were avoided.[1]

The budget-balancing plans in the Health and Human Services area largely reflected two realities. First, the Legislature convened in February 2004 to face yet another session with a budget deficit. Since Health and Human Services comprises nearly 26% of the state's General Fund budget for the 2004-05 biennium and health care is an area where costs have been rising more rapidly than in other parts of the budget, policymakers gave this area of funding a significant amount of attention. A second reality is that significant policy and funding modifications were made in the state's health and human service programs during the 2003 Legislative Session. As these changes were implemented over the past year, some of the more damaging consequences were brought to public attention, several of which legislators were interested in addressing.

The three budget-balancing proposals varied in the degree to which they used cuts in Health and Human Services to solve the General Fund budget deficit and whether they addressed the problems created by legislative decisions made in 2003.

- The Governor's proposal combined over $49 million in General Fund cuts (mostly in provider rates to nursing homes, hospitals, and pharmacists) with $13 million in new General Fund spending (mostly for new investments in the Minnesota Sex Offender Program) to achieve $36 million in net savings in FY 2004-05 towards solving the $160 million deficit.
- Using the Governor's proposal as a starting point, the House passed its own bill that recommended a net increase of $7 million in General Fund spending in this area for FY 2004-05. The House plan did not include the Governor's provider rate cuts, but achieved approximately $21 million in General Fund savings mainly by reducing benefits in the Minnesota Family Investment Program (MFIP), the state's welfare-to-work program, and by shifting a managed care payment. These changes help offset $28 million in new General Fund spending primarily used to buy back some changes made last session and for new spending on Minnesota's Sex Offender Program.[2]

[1] The Legislature did approve a Health and Human Services Licensing, Technical, and Miscellaneous Policy bill (HF2277), which included mostly minor policy changes with minimal or no fiscal impact. The policy bill was signed into law by Governor Pawlenty on May 29, 2004.

[2] The buy-backs include $11.4 million to repeal the 20% county share for large ICFs/MR facilities and $3.2 million for a 0.5% increase in the continuing care provider reimbursement rate, which was cut by 2% last session.

- The Senate bill recommended a net increase in General Fund spending of $9 million for Health and Human Services in FY 2004-05. However, to avoid making any significant cuts in programs, the Senate raised $53 million through funding reductions or transfers from other funds, then spent $62 million to restore benefits in the health care and welfare-to-work programs.[3] A sizeable portion of the savings came by sharply reducing the Department of Human Services' (DHS) administrative budget by over $21 million in FY 2004-05. Department representatives warned that the administrative cut would result in significant lay-offs at the agency.

Table 1 summarizes the General Fund impact of the proposals on Health and Human Services funding and demonstrates how the Governor and House would have made some progress towards resolving the FY 2006-07 deficit, while the Senate plan would have added to the deficit.

Table 1: Proposed Changes in General Fund Spending in Health & Human Services[4]

	Governor		House		Senate	
	FY 2004-05	**FY 2006-07**	**FY 2004-05**	**FY 2006-07**	**FY 2004-05**	**FY 2006-07**
Service Cuts	-$49,157	-$183,083	-$21,242	-$168,184	-$52,777	-$106,650
New Spending	$13,014	$37,956	$28,432	$64,118	$61,650	$251,395
Net Change	**-$36,143**	**-$145,127**	**$7,190**	**-$104,066**	**$8,873**	**$144,745**
HCAF Transfer	*-$70,000*	*0*	*-$71,027*	*0*	*-$39,447*	*$39,447*

Source: Author's analysis of House and Senate Fiscal Analysis data

The rest of this document identifies the opportunities lost and negative outcomes avoided in several of the major programs in this area – including child care assistance, health care, welfare-to-work, and the Health Care Access Fund (HCAF).

Child Care Assistance

Access to affordable child care is a critical component of making economic self-sufficiency possible for low- and moderate-income working families. In the 2003 Legislative Session, the final budget solution cut General Fund spending on Basic Sliding Fee child care assistance by 50%. To achieve these reductions, reimbursement rates for providers were frozen and parents saw their monthly copayments increase by an average of 57% for a family of three or four.[5] Eligibility to begin receiving help was also cut significantly from approximately 290% of federal poverty guidelines to just 175%.[6] As a result, 900 families lost their child care assistance due to decreased income eligibility and at least 30 child care centers around the state closed between July and December of 2003. As of December 2003, almost 7,000 families in 51 counties were sitting on waiting lists. The cuts in child care resulted in a number of undesirable consequences, including families turning to welfare and other financial assistance programs because they could no longer afford to pay for child care on their wages.

[3] The $53 million in service cuts and transfers does not include a $39.4 million "loan" from the Health Care Access Fund in FY 2005 that is immediately repaid in FY 2006.

[4] In addition to changes in General Fund spending on health and human service programs, all three plans also altered spending in two other important funding sources. The Health Care Access Fund (HCAF) is funded through a provider tax on health care services and supports MinnesotaCare, a health care insurance program for low- and moderate-income working families. The second source of funding, Temporary Assistance for Needy Families (TANF), is block grant money from the federal government that is largely used to provide cash assistance to families through the Minnesota Family Investment Program (MFIP), the state's welfare-to-work program. This document addresses spending changes in all three funds.

[5] For instance, monthly co-pays increased from $208 to $376 for a family of four at 200% of poverty (81% increase) and from $361 to $592 for a family of four at 225% of poverty (64% increase).

[6] The 2004 federal poverty guidelines are reprinted at the end of this document.

Low- and moderate-income families struggling to access or afford child care would have found little help in any of the budget-balancing plans considered at the Capitol. None of the proposals altered the modifications made in child care assistance eligibility and co-payment amounts during the 2003 Legislative Session. The Governor's proposal included a temporary contingency fund to address a few of the unexpected problems created by last year's changes, but did not recommend any broad-based relief for eligible families.[7] However, the proposal used funds earmarked for child care quality improvements and did not represent new dollars.

The Senate proposal included a few policy recommendations to resolve unintended consequences, including protections for highly vulnerable families either in counties terminating families due to budget limitations or moving from a county with no waiting list to another county with a wait for child care services. The Senate did not include the Governor's proposed contingency fund or any other financial relief for struggling families or child care providers.

While providing some relief to child care providers by reducing license fees by about 25%, the House proposal would have cut payments to providers by $63 million in FY 2006-07 by extending the freeze on child care rates into the next biennium.

One reversal in this area was the revival of the At-Home Infant Care program, which provides low-income families with a portion of what they would have received in child care assistance to stay at home to care for an infant up to one year of age. This program can be a cost saver for the state, as infant care is particularly expensive. On the final day of the session, the Legislature passed this provision as part of the Health and Human Services Policy bill that Governor Pawlenty signed into law on May 29, 2004.

Health Care Programs

The state offers three health care programs for low-income Minnesotans. MinnesotaCare is a premium-based subsidized health care insurance program for low- and moderate-income families and individuals. Medical Assistance (MA) is a joint federal-state funded health care program for low-income families with children, the elderly, and persons with disabilities. General Assistance Medical Care (GAMC) is a state-funded program that pays for certain health care services for low-income individuals who do not qualify for other programs, and mainly serves adults without children.

In the 2003 Legislative Session, dramatic changes were made in all three of these programs, including adding copayments, increasing premiums, limiting benefits, and reducing eligibility. Many vulnerable populations were effected by the decisions. By FY 2005, 26,646 Minnesotans — including parents, children, pregnant women, and adults without children — are expected to lose their coverage from one of the state health care programs as a result of the changes.

The failure to pass any Health and Human Services finance bill means the Legislature lost the opportunity to fix some of the more pressing problems that have arisen as a result of decisions made in the 2003 session:

- ***MA Eligibility for Pregnant Women*** – In order to avoid losing approximately $30 million in federal matching dollars, the Governor and Senate proposed restoring MA eligibility for pregnant women with incomes from 200% to 275% of federal poverty guidelines and reinstating a special work expense deduction for infants and pregnant

[7] The contingency fund would have provided child care assistance in hardship cases such as eligible families who were terminated by counties due to county budget limitations, military families, and families exiting MFIP who did not use child care assistance while on MFIP.

women. The House does not agree that federal dollars are in jeopardy and so did not reverse these changes made in the 2003 Legislative Session.

- ***MinnesotaCare Benefit Set*** – Last year, health care benefits for adults without children with incomes between 75% and 175% of federal poverty guidelines on MinnesotaCare were significantly reduced and redesigned into what is called the MinnesotaCare Limited Benefit set. The Governor recommended reinstating coverage for mental health services and diabetic supplies and equipment for these adults. The House proposal would have reinstated coverage for diabetic supplies and equipment and optometrist services, but not mental health services. The Senate plan would have reinstated the full MinnesotaCare benefit set for this group. All of the proposals would have maintained the $5,000 cap on the amount of out-patient services a participant can receive in a year.
- ***Cap on Dental Services*** – Last session, lawmakers approved a $500 limit on dental services for adults with disabilities. This cap has created a substantial barrier to much-needed dental care for this vulnerable population. The House plan would have removed the $500 limit for MA and GAMC recipients, but would have eliminated dental care for most adults on MinnesotaCare. The Senate proposal, however, retained dental coverage for MA, GAMC, and MinnesotaCare recipients and eliminated the $500 limit.
- ***Tuberculosis Treatment*** – The Governor, House, and Senate all proposed restoring General Assistance Medical Care (GAMC) eligibility for undocumented immigrants with tuberculosis who lost eligibility last session due to their immigration status. This expansion would have covered approximately ten people per year who require ongoing treatment for this contagious disease.
- ***Continuing Care Provider Rates*** – In a significant deviation from the Governor's proposal to cut continuing care provider rates by 1.5%, the House plan included a 0.5% rate increase. This would have bought back a small portion of the 2% rate cut lawmakers approved in 2003. The Senate did not propose any changes to rates.
- ***Parental Fees*** – Last session the Legislature increased fees for parents who receive services to enable them to care for their disabled children in their own homes. The fee increases amounted to several thousand dollars a year for some families. More than 300 families appear to have stopped receiving services due to increased fees. The House proposal reduced last session's fee increases by about 24%, while the Senate plan reduced the fee increase by about 63% and also reversed a major change for non-custodial parents.
- ***Nursing Home Liens*** – In 2003, lawmakers significantly expanded the state's ability to recover assets from the estates of individuals who use MA or alternative care services. The intended goal of this policy change was to discourage dependence on MA services, encourage the use of long-term care insurance, and raise additional revenues for the MA program. The changes, which took effect in the summer of 2003, immediately enabled the state to pursue claims on certain types of estates up to the value of any medical benefits the individual had received. In response to concerns raised by the public about the suddenness and far-reaching implications of this policy, the Senate plan would have repealed this entire provision. The House proposal, however, recommended a very narrow retroactive exemption for estates existing prior to August 1, 2003 and a temporary moratorium through July 31, 2005 on pursuing recovery.
- ***HIV/AIDS Program Shortfall*** – The state is anticipating a $2.1 million shortfall in programs serving individuals with HIV. These programs serve approximately 1,040 people with incomes under 300% of the federal poverty guidelines and cash assets under $25,000. The shortfall is largely the result of caseload growth due to increased life expectancy, the rising costs of care, and eligibility cuts made last year in the state's health care programs. The Governor proposed to fund the shortfall and initiate some administrative changes, such as increased cost-sharing. The Senate also included some funding for the shortfall and proposed increased cost-sharing. The House did not make any recommendations to address

the shortfall in this program. In late May, the Department of Human Services announced the administrative cost-sharing proposal, effective July 1, 2004. Under the new requirements, participants with incomes between $9,000 and $28,000 a year will pay between 5% and 7% of their monthly income, as well as some drug co-pays.

The Senate proposal, in particular, went beyond these areas of agreement and would have made significant steps in reforming or restoring elements of the health care system, including:

- Eliminating the co-payments in the MA and GAMC programs that were instituted in the 2003 Legislative Session,
- Restoring the MinnesotaCare full benefit set for single adults, and
- Creating a MinnesotaCare option for small employers.

However, the failure to act also means some particularly undesirable changes were avoided.

- The Governor and the House proposed co-payments of $3 for non-preventative office visits and $6 for non-emergency emergency room visits for adult MinnesotaCare participants, characterizing this as fixing an "oversight" from last session. This would have been in addition to the increase in MinnesotaCare premiums approved in 2003.
- The Governor and the House proposed to "align" the MinnesotaCare eligibility policy with MA by eliminating coverage more quickly for enrollees whose income rises above the standards.
- Currently, nursing facilities receive $0.25 per resident day to fund a scholarship program to allow their employees to pursue a degree or credential to advance their careers in Long Term Care. The Governor and the House proposed eliminating this program.
- The Governor and the House proposed suspending the automatic Cost of Living Adjustment (COLA) for MA rates for certain nursing facilities through 2007. During the 2003 Session, the COLA for these nursing homes were suspended for 2004 and 2005.
- The Governor and the House proposed caseload limits for home and community-based services for persons with disabilities for the next biennium.

Minnesota Family Investment Program

The Minnesota Family Investment Program (MFIP) provides cash benefits and employment and training services to eligible low-income families with children. In the 2003 Legislative Session, major policy changes were made to the program, including two provisions that reduced the amount of some families' cash grants:

- Families participating in MFIP who live in federally subsidized housing now have $50 of their housing subsidy counted as income for the purposes of calculating their MFIP grant, thereby reducing their cash grant by $50 per month. This change, often referred to as the "$50 housing penalty," affected about 7,500 families.
- MFIP families with a disabled family member who receives federal disability payments (SSI) now have their cash grant reduced by $125 per month for each SSI recipient living in the household, even though they do not receive MFIP benefits on behalf of the disabled family member. This change impacted more than 6,800 of the poorest and most vulnerable families in Minnesota, including approximately 1,300 households with more than one SSI recipient. Some MFIP families are subject to *both* the "$50 housing penalty" and the SSI reduction.

The Governor and House proposals would have left the $125 SSI reduction in place. Both proposals, however, made changes to the $50 housing penalty. The Governor's proposal would have clarified existing language to ensure families where the disabled grandparent or other relative caregiver receives federal SSI are exempted (parental caregivers receiving SSI are already exempt). The House proposal went the other direction and actually would have *increased* the housing penalty from $50 to $200 per month. The increase would have resulted

in more than 1,000 families losing their eligibility for MFIP cash assistance simply because they live in subsidized housing. The Senate proposal, however, would have repealed both the SSI and housing penalties, eliminating these benefit cuts to very low-income families.

Other modifications proposed by the Governor and House to the MFIP program would have further limited opportunities for families trying to move from welfare to self-sufficiency. For instance, the Governor and House plans would have reduced access to post-secondary education for MFIP participants from 24 to 12 months. The Senate plan would have left the 24 months of post-secondary education in place. In addition, the Senate would have eased access to the education and training benefit by reducing the hourly work requirement from 20 hours to 12 hours per week and allowing unpaid work experience to count towards the requirement.

Health Care Access Fund Nearly Avoids "Raid"

The Health Care Access Fund (HCAF), a dedicated funding source for the MinnesotaCare program, derives from a 2% provider tax on health care services. The Governor and House budget plans identified a projected surplus in the HCAF and proposed transferring $70 million into the General Fund to help solve the state's budget deficit. The Senate proposal, in contrast, would have temporarily borrowed money from the HCAF to solve the 2004-05 deficit, but immediately transferred the money back into the fund in FY 2006, making it more of a short-term loan from the HCAF.

Although no money was transferred out of the HCAF because the Legislature failed to take action during the session, the Governor did cancel a scheduled transfer of $110 million from the General Fund to the HCAF to help fill the budget deficit.

Conclusion

The 2004 Legislative Session ended with only minor changes in the Health and Human Services area. Unfortunately, that meant legislators were unable to fix some of the more undesirable consequences from last's year decisions. This is a disappointing outcome for many of the most vulnerable individuals in our state – low- and moderate-income families, children, the elderly, immigrants, and the disabled. However, the "do nothing" outcome of the session also prevented some of the more negative ideas on the table from being implemented. Many of the proposals described here, both good and bad, are likely to reappear in the 2005 Legislative Session.

Appendix: 2004 Federal Poverty Guidelines

Family Size	75%	100%	175%	200%	275%	290%	300%
1	$6,983	$9,310	$16,293	$18,620	$25,603	$26,999	$27,930
2	$9,368	$12,490	$21,858	$24,980	$34,348	$36,221	$37,470
3	$11,753	$15,670	$27,423	$31,340	$43,093	$45,443	$47,010
4	$14,138	$18,850	$32,988	$37,700	$51,838	$54,665	$56,550
5	$16,523	$22,030	$38,553	$44,060	$60,583	$63,887	$66,090
6	$18,908	$25,210	$44,118	$50,420	$69,328	$73,109	$75,630
7	$21,293	$28,390	$49,683	$56,780	$78,073	$82,331	$85,170
8	$23,678	$31,570	$55,248	$63,140	$86,818	$91,553	$94,710
+ for each additional person	$2,385	$3,180	$5,565	$6,360	$8,745	$9,222	$9,540

Information Sources: This document used information from a number of sources, including Affirmative Options Coalition, Children's Defense Fund-Minnesota, Child Care WORKS, House Fiscal Analysis, House Research, Housing Minnesota, Julian Zweber, Minnesota AIDS Project, Minnesota Department of Health, Minnesota Department of Human Services, Minnesota Disability Law Center, Minnesota Public Radio, Senate Fiscal Policy Analysis, Senate Counsel, and *Star Tribune*.