Pennsylvania: Hospital project seeks Medicare payments

Background

The Inspector General of the Department of Health and Human Services and the U.S. Attorney for the Middle District of Pennsylvania (working with other U.S. Attorney offices) have undertaken a project to recover duplicate Medicare payments made to over 4,600 hospitals nationwide. The project targets relatively small overpayments made for outpatient testing where payment was already made as part of inpatient charges. As of February 1996, this project recovered over $6.5 million from Pennsylvania and Florida.

Politics of the Issue

The project is an example of the federal government's minimizing the need for expensive litigation or criminal prosecution by using less intrusive action to fight health care waste and fraud. It is perceived differently in different states. For example, in Massachusetts, where the U.S. Attorney's Office has taken an aggressive stance, it has received more publicity than in other states. The American Hospital Association does not support the project and has been particularly opposed to it in those states where the project has been pursued more aggressively. The project has not been given much attention by consumer groups or the general public.

Administration Action

The Justice Department has pursued this project with U.S. Attorneys' offices across the country.

New Jersey: Medicaid/Medicare cuts

Background

ISSUE 1
In May, Governor Whitman signed legislation to create a program to move the charity care population into managed care paid for through unemployment taxes and general revenues. The bill requires the State to submit an 1115 waiver request which they intend to do.

ISSUE 2
Obviously, seniors have been concerned about the budget debate and its impact on Medicare and Medicaid.

Politics of the Issue

ISSUE 1
There has been a fight between the Governor and the State legislature which caused a 5–month stalemate on the charity care legislation. HHS was unable to uncover the reason for the stalemate.

ISSUE 2
The President has been involved in a lengthy debate with Congressional Republicans over the need to protect the Medicare and Medicaid programs from excessive cuts.

Administration Action

ISSUE 1
The Administration has not taken any action on the expected waiver request.

ISSUE 2
The Administration has taken a position to protect Medicare and Medicaid from excessive Republican cuts. It is unlikely that there will be any action on the Hill on these issues before the November elections.

Solutions

ISSUE 1
We have not yet been asked to take a position on the charity care legislation or the expected waiver request.

ISSUE 2
The President has publicly fought Republican proposals that would shift a staggering financial burden to elderly and disabled beneficiaries and result in damaging structural changes in the Medicare and Medicaid programs.

Ohio: Improper billing claims to Medicare and Medicaid

Background

The Ohio Hospital Project is a joint initiative to recapture lost revenue to the Medicare and Medicaid program and to deter future program abuse. To date, five hospitals have paid more than $2.3 million to settle claims of improper billing to Medicare and Medicaid for outpatient laboratory tests. In addition, over 75 hospitals are participating in a self-disclosure program whereby hospitals may settle all improper claims for a reduced penalty if they comply with proper billing and administrative procedures.

Politics of the Issue

State and federal auditors discovered the improper billing by hospitals and laboratories. Most interest groups, including hospitals and laboratories, are not thrilled with the project, but many have chosen to voluntarily disclose their billing practices. It is not an issue where government is perceived as acting irresponsibly.

Administration Action

Participating agencies in the Ohio Hospital Project include: the Inspector General of the Department of Health and Human Services, the Federal Bureau of Investigation, the U.S. Attorney for the Northern District of Ohio, and other state agencies.

The Ohio Medicare intermediary installed a program in July 1994 to address overbilling to Medicare. Concerns about overbilling to Medicaid still exist.

Penn

Partnership at Gettysburg National Military Park under Public Review: A plan proposes a partnership with a private concern to build a new visitor center complex at Gettysburg; some interested parties find the commercial aspect very objectionable. (DOI)

Mob Sentencing: Mob boss John Stanfa and mob consiglieri Nicholas "Nicky Buck" Piccolo will be sentenced this week after being convicted in a RICO trial for conducting the affairs of the Philadelphia family of the LCN through a pattern of racketeering activity that included murder, gambling and loan sharking. (DOJ)

GEMSCAM Telemarketing Fraud: More than 50 have been indicted since 1994 in a telemarketing scheme to defraud 2,000 gem investors out of more than $15 million. To date, GEMSCAM has produced 35 guilty pleas and the recovery of $3 million in restitution, further charges are anticipated. (DOJ)

Chris Jen Sandy

Hospital Projects Seeks Medicare Payments: The In-Patient/Out-Patient Hospital Project is seeking to recover over $100 million in Medicare overpayments and penalties from 4,600 hospitals nationwide. To date the project has recovered $13 million from hospitals in ten states. (DOJ)

Financial Fraud Case: 6 individuals have been charged, and more indictments are expected, in a massive check kiting scheme which caused a loss of $31.3 million dollars to a major Pittsburgh financial institution. The case is the largest financial fraud case in the District's history. (DOJ)

Northeast Interstate Dairy Compact: State dairy producers are interested in the Northeast Interstate Dairy Compact, which is being considered by USDA to regulate milk marketing among six New England states. (USDA)

Interstate Trash: The PA legislature and Governor Ridge responded to public outrage concerning the large amounts of solid waste imported into the State (expected to increase when the Freshkills Landfill in NY closes in 2001) by approving a resolution calling for federal legislation that would authorize states to restrict imports of solid waste. (EPA)

Waivers: As part of the State's FY96-97 budget, Governor Ridge signed into law major changes in the state's welfare legislation. (HHS)

Jenny

Health Benefits To The Domestic Partners Of Gay City Officials: Philadelphia Mayor Rendell signed an executive order extending city paid health benefits to the domestic partners of gay city officials. The order is relatively narrow because it only applies to 500 nonunion managers and political appointees. It does not cover 20,000 unionized city employees. Cardinal Anthony J. Bevilacqua opposed the Mayor's position and vowed to press for repeal of the order. (HHS) targets for a managed care takeover because they control 30% of the population. (HHS)

Long Term Care: Surveys indicate that many people in skilled nursing care are at the highest functional level, suggesting that other modalities and levels of care, such as in-home or intermediate residential, might be more appropriate. (HHS)

OHIO

Gov. Voinovich's Alleged FAA Infraction: Governor Voinovich's assumption of control of a state-owned aircraft on October 20, 1995 has led to the imposition of a $1,500 penalty by FAA. The Governor has requested an informal conference on the issue, which will likely take place at the end of July. (DOT)

Return of Highway Trust Funds and Elimination of FHWA: On February 29, Governor Voinovich called for the elimination of FHWA and the full return of Ohio's federal gas tax revenues. (DOT)

State Infrastructure Bank Pilot: OH is one of 10 pilots for State Infrastructure Banks. (DOT)

Mineral Leasing: In response to industry requests, BLM is currently pursuing leases for more than 11,000 acres at the U.S. Army Corps of Engineers Mosquito Creek Lake Project in Trumbull County, OH. The project is generating considerable public concern about potential contamination of surface and groundwater, as well as the impact on recreation opportunities and possible decrease in property values. (DOI)

Improper Billing Claims to Medicare ad Medicaid: Five hospitals have paid more than $2.3 million to settle claims of improper billing to Medicare and Medicaid for outpatient laboratory tests. Seventy-five additional hospitals are participating in a self-disclosure program with anticipated overall recoveries to exceed $15 million. (DOJ)

Poultry and Livestock: Some farm organizations and Members of Congress are concerned about corporate-concentrated livestock and poultry facilities, particularly in west and north central OH. (USDA)

Food Stamps: OH's FY95 Food Stamp Program error rate is 14.57 percent, with a potential sanction of $24 million. (USDA)

Automobile Inspection and Maintenance Program: The recently-adopted enhanced automobile inspection and maintenance program is coming under attack from a number of State legislators who want the program stopped. Gov. Voinovich is supportive of the program. (EPA)

N.J.

New Jersey Air Quality: Almost all of NJ still needs to adopt additional controversial and costly control programs in order to meet public health protection requirements. (EPA)

Welfare Reform: Governor Whitman proposed the NJ WORKFIRST welfare reform proposal earlier this year. The official waiver request has not been submitted to HHS. Concerns have been raised that the existing welfare reform (Family Development Plan) initially requested by then Governor Florio and approved by President Bush, should be evaluated before any other new plan is put in its place. (HHS)

Medicaid/Medicare Cuts: There are continuing problems with reimbursements and financing for charity care as well as concerns from seniors about proposed Medicare/Medicaid cuts. NJ has one of the highest populations of senior citizens in the U.S. (HHS)

Brookhaven National Laboratory: DOE's Inspector General Report concluded that Brookhaven National Laboratory does not present an immediate threat to the environment, worker safety, or public health. A $1 billion lawsuit has been filed by local residents against DOE's Brookhaven National Laboratory for the contamination of soil, groundwater, and air. (DOE)

Indictment: Newark's former Police Director, William Celester, has been indicted on 37 counts of mail fraud, abuse of office, and tax offenses, and is awaiting trial. (DOJ)

NEW MEXICO

Education Funding Formula: Ten of NM's 89 school districts filed a lawsuit challenging the education funding formula. (DoEd)

New Students: The Demming School Board of Trustees voted against accepting new students from Mexico. (DoEd)

Essential Air Service: On July 2, the Federal Court of Appeals in DC vacated DOT orders that had required air carriers to continue to provide air service to some small communities. DOT had reduced its subsidies, allowing carriers to reduce but not eliminate service. The court ruling will allow carriers to suspend service. (DOT)

Taos Municipal Airport: Many locals oppose the growth and tourism expected to result from a proposed new, longer runway at this airport. (DOT)

C613
Monday

Chris ? Tom

- What do you know about the issue?

  Is the issue a community vs. industry issue?

  Has the issue become a fight with government -- state, federal, local -- do people perceive it as govt acting irresponsibly?

  Does the issue have a fall guy?

  Does the issue affect the economy in the area? How -- jobs, development, environment?

  How do specific civic leaders/special interest groups break on the issue?

- What have we done on the issue?

  What have we been asked to do and acted or not acted upon? Who asked us for help?

- Have solutions to the issue been mapped out?

  Have we taken a position on the solution -- if no, should we have by now or should we in the future?

  Have we been asked to take a position? Should we?

Inpatient-outpatient hospital fraud

This project, undertaken by HHS IG Audits and the U.S. Attorney for the Middle District of Pennsylvania, centralizes the recovery of relatively small duplicate Medicare payments received by 4,600 hospitals nationwide for outpatient testing for which payment was already made as part of the inpatient charges. Each hospital action results in: (1) collection of overpayments, interest penalties and damages; (2) a compliance agreement with specific "safe harbor" methodologies for the hospitals and training requirements for hospital billing personnel; and (3) recovery of all duplicate payments through the date of settlement. As of February 14, 1996, recoveries from Pennsylvania and Florida have totalled $6,541,125.00. The project is being closely coordinated with U.S. Attorney's Offices in other states and cooperation between the districts has been excellent.

-- what is PA total?

Pennsylvania: Hospital projects seeks Medicare payments

Background

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Politics of Issue

The project is an example of the federal government's minimizing the need for expensive litigation or criminal prosecution by using less intrusive action to fight health care waste and fraud. It is perceived differently in different states. For example, in Massachusetts, where the U.S. Attorney's Office has taken an aggressive stance, it has received more publicity than in other states. The American Hospital Association does not support the project and has been particularly opposed to it in those states where the project has been pursued more aggressively. The project has not been given much attention by consumer groups or the general public.

Administration Action

The Justice Department has pursued this project with U.S. Attorneys' offices across the country.

Massachusetts: Passage of health insurance legislation

Background

The Massachusetts State Legislature passed a bill expanding health insurance benefits for children by changing the state's Medicaid waiver. The expansion is paid for through a tax on cigarettes, cigars and pipe and smoking tobacco. The bill is on Governor Weld's desk. He has opposed it because he opposes the tobacco tax. According to Governor Weld, the state would need to submit a new Medicaid waiver in order to implement this bill.

Politics of the Issue

There has been a big fight between the state legislature and the Governor. The Governor is likely to veto the legislation. Most interest groups, including consumers and physician groups support the new legislation. The Governor would clearly be blamed for stopping it, but he does not want to sign legislation raising taxes. It is not, however, an issue where government is perceived as action irresponsibly. The issue would tangentially affect the economy because more people would have health security.

Administration Action

The Administration has not yet been asked to act on the Medicaid changes. Before the Governor veto's the legislation, we plan to say that we support coverage expansions for children and that we will treat this as a waiver amendment so that the state can implement it without going throught the more difficult and cumbersome process of submitting a new waiver.

Solutions

The state does not have a solution, and we have not been asked to take a position yet. We have, as noted above, decided to make it clear publicly that we support the expansion and will facilitate its implementation if the state submits a request.

Kentucky: Uninsured/lack of action on state's health reform plan

Background

Waiver: In 1993, the Administration approved a Section 1115 Medicaid waiver that would expand health care coverage to all Kentuckians with incomes less than 100% of the federal poverty level and allow people with incomes below 200% of poverty to purchase health services from Medicaid providers at Medicaid rates. The waiver was never implemented because the legislature objected to the financing of the proposal. The state amended the waiver in 1995, and the Clinton Administration approved this new waiver (that would have created a single statewide health maintenance organization made up of academic health centers, federally qualified health centers, large public hospitals, etc. to serve all people on Medicaid). Again, the legislature has not passed legislation to implement it.
Health Reform: Kentucky passed health reform legislation in 1994 that improves access to health care (for example, by setting up purchasing alliances) and includes strong insurance reforms. Health reform legislation is being considered this year to amend the 1994 law.

Politics of the Issue

Waiver: While consumer and labor groups continue to fight for reform, legislation has continually been stopped in the state legislature by insurance companies and physician groups. Current Governor Patton seems to be distancing himself from the approved waivers.
Health Reform: Consumer and labor groups do not believe that the implementation of reforms is happening quickly enough.

This is not a community v. industry issue.
People do not perceive government acting irresponsibly.
The issue tangentially affects the economy, because health coverage is an issue of economic security.
Special interest groups: see above.

Administration Action

Waiver: As noted above, the Administration granted waivers to Kentucky.
Health Reform: The Administration was not involved in the passage or implementation of health reform legislation at the state level.

Solutions

Waiver: There is no plan in Kentucky to implement the single statewide health maintenance organization. We have not pushed the Governor to implement the waiver.
Insurance Reform: We have not been asked to take a position. We should not take a position on the specific legislation beyond saying that we support state efforts to take steps forward to provide access to affordable health insurance.

Tennessee Nursing Home Tax

Background:

The Medicaid Voluntary Contribution and Provider Specific Tax Amendments of 1991 established certain limitations on Federal financial participation under Medicaid when States receive funds from providers. The law establishes a definition of the types of health care related tax revenues that States are permitted to receive. In general, these taxes must be broad-based, apply to all health providers in a given class in a uniform manner, and not hold providers harmless from their tax costs

Tennessee's Tax

Tennessee has a nursing home tax that is applied at a rate of $2,600 for each licensed bed. This tax is applied to all nursing facilities, including facilities owned and operated by the State. The State indicated that there are no exclusions, deductions, or adjustments applied to the tax of any licensed facility different from any other such facility.

Simultaneous with the nursing home tax, the State enacted a grant assistance program for financial support for eligible individuals residing in licensed nursing homes. Individuals eligible for this assistance must not have their nursing home care paid for in whole or in part, by Federal, State, or combined Federal/State medical program.

HCFA Actions

HCFA believes the grant assistance program represents a direct repayment of the tax to non-Medicaid taxpayers. Consequently, the grant assistance program would violate the hold harmless provision of the 1991 Provider Tax legislation (Regulation -- 42 CFR 433.68 (f)(1)).

The last correspondence HCFA had with the State was a December 19, 1994 letter in which HCFA informed the State that its tax program violated the hold harmless provisions. Tennessee was one of seven States notified at that time. The disallowance is estimated to be approximately $176 million.

No action has been taken on processing the disallowance at this time.

Potential Impacts

In December 1994, the Health Care Financing Administration (HCFA) notified Tennessee that the Federal government may disallow $176 million from Federal Medicaid matching payments because the State's tax program violated Federal law. Although the potential disallowance remains a significant issue, no action has yet been taken on processing the disallowance at this time. The implementation of the disallowance and/or negotiations with the State are still under review by HCFA.

TO Jenk
From John S

456-2878

Kentucky

Insurance and Docs have killed (in the legislature) health reform for past three years.
HHS has approved waivers that would do a single HMO for Medicaid statewide. Network of providers (Acad hlth ctrs, FQHCs, large pub hosps, etc.) would be Medicaid HMO. State would contract with them for 2-4? yrs with no competition. Previous Gov Jones (Dem) sought waiver, and seemed more willing to do something.

Current Gov Patton (Dem) is distancing himself from approved waivers. Labor and consumers want action.

Monahan recs very carefull (if any) action. VERY TRICKY. Can tell Gov in PR if necessary.

Massacusetts

HHS approved a waiver that would among other things match private pay premiums with state $. Dem legislature passed (veto proof margin) elimination of state funds for premiums and replaced with cigarette tax. Other changes would add kids up to 200% of poverty, and some other Waxman kid expansions.

Problem is that some have said that this would require a new waiver, that in turn would require a new (lower) growth rate number from OMB. HHS has pledged to get HCFA to do whatever it can in expediting any new request.

John M has orchestrated a future exchange of correspondence with Kerry to say that:
1)No new waiver needed-would be considered as amendment to existing approved waiver.
2)we strongly favor expansions for kids
3)implies that we would not go crazy if premium subsidy were to disappear.

Rich T knows exact status. Monahan has been working with Hill Dems to help Kerry.

Whole deal designed to let Kerrey get credit for solution. Would help with race against Weld.

Business community may be concerned with loss of premium subsidy. Would otherwise calm tobacco cos.

John Monahan's Sky Pager *PIN#207-4366 will check every two hours or so.
DGA suite is 809+863-6923 will be there on and off.

Law Summary? ● Yes ○ No

Subject: Finance; Pharmaceuticals; Special Population; Behavioral Health; Medicaid; Providers

State: KY

Law Number: KY S 343 Big Health Care Law this Year

Topic: Adult Home and Community-Based Care; Any willing provider; Basic/Standard benefits plans; Commissions; Data collection; Health plan grievance systems; Long-term care; Managed care and access-MH/SA; Mandated benefits; Medicaid Administration; Medicaid waivers; Networks; Nursing Facility; prescription drug industry; Psychologists; Purchasing alliances; Rating restrictions

Law Version. The purpose of this law is to: 1) abolish the KY Health Policy Board and to redistribute its responsibilities between the department of insurance and the Cabinet for Human Resources, and 2) regulate provider-sponsored integrated health delivery networks. See details below.

Commissions: The Cabinet for Human Resources shall establish a system for the reporting to the General Assembly, on a quarterly basis, through December 31, 1996, as to the progress in implementing the provisions of KRS 205.6310 to 205.6332, the findings of any reports or studies authorized by KRS 205.6310 to 205.6332, and recommendations regarding the reports or studies.

Provider networks: Regulates provider-sponsored integrated health delivery networks, organizations which are wholly owned, governed, and managed by health care providers, and which provide directly, or through arrangements with others, a health benefit plan to consumers voluntarily enrolled with the organization on a per capita or a predetermined, fixed prepayment basis. Requires a certificate of filing from the commissioner. Lists certification requirements, including information on whether a network: (a) has demonstrated the capacity to administer the health benefit plans it is offering; (b) has demonstrated the capacity to administer the health plans it is offering; (c) has the ability, experience, and structure to arrange for the appropriate level and type of health care services; (d) has the ability, policies, and procedures to conduct utilization management activities; (e) has the ability to achieve, monitor, and evaluate the quality and cost effectiveness of care provided by its provider network; (f) is financially solvent; (g) has a satisfactory grievance procedure and the ability to respond to enrollees' inquiries and complaints; (h) does not limit the participation of any health care provider in its provider network in another provider network; (i) has the ability and procedures to monitor access to its provider-sponsored integrated health delivery network; (j) has the ability and policies that allow enrollees to receive care in the most appropriate and least restrictive setting; (k) does not discriminate in enrolling members; (l) participates in coordination of benefits; (m) uses standardized electronic claims and billing processes and formats; and (n) assures that all services covered by the provider-sponsored integrated health delivery network are available to all persons enrolled in the health benefit plan within fifty (50) miles of each person's place of residence, to the extent those services are available within that area, and assures that all services not available therein be offered at sites as proximate to the enrollee as possible. Provides for solvency requirements.

Health Purchasing Alliance: Transfers the Health Purchasing Alliance for administrative purposes from the Kentucky Health Policy Board to the department of Insurance.

Allows employer groups of any size to become alliance members (current law allows small employers of 100 or less employees). Deletes a requirement that employees of state institutions of higher education and elected and salaried employees of cities, counties, urban-counties, charter counties, or special districts excluding school districts be mandatory members of the purchasing alliance. Revises the effective date for mandatory alliance membership to July 1, 1998, or the renewal or termination date after July 1, 1998, of coverage in effect on the effective date of this Act, whichever is later.

Expands the definition of Health benefit plan to include student health insurance offered by a Kentucky-licensed insurer under written contract with a university or college whose students it proposes to insure.

Authorizes the Kentucky Department of Insurance to approve more than 5 health benefit plans; a minimum of five plans are required. Directs the Department of Insurance to implement the administrative regulations promulgated by the Kentucky Health Policy Board for the establishment of a risk adjustment process to be used in equalizing risk between insurers which participate within and outside of the Kentucky Health Purchasing Alliance.

Specifies that any person or group covered on the effective date of this Act by a health benefit plan which is not a standard plan may elect to renew the current coverage until July 1, 1998, as long as the benefits provided remain exactly the same and renewal is guaranteed.

Insurance Rating Requirements: Provides for review by the Insurance Commissioner of all rates, fees, dues, and other charges filed by insurers with the commissioner between July 15, 1995, and the effective date of this Act, to determine if the rates are excessive and if the benefits are no longer reasonable in relation to the premiums or fees charged. The Commissioner is directed to order insurers to pay proportional refunds to all policyholders, members, subscribers and enrollees when rates are found to be excessive. Authorizes penalties for failure to comply with the Commissioner's order, including at least a one year suspension of the insurer's certificate of authority. Establishes new rate filing requirements. The persons designated by the Attorney General as health insurance consumer intervenors shall have the same access to material evidence and information of the commissioner of the Department of Insurance relating to any health insurance rate hearings before it as other parties to the hearing. Health plans issued or renewed on or after January 1, 1996, to trustees of a fund that has been in existence from or before January 1, 1996, are exempt from community rating as defined in this provision.

Mandated Benefits: Requires that a sponsor of a bill and any member proposing an amendment to a bill which contains a mandated health benefit shall submit to the committee to which the bill has been referred a social and financial impact statement prior to final consideration by the committee.

Certificate of Need: Transfers authority for the CON program from the Kentucky Health Policy board to the Cabinet for Human Resources. Revises the definition of "health facilities" subject to CON review, to clarify that review requirements apply to facilities and services owned and operated by HMOs directly providing health services subject to certificate of need (under current law HMOs are subject to review). No medical assistance payments shall be made under this chapter to any out-of-state health facility or health service providing services within the geographic boundaries of the Commonwealth if the health facility or health service would be required to obtain a certificate of need under KRS Chapter 216B if the facility or service were located within the geographic boundaries of the Commonwealth. Ambulance services owned and operated by a city government, which propose to provide services in cities and counties outside of the ambulance service's designated geographic service area, shall not be required to obtain a certificate of need if the governing body of the city or county in which the ambulance services are to be provided enters into an agreement with the ambulance service to provide services in the city, county, or both.

Long-Term Care: This bill would abolish the Kentucky Health Policy Board. It would, therefore, transfer the powers and duties of this Board for overseeing long-term care facilities to the Cabinet for Human Resources.

KENTUCKY HISTORY

The Kentucky legislature did not hold a regular session in 1995, but the state's executive branch is moving full-speed ahead with the implementation of the 1994 law to revamp the state's health care system. Implementation has been smooth so far despite Golden Rule's challenge of the legality of the requirement that insurance companies offer only standard benefit plans. A ruling is expected in the fall. Governor Brereton Jones (D) is a firm backer of the reform, although two key provisions on the governor's wish list were not enacted: universal access and state rate-setting authority. Instead the state opted for an approach based on market competition and incremental reform, establishing a foundation from which further reforms can be launched. The 1994 law provides improved access to health care, adopts strong insurance reforms, and enhances health planning, the Medicaid program, and the future availability of primary care providers throughout the state.

Key provisions of the 1994 law include: the creation of a new Kentucky Health Policy Board (KHPB) with broad oversight and policymaking authority; the formation of a statewide purchasing alliance called the Kentucky Health Purchasing Alliance (KHPA), mandatory for public employees but voluntary for individuals and businesses with 100 or fewer employees; broad-based insurance reforms for all coverage, including the development of up to five standard benefit plans (with an HMO option for each), risk-adjusted prices, and modified community rating for KHPA, individuals and small groups under 100 employees; a Medicaid "buy-in" program for persons with incomes below 200 percent of the federal poverty level; 24-hour coverage pilot projects; an any willing provider clause; the development of practice parameters accompanied by a provision of rebuttable presumption in malpractice cases, making the state stricter on this issue than the handful of states which have dealt with this issue; a ban on provider self-referrals; mandatory fee disclosures by physicians, pharmacists and hospitals; health data collection from all providers on costs, quality and outcomes to replace the 1993 law, which was deemed unconstitutional for procedural reasons; transfer of the responsibility for the certificate of need program from the Cabinet for Human Resources to the Health Policy Board; and Medicaid cost containment.

Repeal of some of these reforms is looming in 1996. For example, one prefiled bill would eliminate the mandate on local governments to join KHPA, develop separate community rates for individuals and employer groups, require KHPB to define five standard plans to be issued only to KHPA members, establish criteria for provider-sponsored integrated health delivery networks and create a Medicaid managed care system. In addition, physicians are likely to seek a repeal of the two percent provider tax used to fund the Medicaid program. Both parties' gubernatorial candidates reportedly support a repeal of the provider tax and have made noise about scaling back the scope of the 1994 law. Kentucky is one of the few states for which 1995 is an election year, and, depending on the outcome of the elections, health care reform may not fare well next year.

Still, many components of the reform are already in place and gathering supporters. Since September 1994, individuals and small groups have been able to purchase health insurance through the state employee plan, which offers a choice of 15 different plans. As of the beginning of March 1995, approximately 2,700 people had taken advantage of that option. Individual premiums are $168 per month; high-risk individuals pay an additional 50 percent of the premium. The interim option expired in mid-July but its components are to be continued through KHPA. On March 31, KHPB approved four standard benefits plans, which break down into 29 overall options, ranging from managed care to indemnity plans. All plans renewed after July 15 – with the exception of self-insured plans – will be rolled over into one of the new packages.

The George Washington University

INTERGOVERNMENTAL HEALTH POLICY PROJECT

2021 K Street, N.W., Suite 800 - Washington, DC 20006

PHONE (202) 872-1445 *** FAX (202) 785-0114

DATE: 7/15/96 **TIME:** 3:30 **# OF PAGES** ____

TO: Jennifer Klein **FROM:** Wendy Fox-Grage

FAX #: 456-2878

COMMENTS: ____

PLEASE CALL (202) 872-1445
IF YOU DID NOT RECEIVE ALL OF THIS TRANSMISSION. THANK YOU!

In May KHPB also appointed Health Plan Services, which also serves as the third-party administrator for Florida's Community Health Purchasing Alliances. to run KHPA. Thirteen insurance companies were certified by and entered into contracts with KHPA for the "July cycle" of coverage, which began August 15. A 14th company, the state self-funded plan, had submitted a bid with KHPA but withdrew and postponed its participation until the "January cycle," which starts coverage January 1, 1996. KHPB expects KHPA to cover approximately 250,000 people, primarily public employees, by January 1, 1996.

Kentucky prides itself on having the second oldest statewide Medicaid managed care program in the country. Viewed as a model for other states, KenPAC is operated under a 1915(b) Medicaid waiver and is based on a fee-for-service primary care case management system. The 1994 law further strengthened that program, providing for greater incentives for physicians to actively manage care, the development of comprehensive standards regarding access and quality for every HMO serving Medicaid recipients, the promotion of preventive services through Medicaid reimbursement to local health departments, and the initiation of pilot projects to provide health services to frail elderly Medicaid eligibles. In July 1994, the managed care system was expanded to include the aged, blind and disabled, increasing total KenPAC enrollment by fifty percent.

In addition to KenPAC, Kentucky won approval of an S. 1115 Medicaid waiver in December 1993. The new program, called the Kentucky Medicaid Access and Cost Containment Demonstration Project (KMACC), would expand coverage to 200,000 residents whose incomes are less than 100 percent of the federal poverty level. The program was scheduled to begin July 1, 1994, but its implementation is on hold until 1996 after the legislature refused to authorize it in 1994. In the meantime, the state is evaluating the option of a S. 1915(b) Medicaid waiver for women and children.

In 1994 extensive revisions were made to the Medical Assistance Indigent Trust Fund, providing funds for disproportionate share hospitals. It imposes provider taxes to generate revenues for the fund, targeted at hospitals, nursing homes, physicians, home health agencies and pharmacies. Charitable providers are exempt from the provider tax. An earlier Medicaid provider tax enacted in 1993 was declared unconstitutional by a lower court but the state supreme court ultimately upheld the state's right to levy the tax.

Kentucky has long been an innovator in providing health care in rural areas and has been building resources through its Office of Rural Health, family practice residency program emphasizing training in community-based settings, and rural health education program. The 1994 law took a more aggressive stand on the problems of provider availability, particularly regarding primary care and the needs of underserved areas. Key measures include establishment of the Kentucky Health Service to create and oversee expanded regional, community-based family practice residency programs and an expanded stipend program for medical students and residents who will practice primary care in underserved areas of the state. Much more extensive coordination and cooperation between the two medical schools in the state is mandated, as well as an increase in primary care training and a cap on non-primary care residency programs. Additional programs for minority health professions education, non-physician provider training and physician respite were also authorized.

ITUCKY

TH CARE COMMISSIONS	*Gubernatorial and Legislative Health Care Study Groups:* »**Kentucky Health Policy Board** (HPB): established 1994; to oversee implementation of health care reform and to, among other things, collect data, develop uniform claims form, define standard benefits, oversee the Kentucky Health Purchasing Alliance, authorize 24-hour pilot projects, and establish risk adjustment process by April 1, 1995 to equalize risks among insurers. »**Kentucky Health Care Data Commission**: established 1993; reports annually by July 1; declared unconstitutional by the state's Franklin Circuit Court; records, materials and work of the KY Health Care Data Commission transferred to the HPB, effective July 15, 1994. »**Joint legislative-executive panel**; established June 1993; recommendations September 1994. »**Task Force on Health Care Access and Affordability**: established March 1992; recommendations June 1992.
RANCE REFORMS	**Small Group Reforms:** Yes. See below. Small groups under 100 employers. Small groups are permitted to join the Kentucky Health Purchasing Alliance. **Individual Reforms:** Yes. **Guaranteed Issue:** Yes. **Guaranteed Renewal:** Yes. **Portability:** Yes. Up to six month limit on pre-existing condition exclusions, if not previously covered. **Rating Restrictions:** Yes. Must be approved by the Health Policy Board. Applies to employers with 100 employers or fewer, individuals and participants in the Kentucky Health Purchasing Alliance. Modified community rating. No more than 3:1 spread in rates between the lowest and highest age bands. **Purchasing Alliances:** Yes. Kentucky Health Purchasing Alliance, established 1994, operational July 15, 1995. The Alliance is a statewide, independent agency of state government but administratively attached to the Kentucky Health Policy Board which will, among other things, set membership criteria, selectively contract with accountable health plans, provide standardized information to its members, develop grievance procedures, collect and distribute premiums, and set administrative fees up to 1.5% of premium. It is voluntary for individuals and employers with 100 or fewer employees. It is mandatory for state employees beginning July 15, 1995 and for public health department, school district, local government, judiciary, and state higher education employees beginning January 1, 1996. Accountable health plans (AHPs) are created to offer services to alliance members. To qualify as an AHP, a plan must be able to, among other things, conduct utilization management reviews, evaluate quality and cost-effectiveness of care, and insure adequate access to providers. **Basic Benefit Plans:** Yes. The Board has established four standard benefit plans, with a total of 20 cost sharing and delivery options. Each plan has an indemnity and a managed care version. These are the only plans that may be sold in the state. The Board designated one plan as the "basic" plan. Supplemental riders may also be sold with board approval. **High Risk Pools:** No.
CAL SAVINGS ACCOUNTS/ NCENTIVES	**Medical Savings Accounts:** No. **Other Tax Incentives:** No.
ERAGE FOR TARGETED ILATIONS	**Indigent Care Programs:** Yes. See Medicaid. **Children's Health Insurance Programs:** No. **Other Coverage for the Uninsured:** Yes.

KENTUCKY

MEDICAID	**S. 1915(b) Waivers:** Yes. Kentucky Patient Access and Care System (KenPAC): started 1986 under a Sec. 1915(b) waiver. It is a fee-for-service Primary Care Case Management program with a $3 case management fee. It operates in 113 of 120 counties and the 1994 law expands the system to the other 7 counties. Open to AFDC and AFDC-related recipients. The state submitted a request for renewal of the waiver in December 1994. **S. 1115 Research and Demonstration Waivers:** Yes. The state won approval of a Section 1115 waiver in December 1993. However, the legislature objected to the financing of the proposal so it has not been implemented. The waiver expands medical assistance coverage to all Kentuckians whose incomes are less than 100% of the poverty level. The waiver included a Medicaid buy-in program to expand access in the state by allowing persons with incomes below 200% of federal poverty level to purchase health services from Medicaid providers at Medicaid rates. The state amended the waiver in June 1995 and submitted it to HCFA asking for a two year pilot project establishing three Medicaid managed care regions in the state. **Provider Taxes:** Yes. An earlier Medicaid provider tax enacted in 1993 was declared unconstitutional by the state's Franklin Circuit Court. The decision was appealed and ultimately the state Supreme Court upheld the state's right to levy the tax. A 2% tax was instituted in 1994 on hospitals and doctors. **Other:** Yes. The Health Policy Board has some oversight over the Medicaid program and related cost containment measures. Cost controls include: purging the Medicaid rolls of ineligibles; constructing conservative reimbursement methodologies; reviewing existing cost-based reimbursement systems for hospitals and nursing homes to determine whether more cost effective alternatives such as DRGs or RBRVS exist; restricting nonemergency transportation; strengthening utilization review; using "smart cards" to monitor utilization of services and other computer technology to facilitate utilization review (with a focus on prescription drug utilization); instituting aggressive collections procedures; and reducing disproportionate share payments to facilities which fail to provide free services to sufficient numbers of indigent patients. New access and quality improvements include: development of comprehensive standards regarding access and quality for every HMO serving Medicaid recipients; provisions to avoid duplication of child screening services; promotion of preventive services to low-income Kentuckians by making Medicaid reimbursement available to local health departments to function as primary care centers; and implementation of pilot projects to provide health services to frail elderly eligibles.
COST CONTAINMENT	**Certificate of Need:** Yes. Established 1972. New expansion of CON review includes a requirement that a physician's office must apply for a CON for any new major equipment in excess of $500,000 and an exemption of charitable hospitals from CON requirements. Transferred to the Health Policy Board. **Facility Rate Setting:** No. **Regulation Of Physician Fees:** No. **Uniform Claims Form:** Yes. The Health Policy Board has adopted UB-92 and HCFA 1500 as uniform claims forms. **Other:** Yes. The Health Policy Board may set a target expenditure limit for total state health expenditures with the goal that the rate of increase decline by 10% per year until it is equal to the rate of increase in state personal income. The Health Policy Board may establish purchasing cooperatives for medical supplies, equipment, services or pharmaceuticals. Providers, pharmacists, hospitals and other facilities must post their maximum fee for most common performed procedures (25)/prescribed drugs (50)/charge for room and nursing services.

KENTUCKY	
DATA COLLECTION	Data Collection: Yes. The Health Policy Board will collect, analyze and disseminate information on cost, quality and outcomes. Hospitals are required to submit all UB-92's, and HCFA 1500's are required on specific procedures from ambulatory surgery centers and doctors' offices. Information Dissemination: Yes. The Health Policy Board will release reports annually. Electronic Data Interchange. No.
REGULATION OF PHYSICIAN PRACTICE	Clinical Practice Guidelines: Yes. The Health Policy Board will develop, update and implement practice parameters. The Board is in the process of publishing 12 sets of clinical guidelines in 1996; more in future years. Self-Referral Restrictions: Yes. The law prohibits a provider from knowingly soliciting, receiving or offering any remuneration for furnishing medical assistance benefits in return for purchasing, leasing or ordering any goods or services for which payment may be received, and for referring a recipient to another provider.
ANTITRUST	Antitrust Immunity: No. Mergers: No.
MANAGED CARE	Any Willing Provider Clause: Yes. For all providers (1994). Application of any willing provider clause largely undefined and untested. Freedom-Of-Choice Clause: No. Patient Protection Act: No. Health Maintenance Organization Act: Yes. "Health Maintenance Organization Act," Ky. Rev. Stat. Ann. §§ 304.38-010 et seq. (1974). The state has 7 HMOs and an enrollment share of 12.1 percent. Accountable Health Plans: Yes. Accountable Health Plans (AHPs) are created to offer services to the Kentucky Health Purchasing Alliance members. To qualify as an AHP, a plan must be able to, among other things, conduct utilization management reviews, evaluate quality and cost-effectiveness of care, and insure adequate access to providers. Networks (PHOs/ISNs/etc.): Yes. The Kentucky Health Policy Board is promulgating regulations to define criteria for provider-based networks. Regulation Of Utilization Review Companies: Yes. Law requires registration, certification or licensure of utilization review agents. Selected Clinical Mandates: No.

KENTUCKY	
HEALTH WORKFORCE SUPPLY AND DISTRIBUTION	**Scholarship And/Or Loan Forgiveness/Replacement Programs:** Yes. Efforts to improve provider availability have included loan forgiveness and repayment programs for health professions students and/or residents. **Quota Measures:** No. **Charitable Immunity:** Yes. Grants full or limited immunity from liability for free-care services to patients in nonprofit clinics and health departments. **Other:** Yes. In 1994, the Legislature took a comprehensive approach to improving provider availability which included admission goals for medical schools based on workforce needs, generalist physician designations and fees for primary care physicians to be determined by the Health Policy Board; creation of the Kentucky Health Service at the University of Kentucky and University of Louisville which will implement regional family practice residency training programs in community-based sites and administer a stipend program for medical students and residents who agree to practice primary care in underserved areas of the state; creation of a minority health professions education program by the Health Policy Board and the Council on Higher Education; development of a plan for cross-disciplinary training of health care professionals to be submitted to the Council on Higher Education and the General Assembly by January 1, 1996; capping of the non-primary care residency program at both universities; development of a request to the Health Care Financing Administration allowing the use of graduate medical education funds to finance the regional family practice residency program; development of at least five regional training programs for advanced registered nurse practitioners and physician assistants; creation of a loan repayment program; and development of an underserved area physician respite program by the Health Policy Board. A system of primary care networks was enacted in 1990 (the system has been slow to be implemented); and integrated delivery networks were promoted in rural areas by the Health Policy Board.

Subject: **Behavioral Health, Medicaid, Pharmaceuticals** **Date: 07/12/96**
State: **Massachusetts**
Headline: Health Care Bill Passes House and Senate

After much controversy surrounding its cigarette tax provision, H 6107 passed the legislature on July 8. The following are its major provisions:

- Expansion of health insurance benefits for children.
- *Authorizes a modified version of MassHealth, Massachusetts's Section 1115 Medicaid Waiver.*
- Senior and Disabled Persons Pharmacy Assistance: Establishes a program of pharmacy assistance for (1) persons aged sixty-five or older, who are not eligible for medical assistance or medical benefits, and who have no Medicare supplemental or other third party coverage for pharmacy benefits and (2) persons who are disabled and receiving Social Security disability benefits under Title II of the Social Security Act; who are not eligible for medical assistance or medical benefits, and who have no Medicare supplemental or other third party coverage for pharmacy benefits.
- Cigarette Excise: Increases the cigarette tax to $.25 per pack. Also applies a 15% tax on cigars and pipe and smoking tobacco.
- Repeals employer mandate that, beginning August 1, would have imposed a tax on businesses that do not provide health insurance to their workers.

Currently, this bill is on the governor's desk. However, this bill's future is uncertain considering Gov. Weld's (R) opposition. The governor, who is against any type of new taxes, refuses to use a cigarette tax to pay for the expansion in benefits.

Publish?

Comments:
Analyst: Aimee Charette
Updated By: Aimee Charette
Readers: LTS News Readers; LTS Behavioral Health News Readers; LTS Medicaid News Readers; LTS Pharmaceuticals News Readers

MA H 6107 - Big Health Care Bill
This Year

HISTORY

MASSACHUSETTS

Having recently finalized the state's budget, Massachusetts legislators have not yet turned their attention to health care reform which will remain on the agenda until the 1988 Health Security Act (HSA) is finally either implemented or repealed. One factor likely to influence legislative action on health care reform this year is the departure of one of the original backers of reform. Questions about the S. 1115 Medicaid waiver and its financing and long-term implications, and the enactment of federal legislation, block grants in particular are also likely to make the legislative calendar this year.

The focus of recent reform in Massachusetts has been on access and markets rather than cost containment and regulation. With the enactment in 1988 of the Health Security Act, Massachusetts pioneered the "play-or-pay" reform strategy -- requiring employers to either insure their workers or pay a tax to a state insurance program. Changes in the economic and political climate prompted the legislature three years later to reverse or delay many of the provisions of the act and to initiate alternative reforms relying more heavily on the private sector. Specifically, insurance reforms, including modified community rating for small groups, were enacted in that session, and the hospital rate regulation system with strict revenue caps that had been in place since 1975 was repealed. The 1991 changes to regulation of hospitals included a $315 million cap on the hospital uncompensated care pool, effectively ratcheting the pool down each year as inflation outstrips permissible growth in the pool. Finally, the "play-or-pay" mandate was delayed because of some speculation that the payroll tax, set in 1988 at 12 percent of the first $14,000 in wages, to a maximum of $1,680, would not be adequate if the program were to be implemented today.

In January 1995, lawmakers voted to delay, for the third time, implementation of the employer play-or-pay mandate until January 1, 1996. Repeal remains a possibility. At the same time, they created a 15 member Special Blue Ribbon Commission on Health Reform charged with examining legislation introduced thus far this year. The commission has been meeting since May and is to issue a report to both the governor and the legislature by September. The commission is focusing on the future of the employer mandate, insurance reforms, including nongroup reform, expansion of the small group size to employers with fewer than 100 employees, and applicability of portability, guaranteed renewal, and underwriting restrictions to all insureds, and the Governor's Health Care Reform Proposal (H 4928). Gov. William Weld's (R) proposal includes similar insurance reforms with an expansion of small groups to employers with fewer than 50 employees, tax credits for employees earning up to $30,000 per year, subsidies for employer insurance purchases for workers earning up to 200 percent of the federal poverty level, medical savings accounts worth up to $2,500 in annual tax-free contribution, a repeal of the employer mandate, and an authorization for a S. 1115 waiver application, MassHealth, for all households earning up to 133 percent of the federal poverty level. The application won federal approval in April but still requires the legislature's approval.

As of August, the blue ribbon commissioners had reached some consensus around nongroup insurance reforms but many questions about the S. 1115 waiver remained unanswered. In order to attempt to answer some of these questions, the Chair of the Commission convinced the Chair of the Ways and Means Committee to appropriate $125,000 to contract with an outside consultant to examine the underlying assumptions of the waiver. More recently, legislation was introduced to authorize the merger between two of the largest teaching hospitals in the state. This legislation has raised questions as well, including how the merger would fit in the waiver program and whether the quasi-public status of the entities making up the merger should be retained in order for the new entity to serve as a Medicaid provider. No action is expected on the governor's package until the commission provides its recommendations, and the package itself is considered unlikely to pass as a whole.

In the current Medicaid system, virtually all medical services are being provided through managed care, either through capitated HMO contracts or Primary Care Case Management. The state obtained a S. 1915(b) Medicaid waiver and implemented it in 1992 on a statewide basis. In addition to mental health and substance abuse benefits managed through a single statewide vendor, the waiver allows for about a quarter of the nonelderly population to enroll in conventional HMOs and the remainder to participate on a mandatory basis in the Primary Care Case Management program. On another front, the state Medicaid office and state employee insurance plan have joined with other large purchasers to form the Massachusetts Healthcare Purchaser Group to negotiate rates with carriers. For 1994-1995, they have demanded that HMOs offer them flat premiums, with no increase over the previous year.

More recently, Massachusetts has sought to expand Medicaid through a S. 1115 Medicaid waiver. The new program, MassHealth, would cover the largest gap group in the Medicaid and Medicare programs -- adults who earn less than 133% of poverty, yet are ineligible for assistance because they have no children, are not age 65 or are not permanently disabled.

Portions of the 1988 HSA expanding access for some groups, such as the Medical Security Plan, a health insurance program tied to unemployment insurance benefits, and the Children's Medical Security Plan, a 1991 preventive and primary care insurance program for children up to age 12, have been implemented. To free up program funds and allow enrollment in the Children's Medical Security Plan to temporarily reopen, Medicaid-eligible enrollees are currently being transferred to Medicaid and funding was added in the FY 96 budget. The number of new enrollees these steps provide will depend on the outcome of an actuarial evaluation of program results for FY 95.

The Massachusetts health care market is undergoing rapid change with consolidation of hospitals and rapid expansion of HMOs. A 1993 report by Harvard researcher Nancy Kane showing large reserves held by teaching hospitals caused a stir and led the Attorney General's office to develop "voluntary" community benefit standards that hospitals must meet if they are to avoid closer scrutiny by that office. More recently, the Attorney General subjected managed care to similar scrutiny and adopted a first-in-the-nation set of guidelines to encourage HMOs to promote community health. The state has had a pharmacy any willing provider law on the books since 1994. Although a broad any willing provider bill is currently pending before the Joint Insurance Committee, a recent study completed by an advisory panel cautioned the legislature against the adoption of such requirements.

Massachusetts requires that physicians accept Medicare assignment. An effort to require that physicians accept Medicaid patients as a condition of licensure has been discussed but was never enacted. Hospital data collection, which began in 1975, continues for all hospitals, ambulatory surgical centers, and nursing homes. In addition, a private initiative called the Massachusetts Health Quality Partnership was formed in early 1995 by leaders in health, business and government. The goal of the partnership is to develop a plan for providers to collect data and disseminate information on quality to purchasers and consumers.

MASSACHUSETTS

HEALTH CARE COMMISSIONS	Gubernatorial and Legislative Health Care Study Groups: »Special Blue Ribbon Commission on Health Reform: established 1994, to study various health bills, including insurance reforms, the governor's health care reform proposal and the future of the employer mandate; report due September 1995. »Hospital Payment Advisory Commission: established 1991, to evaluate hospital reimbursement and continued need for DON program. »Special Commission on Health Care Finance and Delivery Reform: (3/91).
INSURANCE REFORMS	Small Group Reforms: Yes. Enacted 1991. Small group defined as up to 25 employees. Individual Reforms: No. Guaranteed Issue: Yes. Guaranteed Renewal: Yes. Portability: Yes. Rating Restrictions: Yes. Purchasing Alliances: Yes. State Medicaid office and state employee insurance plan have joined with other large purchasers to form the Massachusetts Healthcare Purchaser Group to negotiate with carriers. Basic Benefit Plans: Yes. High Risk Pools: No.
MEDICAL SAVINGS ACCOUNTS/ TAX INCENTIVES	Medical Savings Accounts: No. Other Tax Incentives: No.
COVERAGE FOR TARGETED POPULATIONS	Indigent Care Programs: Yes. Includes Uncompensated Care Pool that provides coverage for the uninsured up to 200% of poverty and health services for the Emergency Aid to the Elderly, Disabled and Children who do not categorically qualify for SSI or Medicaid. CenterCare and Healthy Start enrollees are entitled by law to inpatient care through the pool. Children's Health Insurance Programs: Yes. First named Healthy Kids when established in 1991 to provide primary and preventive care insurance for children up to age 5, the program was renamed Children's Medical Security Plan effective July 1994 when eligibility was expanded through age 12. Enrollment was frozen in December 1994 after nearly 22,000 children had been enrolled, 7,000 more than funding could sustain. A wait list of about 4,000 children exists and outreach has ceased. To free up program funds and allow enrollment to temporarily re-open, Medicaid-eligible enrollees are being transferred to Medicaid and funding was added in the FY96 budget. The number of new enrollees these steps provide will depend on the outcome of an actuarial evaluation of program results for FY95. Other Coverage for the Uninsured: Yes. Medical Security Plan, an initiative of the 1988 universal coverage law, funded through an employer unemployment insurance surcharge and paying for either direct care or a COBRA subsidy to the uninsured unemployed while receiving UI benefits. CenterCare, established 1989, through the Department of Medical Securities, to pay a capitated fee to 32 community health centers to provide primary care to about 11,000 low income persons. Common-wealth, providing between 3,000 and 3,500 disabled working adults and disabled children not eligible for Medicaid with comprehensive Medicaid-like coverage since 1989. Healthy Start, providing nearly 6,000 low income pregnant women not eligible for Medicaid with comprehensive prenatal and postpartum services since 1988.

MASSACHUSETTS

MEDICAID	S. 1915(b) Waivers: Yes. Primary Care Clinicians Program, a Primary Care Case Management model managed care program. First implemented 1992 on a statewide basis. In addition to mental health/substance abuse benefits managed through a single statewide vendor, the waiver allows for about 25% of the non-elderly Medicaid population to enroll in conventional HMOs and the remainder to participate on a mandatory basis in the Primary Care Case Management model. S. 1115 Research and Demonstration Waivers: Yes. The state received federal approval of its S. 1115 waiver in April 1995. The plan would use funds from the state's uncompensated care pool to subsidize insurance premiums for the working poor and to give tax credits to their employers. The S. 1115 waiver has been submitted to the legislature for its approval. The actuarial and long term cost assumption of the waiver are being evaluated by legislative committees and the Special Blue Ribbon Commission. Provider Taxes: Yes.
COST CONTAINMENT	Certificate Of Need: Yes. Established 1972. Amended in 1994 to include MRIs in non-hospital settings. Facility Rate Setting: No. Strict revenue caps being phased out (operated since 1975, repealed in 1991). Commission retains authority to set rates for Medicaid services that are not acute hospital services. Regulation Of Physician Fees: No. Uniform Claims Forms: No.
DATA COLLECTION	Data Collection: Yes. State began hospital data collection efforts in connection with hospital rate-setting program in the 1970s. Also required to collect data on cost of health insurance and health status of citizens. Information Dissemination: Yes. Commission responsible for preparing and publishing reports, at least annually, analyzing comparative price and service data on acute care hospitals. Electronic Data Interchange: No. Other: Yes. An ongoing, private initiative called the Massachusetts Health Quality Partnership was formed in March 1995 by leaders in health, business, and government. The goal is to develop a plan for providers to collect data and disseminate information on quality to purchasers and consumers.
REGULATION OF PHYSICIAN PRACTICE	Clinical Practice Guidelines: Yes. Board of Registration in Medicine has endorsed clinical practice guidelines that were developed by specialty societies for anesthesia and OB/GYN. Other specialties discussing guidelines with the board. Self-Referral Restrictions: Yes. Modeled on Stark I for physical therapy. Legislation pending to restrict self-referrals for free standing imaging clinics (CAT, MRI, etc.) and clinical labs. Other: Yes. Mandatory assignment for Medicare beneficiaries is a condition of physician licensure.
ANTITRUST	Antitrust Immunity: No. Mergers: No.

MASSACHUSETTS	
MANAGED CARE	**Any Willing Provider Clause:** Yes. Pharmacy only (1994). Requires HMOs to offer all pharmacies the same contractual terms, including price and patient management requirements, as those provided to selective contract awardees. Bid process must be open and fully disclosed to promote open competition. Study requested in 1994 to examine the issue of a broad clause and completed in 1995 by an advisory panel that cautions against adoption of such requirements. **Freedom-Of-Choice Clause:** No. **Patient Protection Act:** No. **Health Maintenance Organization Act:** Yes. "Health Maintenance Organizations," Mass. Gen. Laws Ann. Ch. 176G, §§ 1 et seq. (1976). The state has 16 HMOs and an enrollment share of 35.2 percent. **Accountable Health Plans:** No. **Networks (PHOs/ISNs/etc.):** No. **Regulation Of Utilization Review Companies:** Yes. Law relates to utilization review but is not comprehensive and does not require certification. **Selected Clinical Mandates:** Yes. Bone marrow transplants. Mandate applies to HMOs, Blue Cross/Blue Shield and commercial insurers. HMOs usually carry less restrictive requirements. Legislation mandating 48 hour postpartum inpatient stays pending. **Other:** Yes. Set of voluntary guidelines issued by the Attorney General's Office governing HMOs and promoting community health.
HEALTH WORKFORCE SUPPLY AND DISTRIBUTION	**Scholarship and/or Loan Forgiveness/Replacement Programs:** Yes. The Labor Shortage Fund, administered by the Department of Medical Security, has paid $15 million over five years to programs that provide advanced training, matriculation and career ladders to nurses, nurses aides, and entry-level personnel in the health care system. Assessments against acute care hospitals in 1988 through 1991 provided the funding which will run out in 1996. The state medical school at the University of Massachusetts offers a "learning contract" providing forgiveness of tuition and fees in exchange for at least two years' service in primary care in medically underserved areas designated by the Department of Public Health. This program is part of a pilot program enacted in 1991 under which teaching hospitals agree to provide loan repayment assistance to medical residents at their institutions who: (1) have a minimum of $50,000 in education debts on graduation from medical school; (2) are training in primary care; (3) agree to continue practicing in the state for at least three years of completion of residency in a location approved by the Area Health Education Center at the University of Massachusetts at Worcester; and (4) agree to treat those patients covered for health and medical services under Medicaid. Oversight of the program is provided by the Department of Public Health. **Quota Measures:** No. **Charitable Immunity:** No. Charitable immunity statute pending before the legislature. **Other:** Yes. Civil liability has been eliminated for certain physician assistants, their employing physicians and registered nurses who render emergency care or treatment to injured persons.

HOT ISSUES

IDENTIFIED

BY

GOVERNORS

Post-it® Fax Note 7671	Date 7/2	# of pages ▸ 2
To Pete Greenberger	From Roger Kosson	
Co./Dept.	Co.	
Phone #	Phone # 908-846-2WIN	
Fax # 202/530-1383	Fax #	

NJ

TO: Pete Greenberger
FR: Roger Kosson and Carrie Mitnick
CC: Gigi Georges
RE: Four Controversial Topics in N.J.
DT: 7-2-96

(These issues are in no particular order)

Megan's Law
Seven year old Megan Kanka was raped and murdered in Hamilton Township in the summer of 1994. Her assailant was a convicted sex offender who lived across the street from her. Megan's mother claimed that had she known a convicted sex offender lived in the neighborhood, she would have kept Megan away from him. Megan's Law is a group of statutes which provide for public notification when a dangerous sex offender moves into a neighborhood. The State Supreme Court has upheld the legality of Megan's Law. In February of 1996, moreover, a N.J. Appellate Division Panel ruled that Megan's Law also applies to individuals who work in N.J., but live in a another state. At the same time, Federal judge Nicholas Politan ruled that Megan's law improperly imposes additional punishment on individuals who have already paid their debt to society. Other critics of the law argue that the legislation was pushed through in a hurried and sloppy fashion. Thus the details have not been adequately delineated. For example, critics want to know if the Law applies to all sex offenders, irrespective of the seriousness of the conviction. Dick Zimmer has recently introduced crime legislation in Congress modeled on Megan's Law. The legislation requires states to track convicted sex offenders and to notify other states when an offender is leaving one state for another. Finally, it requires offenders to register with the state, and imposes a penalty for failure to do so.
As of yesterday, 7-1-96, Federal District Judge John W. Bissell dissolved the temporary ban placed on the Megan's law notifications. The ban will be automatically lifted as of noon next Tuesday.

Toms River Cancer Cluster
Between 1979 and 1991, 230 Ocean County children were diagnosed with cancer, in general .This number is 7% higher than the projected statewide average. Additionally, the birth defect rate in the county has exceeded the state average for eight years in a row. In Toms River, specifically, the percentage of preschoolers suffering from any form of brain cancer is 700% higher than the expected average. The childhood leukemia rate, moreover, is 80% higher than expected. New Jersey public officials initially resisted conducting a study of this phenomena. They argued that the raw numbers were too small to be statistically significant. Governor Whitman, additionally, opposed spending New Jersey funds on such a study. Ocean of Love for Children with Cancer, led by Linda Gillick, is a non-profit support and advocacy group that has been pressing for a study to determine any relation between the raised incidents of cancer and any environmental cause. Due to recent national exposure, a study has been commissioned by the federal Agency for Toxic Substances and Disease Registry. Many suspect that the Ciba-Geigy Corp. may bear some responsibility for the outbreak. Ciba-Geigy is a dye-manufacturing plant in town which was placed on the federal Superfund list in 1982.

School Funding and New Jersey

In its Abbot v. Burke decision of 1992, the New Jersey Supreme Court ruled that certain public schools had failed to provide its students with a "thorough and efficient education." A thorough and efficient education is the minimum level of education which NJ public schools are required to provide to its students. A specific definition, be it qualitative or quantitative, has never been identified. In an effort to comply with the Court's decision, then-Governor Florio enacted the Quality Education Act to provide educational parity for students from poorer districts. The Court struck down the legislation, claiming that it failed to provide parity. It ordered the State to present a plan by September 1996 which would detail how it plans to achieve educational parity. Although the Court maintained that dollars are not the only indicator of educational parity, it acknowledged that money is an important consideration in the achievement of that goal. Thus, school funding has become a focus in the State's efforts to provide a plan for the implementation of a "thorough and efficient" plan in all schools.

In February 1996 New Jersey Education Commissioner Leo Klagholtz presented a model core curriculum. This curriculum is to become the blueprint for what each New Jersey public school student should be learning. The content of this curriculum, moreover, will serve as the basis for revamping the school funding system. Under the administration's plan, the governor and Legislature would be required every two years to set a specific per-pupil amount needed to pay for the "thorough and efficient education." The plan provides that all districts receive that designated per-pupil amount. It would allow districts to ask local voters to use property taxes to spend more on their schools. This funding plan calls for a total of $869 million in cuts to the 1993-94 school budgets. Many are concerned that the state's per pupil amount would be so low that schools would be forced to cut programs. They also fear that taxpayers would refuse to approve spending above what the state deemed necessary.

Proposed Cigarette Tax

A 62% cigarette tax increase has been proposed by Assemblyman Nicholas Felice in the State Legislature. The revenue raised is to go to hospital charity care. Whitman, moreover, plans to use the money to reduce pressure on unemployment taxes. The revenue to be raised from the tax is estimated at $160 million, and will reduce the use of unemployment taxes to about $240 million a year. Republicans are divided on the tax issue. Proponents of the tax argue that this tax is voluntary. Essentially, if you want to avoid the tax, quit smoking. Some argue against any tax increase. They maintain that it is unfair to tax people's habits, no matter how much one disapproves of the habit.

MISSOURI FEDERAL ISSUES

1. *Making Health Care More Responsive and Efficient* **(HHS)**

Missouri's statewide section 1115 demonstration proposal uses managed care to expand Medicaid eligibility to low income insured individuals. It is estimated that the demonstration will serve more than 700,000 beneficiaries. A decision is pending on whether revenue from provider taxes will be included in the base year costs for the demonstration. HCFA continues to examine evidence to determine whether Missouri's hospital and nursing home taxes are permissible. Missouri has a waiver request pending on the "hold harmless" aspects of its hospital tax.

2. *Livestock* **(DOA)**

Premium Standard Farms, the country's fourth-largest hog operation, has defaulted on bond payments and is seeking financial restructuring. With 40,000 acres under PSF ownership, anything that disrupts this operation will have a major economic impact in up to five northwest Missouri counties.

3. *TWA London Services* **(DOT)**

Formal air service negotiations between U.S. and the United Kingdom broke off last October, when the U.S. rejected a British offer that excluded a New York-Heathrow route. Minority Leader Gephardt has taken a particular interest in the U.S. application for new air service access to Heathrow as TWA is a major employer headquartered in St. Louis. After a conversation with Secretary Pena and in cooperation with DOT, Governor Carnahan is leading a delegation of Missouri business executives to England on May 29 to meet with appropriate UK decision makers regarding Heathrow access. Should the formal negotiations be re-opened and a favorable decision made on Heathrow access. TWA would compete with other major U.S. carriers for New York-to-London authority.

4. *Base Closure and Defense Industry Adjustment* **(DOD)**

McDonell Douglas Corporation has its headquarters and major manufacturing/research operations in St. Louis. Between 1990 and 1996, employment at the company fell from 40,000 to 20,000. The St. Louis Economic Council established the Defense Adjustment Committee to help displaced workers, distressed defense firms, and to diversify other defense-impacted communities. DOD has provided over $1 million for reuse planning in the St. Louis area.

5. *Economy*

Kansas City's unemployment is at 3.3%, and the overall economic picture is bright. Already home to a number of national corporate headquarters and manufacturing facilities, the newest arrival is Harley-Davidson, which will ultimately employ as many as 2,500 workers. Legalized riverboat gambling has brought a half-dozen major casinos and several thousand new jobs to the area. Kansas City's Mayor, mid-way through his second term, is generally perceived as having practiced good fiscal management, with the notable exception of the city's public housing facilities, which have recently been taken into receivership by a federal judge. Governor Carnahan's handling of the state economy has shown very good results locally, and the perception of residents that he city is becoming a more desirable host to new businesses.

6. *Same Sex Marriages*

Governor Carnahan has recently signed legislation to outlaw same sex marriages.

Paul

KENTUCKY

Key Issues

- Tobacco

  Our stand on this issue is a major concern in this big tobacco farming state.

- Chemical Weapons Incineration (Bluegrass, KY)

  An incineration plant in Bluegrass, KY has caused concern with the locals. The waste that is produced here does not sit well with Kentucky citizens.

- Transportation Dollars

  The amount of money that the state receives on local transportation dollars is currently 65 cents on the dollar. They feel that they should be getting more.

- Understanding the functions and authority of school councils required in the 1990 KY Education Reform Act continues as a major problem with teachers and the authority once held by board of education.

- Clean coal standards

- School Reform

  Goals 2000.

- Term Limits and Lobbing Reform

Sandy

TENNESSEE

STATE ISSUES

Peter Knight's ties to TVA

Recently the local press has focused negative attention on ties between the Tennessee Valley Authority (TVA) and new Clinton/Gore campaign manager Peter Knight. As a former TVA lobbyist, Knight had been accused of trying to use his position to influence the re-appointment of Clinton appointee Johnny Hayes to the TVA board. Additionally, the TVA has been suspected of favoring Clinton/Gore allies in awarding its contracts. (DOC)

Knoxville Mining

On July 14, 1995, a petition requesting evaluation of Fall Creek Falls State Park and determination that the watershed and viewshed are not suitable for mining was submitted to the Office of Surface Mining. The petition area covers 83, 740 acres and includes over 2,500 landowners. The central issue revolves around mining of the Sewanee coal seam and the resulting adverse water quality. Skyline Coal Company, a subsidiary of Cyprus Amex, holds significant coal reserves in the headwaters of the petition area and expects to be mining within the watershed within eight years. The petition has drawn a high degree of public interest and a draft Petition Evaluation/Environmental Impact Statement due for release in the fall is expected to be controversial. (DOI)

Families First Waiver

HHS received Tennessee's request for waivers to implement Families First on May 1 and has begun working with State staff to resolve a few issues. ACF sent the state partial draft terms and conditions for their review on June 4 and expects to send full draft terms and conditions by the end of June. If their response is positive, ACF is ready to promptly issues a final decision on their request. Statewide, Families First would impose an 18-month time limit with 60-month lifetime on cash assistance and require up to 40 hours work or work-related activities, unless exempt. It would eliminate many JOBS exemptions. (HHS)

TennCare

This statewide § 1115 demonstration, awarded on November 18, 1993, provides health benefits to Medicaid beneficiaries, uninsured state residents and those whose medical conditions make them uninsurable. TennCare currently services 1.1 million people of whom approximately 360,000 were previously uninsured. In October 1995 HCFA approved the state's plans to raise premiums for new eligibles with incomes over 100 percent of the federal poverty level, but it has not reached a decision on the state's plan to charge premiums for individuals below the Federal poverty level. In April, the state's proposal to bring the seriously and persistently mentally ill population into managed care was approved. The *Washington Post* reported on TennCare in a 3-part series last month, both critical and supportive of the demonstration. (HHS)

Impermissible Tax Imposed on Nursing Homes

The state imposes an impermissible tax on nursing homes, and the tax contains a grant program established to offset the nursing facility tax. However, the grant program is in direct violation of the hold harmless provision contained in § 1903(w)(4) of the Social Security Act. HCFA has determined the federal monies and is preparing a disallowance of $176,806,002.

Nashville International Airport -- Navy F-14 Crash
The recent Navy F-14 crash in a neighborhood near the airport has prompted a citizen's group to seek inclusion of their neighborhood in the airport's buyout plan for noise-impacted residences. FAA advised that the F-14 crash site is outside the noise-impacted area defined by the airport's federally approved noise compatibility plan; therefore, federal airport grant funds cannot be used to purchase the neighborhood. There is a great deal of neighborhood concern over allowing high performance military aircraft to operate in and out of civilian airports. The concerns expressed by Congressman Clement of Nashville prompted a congressional hearing the last week of May. (DOT)

COPS Grants
Nashville has received $2.3 million to fund 67 community policing officers. (DOJ)

Violence Against Women Grants
The Violence Against Women Act (VAWA) is part of the 1994 Crime Act and provides, among other things, funding for domestic violence shelters, prosecutors and police to combat domestic violence. Tennessee will receive $2.3 million in VAWA grants in FY96. (DOJ)

Crime Victims
DOJ will return $4.4 million to Tennessee for crime victim programs in FY96 under the Victims of Crime Act (VOCA). These funds represent a percentage of criminal fines paid in federal cases brought in Tennessee.

"Far Rights" Groups
The well-organized "Far-Rights" Group continues to be highly critical of Goals 2000, other federal education initiatives, Tennessee's education reforms, such as the 21st Century Program, the statewide education accountability program, and its annual report card on progress. They are also advocating provisions such as eliminating the theory of evolution in science curricula, requiring religious practices in schools, and using vouchers for students to attend private schools. (DOEd)

One-Year School Expulsions
The state legislature passed a bill that would require one-year expulsions of students who physically assault other students or teachers, or who bring an illegal drug or firearm to school. On May 13, Gov. Sunquist signed the bill. (DOEd)

Homeless Veterans
Through VA's Homeless Grants and Per Diem Program, more than $500,000 in grants has been awarded for the creation of a veterans transitional center, and to provide transportation services for veterans in Memphis. There has been local media coverage of this issue. (VA)

Agricultural Concentration
With little change in the inventory of TN beef operations from 1994 to 1995, the cash receipts received by TN producers dropped from $421 million to $310 million, affecting more than 75 percent of the farm operations in the state. If prices do not rebound soon, many beef producers could

be forced out of business and off their family farms. Many cattle producers believe that increasing concentration in the meatpacking industry has exacerbated the downward effect of the current cattle cycle and that large meatpacking firms utilize a number of means to lower the prices paid to producers. The Advisory Committee on Agricultural Concentration, formed by Secretary Glickman, reported on June 6 that USDA's market reporting systems and enforcement of the Packers and Stockyards Act are both based on an agricultural system that has radically changed over the years and needs to be reexamined. Media interest has included inquiries from Associated Press, UPI, and Reuter. (USDA)

Union Activities

Tennessee is the home office of Bridgestone/Firestone which continues to have serious labor problems. This was one of the first companies investigated under the Striker Replacement Executive Order, and they were found to be in violation of it. The executive order was later struck down by the U.S. Court of Appeals; the Solicitor General has not yet determined whether to seek Supreme Court review. Bridgestone/Firestone permanently replaced 500 workers, and the United Steelworkers Union maintains a tent city called "Camp Justice" near the Bridgestone/Firestone headquarters. (DOL)

Memphis International Airport

Memphis is home to Federal Express Corporation (FEDEX) and is the most active cargo airport in the world. The FAA is providing $68 million in airport grant funds to construct a third parallel runway, scheduled to open in December 1996. The FAA approved a $3 passenger facility charge (PFC) to collect funds for this work. Northwest Airlines, Inc., brought suit to reverse approval of the PFC, contending this project will benefit the air cargo industry and not the flying public. FEDEX officials and both Senators Frist and Thompson have expressed support for this project. (DOT)

MICHIGAN FEDERAL ISSUES

1. *Adult Education*

Governor Engler has denied Michigan's citizens who are over 21 a second chance at a High School Diploma. As most people are aware, education empowers people to get off welfare and avoid crime. Cutting Adult Education dramatically affects an individual's options to succeed and stay off welfare. This is a hot topic in the state.

2. *Imperial Chemical Industries (ICI)*

ICI is planing to dump 750 million gallons of wastewater with traces of arsenic, lead, mercury, cobalt, and dinitrotoulene (DNT). Governor Engler's Department of Environmental Quality agreed to the dumping until late May of 1996, and decided to re-evaluate their approval. This creates the larger issue of environmental standards. If the current plan goes through it will derail any attempt to create the standards needed for a cleaner environment.

3. *Road Funding*

In the last two years, Engler has attempted to move federal road money that is earmarked for local units of government to state projects. Engler feels that local units of governments are not to be trusted to spend federal money on road improvement -- this contradicts his insistence on devolution.

4. *Families First*

The Family Independence Agency has used the Families First program for monetary savings but these cuts have increased the risks to children. Recently, the Senate Democratic Task Force on protecting Michigan's Children made these finding:

> There is financial pressure on Department of Social Services (DSS) workers and court officials to reduce the number of substantiated abuse cases and the number of children petitioned for removal from the home. This situation is compounded by the privatization of the Families First Program. Families First, competing for contracts, is under added pressure to place monetary consideration before child protection.

This emerges as a hot issue given the welfare debate in the country and in particular in the Midwest region.

5. *Taylor Housing Issue*

Mayor Cameron Priebe of Taylor, MI. has proposed a plan to buy and then tear down a section of low income housing known as the South End. In recent years, this housing complex has become plagued by poverty and crime. More than 40% of the residents live in poverty and in 1994, 22 of 24 murders in Taylor occurred in the south end. This has become a bitter fight between the City of Taylor and Southfield developer Irving Seligman, the owner of the property. This would be the first time a city has acquired private, federally subsidized housing solely to tear it down, according to the U.S. Department of Housing and Urban Development.

6. *Rouge River cleanup*

This is an environmental issue, although a great amount of attention has been focused on the funding issues incorporated in cleaning up the highly contaminated rougue river. This cleanup effort is widely supported by local community environmental groups and elected officials. A storm sewer project is also in the works for the rougue river, to assure that this hazardous situation does not grow beyond its' present status.

7. I-94 Corridor

This issue deals with the City of Detroit's efforts to classify Interstate 94 (from Chicago to Detroit) a priority corridor. If I-94 is not dubbed a priority corridor, the only other option proposes that Interstate 69 run from Indiana through Michigan, and completely bypass the City of Detroit. Nevertheless, Detroit Mayor Dennis Archer does not favor the second option at all.

8. Welfare Waivers

Governor John Engler has submitted approximately seventy-five welfare waivers that are currently pending. The Governor has also asked that the President act upon these waivers within thirty days from the day they were submitted.

July 8, 1996

MEMORANDUM TO SARA COSTIN

FROM: DAVE KATZ, JESSICA ARONS

RE: Hot issues in PA

Teacher Contracts
The AFT is in the process of negotiating school contracts with the Philadelphia school system. Contracts must be signed by August 31. Superintendent David Hornbeck and Rendell's Chief of Staff David Cohen have been out front for the school system. Management seeks to cut teacher benefits, transfer teachers without regard to seniority, and have teachers give up their planning periods. The AFT is threatening to respond with a strike. In addition, the process has been slowed by the fact that the school board is using a new lawyer who does not have the authority to automatically sign off on negotiations.

Domestic-Partnership Benefits
On June 7, Philadelphia Mayor Ed Rendell issued an executive order granting domestic benefits to the partners of gay and lesbian city workers. He received strong opposition from a surprising person -- his longtime ally, City Council President John Street. Street joined with religious community leaders to call for a referendum to be placed on the November ballot. After failing to get enough support from the Council for the referendum, Street changed tactics and is now suing Rendell with the charge that the order discriminates against heterosexuals because it does not apply to straight unmarried couples. If the order is not struck down, it will become effective January 1997.

Workers' Compensation
Workers' Compensation reform proved to be a huge partisan battleground. Governor Ridge won the fight with support from Democratic Mayors Murphy and Rendell and with crossover from some Democrats in the legislature. The labor community is furious. The legislation will prevent workers injured on the job from receiving permanent benefits without review. Workers are now required to see a company-approved physician in the first 90 days after injury, to have a physical after two years to determine whether they can go back to work, and to bear the burden of proof against any challenges by the employer. Governor Ridge and several business lobbies applaud the legislation, claiming the reforms will make Pennsylvania a more attractive place for businesses to settle. AFL-CIO President Bill George and other labor defenders criticize the law with claims that the two year visit to the doctor would force almost all workers back on the job and would knock their benefits from full down to partial. The difference in benefits is significant -- full benefits pay two-thirds of a worker's salary, while partial benefits pay only two-thirds the difference between former and current salaries and are cut off after 9.6 years.

Race Relations in Pittsburgh
See attached memo.

July 3, 1996

MEMORANDUM TO AMANDA CRUMLEY

FROM: DAVE KATZ AND JESSICA ARONS

RE: Race Relations in Pittsburgh

Background.

Early on the morning of Wednesday, June 26, Caucasian police officer John Wilbur was dragged for nearly a mile while trying to apprehend three African-American suspects in a stolen car. Despite the fact that his left hand was caught in the back door of the car, Wilbur managed to shoot into the car several times in an effort to get the driver to stop. As a result, he killed two of the men, named Maurice Hall and Craig Guest, but James Mitchell, Jr. (the driver) got away. Mitchell has still not been found. The officer is in the University of Pittsburgh Medical Center and faces multiple surgeries.

Reactions:

- Pittsburgh City Councilman Sala Udin questioned the official story and intimated that Wilbur's actions were prompted by revenge for a trial verdict on the 25th that found a black man guilty of involuntary manslaughter rather than murder in the death of a police officer.

- The police department received at least a dozen calls from people threatening to kill an officer in retaliation for Hall's and Guest's deaths. These threats were carried out on Friday, when two black men ambushed a police sergeant.

- A rally was held Saturday to draw attention to police brutality in the case of an African-American businessman who was beaten to death by officers during a traffic violation stop. Mayor Murphy claimed the day turned into a "John-Wilbur-was-wrong rally."

- Mayor Murphy scheduled a rally to "bring the community together in support of basic justice and fairness." Tim Stevens, president of the Pittsburgh NAACP, wrote a letter faulting the Mayor for holding a rally to support the police "within 48 hours of the burial of yet another black male..." The Mayor defended himself by citing the NAACP's participation in the Saturday rally and by claiming that people "are really quick to judge the police in a negative light." The rally will be held today at noon in downtown Pittsburgh.

Ohio Federal Issues

1. Welfare Waiver **(HHS)**

Last month, HHS approved Governor Voinovich's Oct. 27, 1995 request for a welfare waiver. State officials accepted the waiver with continued concern about placing welfare recipients in certain existing job vacancies, food stamps/welfare compensation, HHS' policy not to eliminate Medicaid coverage for welfare cheats, and HHS' insistence on exceptions to welfare time limits for those who play by the rules but do not have a job when limits expire.

2. Hazardous Waste Incinerator **(EPA)**

The Waste Technologies Industries, Inc. Incinerator located in East Liverpool, near the PA. And WV. Borders is the most controversial environmental issue in the state. Because the incinerator is located near an elementary school and a residential area, it has been the focus of the intense opposition by local and national environmental groups. The incinerator is in limited commercial operation pending issuance of a final environmental permit. Extensive monitoring of stack emissions over a one-year period has demonstrated low emissions of toxic chemicals, including dioxins. The final risk assessment is expected soon.

3. Fernald Site **(DOE and EPA)**

The Department of Energy's Fernald site, located outside of Cincinnati, is one of the nation's largest repositories of thorium waste. The cleanup of contaminated soil and groundwater as a result of more than 50 years of operation is progressing well, and the transition from the study and remedy selection phase to the cleanup of contaminated soil and groundwater has begun. Work at this site represents a significant cooperative relationship between EPA, DOE, Ohio EPA and the local stakeholders. However, over the past few months, the *Cincinnati Enquirer* has been printing a series of articles alleging mismanagement and poor performance by the Fernald Environmental Restoration Company and the Department off Energy. DOE's internal investigations have not substantiated the allegations, but the Government Accounting Office is investigating.

4. Funding Reductions **(DOC)**

The International Trade Alliance is a prominent Cleveland area public/private collaboration in support of export assistance which involves city and county government, the Port Authority, the Greater Cleveland Growth Association and Cleveland Tomorrow (ans association of Cleveland area CEOs). The Alliance received a $100,000 grant from Commerce's Minority Business Development Agency (MBDA) for one year of funding that ends in September 1996. The Alliance has been notified that MBDA will not renew its grant for a second year, in part due to expected reductions in MBDA's budget. In addition, reductions in MBDA's budget have already resulted in the elimination of Minority Business Development Center (MBDC) services in the greater Cleveland area.

5. Industrial Excess Landfill **(EPA)**

This Superfund site is a landfill located in Uniontown (between Akron and Canton), and has received extensive attention from the local community, congressional representatives and the news media. Local activists have alleged that radioactive wastes were secretly dumped at this site. Extensive testing by EPA indicated no presence of radioactive waste. Cleanup will begin as early as this spring pending resolution of whether the cleanup will be paid for by the polluters or by the EPA.

6. Winton Hills Place Community-Based Environmental Justice Project

This is a low-income minority residential and heavily industrialized area in Cincinnati with some of the highest levels of pollution in Ohio. The primary concern of local advocates is the proposed expansion of a landfill located near local housing units. Remedies for clean-up and reuse of abandoned sites are being addressed and a brownfield re-development proposal has been submitted to EPA.

7. Federal Highway Administration **(FHWA)**

Governor Voinovich has announced plans to remove funding of the State Patrol from the gas taxes. Other state funds would be used for this purpose. In addition, the Governor has taken the position that the FHWA should be abolished since the State knows better what its needs are relating to roadways than the federal government. He believes this would increase the amount of money coming to the state through the return of the gas taxes, since there would be no percentage set aside against paying off the federal deficit.

8. Base Closure and Reuse **(DOD)**

There are four BRAC affected areas around Columbus: Newark AFB ('93 closure); Rickenbacker Air National Guard Base (reductions in '91 and '93); Defense Electronic Supply Center (scheduled to close in September); and Defense Distribution depot (reductions in '95). Over 4,000 civilian and military jobs have been lost.

9. Education Funding

Urban and poorer rural school districts have won lower court decisions declaring Ohio's property tax based funding system unconstitutional. Because it provides fewer dollars for poorer districts. The case is being appealed by the state. Suburban school districts feel threatened by this issue.

Ohio Federal Issues (continued)

10. DFAS Center/Air Cargo Hub

Despite the area's party loyalties, the region has been unhappy with the Administration for some time due to their failure to get a Defense Financial Authority Service (DFAS) center Youngstown, something which by their estimates would have brought in 4-7,000 jobs. President Bush supported putting the center there and local press reported that President Clinton said he would send the DFAS center to Youngstown if it placed near the top of the competitive review process. Youngstown placed second but the new center project was canceled. To add insult to injury, the DFAS center in Columbus, OH., a Republican city with a much stronger economy, won funding to expand its existing DFAS center. After that, several proposed means of investigating federal funds in the county fell through. The regional newspaper, *The Youngstown Vindicator,* has been scathingly critical of the Administration on this point.

The mood towards the Administration in Youngstown has improved since the announcement in March of an FAA grant to study runway expansion and development of an international air cargo hub at the Youngstown-Warren Regional Airport. The study should be completed in October and if everything goes as expected, the FAA can earmark funds from its 1997-98 budget for the project. This has generated a great deal of excitement in Youngstown and has gone a long way towards soothing the bad feelings over the DFAS Center.

WISCONSIN FEDERAL ISSUES

1. *Welfare Reform-- "Wisconsin Works" (W-2)* **(HHS)**

Wisconsin passed legislation to implement a project called Wisconsin Works (W-2) that would eliminate the AFDC program by January 1999. W-2 would replace the AFDC cash and health care entitlement with work requirements in subsidized or unsubsidized jobs. This is and will continue to be an important issue throughout the campaign.

2. *Two-Tier AFDC Benefit Demonstration* **(HHS)**

In Kenosha, Milwaukee, Racine, and Rock Counties, the project will pilot test an initiative to determine the effects of the AFDC payment levels on the decisions of families to move from one state to another and to identify other factors associated with such movement. New applicants for AFDC will receive an AFDC payment amount based on the payment levels of their former state of residence if they have not previously resided in Wisconsin for at least six months.

3. *Expansion of Managed Care Programs* **(HHS)**

Diane
Chris/
Jen

Currently, Wisconsin has about 140,000 out of 490,000 Medicaid recipients enrolled in managed care programs, including mandatory enrollment of AFDC and Healthy Start recipients in HMOs. The State also has a Primary Care Case Management waiver under 1915 (b); voluntary HMOs; prepaid health plans; and a section 1115 waiver Program for All Inclusive Care for the Elderly (PACE). Governor Thompson's 1995-97 budget bill, which was passed in July 1995, calls for the expansion of all managed care programs. By July 1997, each of the State's 72 counties would have either an HMO or a PCCM enrolling Medicaid recipients. On April 8, 1996, the state submitted its application to renew and significantly expand the HMO program for the AFDC and the Healthy Start populations. The proposal is pending review in HCFA.

4. *I-94 East-West Corridor* **(DOT)**

I-94 is a six-lane freeway constructed in the late 1960's with many design features which do not meet current standards. The Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) are joint lead agencies developing a combined Environmental Impact Statement (EIS)/Major Investment Study (MIS) for transportation improvements in this corridor. Preliminary construction costs range from $1 billion to $3 billion. Approval of the draft EIS is anticipated in the summer of 1996.

This project is highly controversial because local, State, and Congressional leaders hold different positions on the fixed rail alternatives.

5. *U.S. 41- Brewers Stadium Infrastructure* **(DOT)**

On October 12, 1995, the Wisconsin legislature enacted legislation which established the Southeast Wisconsin Professional Baseball Park District. The legislation enables the District to construct a new Milwaukee Brewers stadium and stadium infrastructure. The stadium is located near the intersection of I-94 and U.S. 41. To accommodate the site, U.S. 41, which currently functions as a freeway, will be relocated west of the stadium and reconstructed as an urban arterial roadway.

Since Federal funds were used to finance its construction, these funds would have to reimbursed unless the FHWA grants a waiver. Second, the enabling legislation provided for 0.1 percent sales tax in five counties in southeast Wisconsin to finance part of the project cost. This sales tax is extremely unpopular.

6. *FAA- General Mitchell International Airport Power Problems - Milwaukee* **(DOT)**

There have been two failures of the Federal Aviation Administration (FAA) airport surveillance radar (ASR-9) at the Milwaukee Airport in 1996. The FAA is working to correct internal ASR-9 problems. In addition, FAA is planning to install a power conditioning system at the airport to eliminate commercial power spikes once equipment becomes available.

7. *SCG & MARAD- Hazardous Cargo* **(DOT)**

The Wisconsin Department of Natural Resources (DNR), state legislators and Governor Thompson recently (April 25- Earth Day) approved Assembly Bill 495, which placed stiff regulations on river tank barges carrying hazardous cargoes. The bill requires tug escorts for the single-skin barges and allows DNR wardens to board the barge tows to inspect for state violations.

Industry organizations, such as the American Waterway Operators and Upper Mississippi Waterways Association may take legal action against the state under provisions of the Commerce Clause of the Constitution. Other states, Iowa and Minnesota are expected to follow Wisconsin's example which could eventually lead to 22 different state regulations for the barge operators.

8. *Bovine Spongiform Encephalopathy (BSE)* **(DOA)**

A University of Wisconsin professor contends that a form of transmissible spongiform encephalopathy exists in U.S. cattle, in what he calls "downer cow syndrome." Downer cows are animals that for various reasons cannot stand. The assertions were based on anecdotal evidence and never confirmed. Nevertheless, the USDA Animal and Plant Health Inspection Service and USDA Food Safety and Inspection Service, state and federal public health officials, scientists, and industry representatives are working together to review and re-evaluate the effectiveness of current BSE policies and regulations.

9. *Census Adjustment Lawsuit* **(DOC)**

The State of Wisconsin was the defendant in a lawsuit decided by the Supreme Court on March 20 (Wisconsin v. City of New York, et al) involving the adjustment of the 1990 census. The court upheld former commerce Secretary Mosbacher's decision not to adjust the 1990 census to correct for the undercounting of minorities. In reversing a lower court ruling, the court ruled unanimously that Mosbacher was "well within the constitutional bounds of discretion over the conduct of the census provided to the Federal government" (had the Supreme Court agreed with the lower court, Wisconsin would have lost one Congressional seat apportioned based on the 1990 Census). The case received significant press coverage.

10. *Indian Gaming*

There is an issue surrounding the expansion.

11. *Milk Marketing Reform*

12. *Air Quality Restrictions*

There is an issue surrounding reformulated gas.

KENTUCKY

Key Issues

- Tobacco
  Our stand on this issue is a major concern in this big tobacco farming state.

- Chemical Weapons Incineration (Bluegrass, KY)
  An incineration plant in Bluegrass, KY has caused concern with the locals. The waste that is produced here does not sit well with Kentucky citizens.

- Transportation Dollars
  The amount of money that the state receives on local transportation dollars is currently 65 cents on the dollar. They feel that they should be getting more.

- Understanding the functions and authority of school councils required in the 1990 KY Education Reform Act continues as a major problem with teachers and the authority once held by board of education.

- Clean coal standards

- School Reform
  Goals 2000.

- Term Limits and Lobbing Reform

HOT STATE BALLOT
INITIATIVES

~~ANSWER ONLY~~

REVIEW STATES ONLY
WITH ASTERISK

July 11, 1996

MEMORANDUM TO HAROLD ICKES

FROM: CRAIG T. SMITH

SUBJECT: STATE BALLOT INITIATIVES

THE NORTHEAST

CONNECTICUT

- A possible Constitutional Amendment allowing the Governor, if there is a vacancy in the US Senate, to choose a person to fill that vacancy.

WASHINGTON D.C.

- None anticipated at this time.

DELAWARE

- None anticipated at this time.

MASSACHUSETTS

- A proposal by the Massachusetts Taxpayers Foundation to repeal pay raises, enacted in 1994 for statewide elected officials and state legislators, is on the ballot.

MARYLAND

- None anticipated at this time.

MAINE

- There are referendums to prohibit the clear cutting of forests, introduce congressional term limits, and enforce campaign finance laws.

NEW HAMPSHIRE

- None anticipated at this time.

NEW JERSEY

- None anticipated at this time.

NEW YORK

- In New York City there are two possible initiatives that may be placed on the ballot, term limits and the "living wage" issue. The term limits initiative would seek to overturn the one passed in 1993 that limits all New York City public office holders to two terms. The "Living Wage" bill would mandate that companies that do business with the city have to pay their employees a "living wage" -- the rate would be higher than the minimum wage.

PENNSYLVANIA

- There is a proposal that allows county by county referendums on the approval of river boat gambling.

RHODE ISLAND

- None anticipated at this time.

VERMONT

- None anticipated at this time.

<u>THE SOUTH</u>

ALABAMA

- There are three statewide Amendments that will try to be adopted into the Constitution of Alabama:

  Proposed Amendment Number One (1):

Proposing an amendment to guarantee the right to hunt and fish in this state in accordance with law and regulations, the "Sport person's Bill of Rights." (Proposed by Act 96-569)

Proposed Amendment Number Two (2):
Proposing an amendment to phase out of the supernumerary system for public officials and to provide for the participation of public officials in the Employees' Retirement System of Alabama. (Proposed by Act 96-584)

Proposed Amendment Number Three (3):
Proposing an amendment to remove the prohibition on guilty pleas to an information in non-capital felony cases within 15 days of arrest. (Proposed by Act 96-586)

- There are expected to be several county by county proposals.

ARKANSAS

- There are five State Lottery amendments being proposed (#'s 3, 11, 12, 17, and 26).
- There were 27 petitions drawn up, but only 13 were circulated, five of which are the aforementioned State Lottery amendments. The other eight are as follows:

Initiative #5 - Slot machines in hotels.
Initiative #18 - Congressional term limits.
Initiative #19 - Non-profit bingo and limited electronic machines.
Initiative #20 - Food tax exemption.
Initiative #21 - Campaign contributions limits and disclosures.
Initiative #22 - Prohibit gambling on contest or games of skill.
Initiative #23 - Act to impose a minimum imprisonment sentence before offenders are eligible for parole.
Initiative #24 - Sentencing code, thereby abolishing the commission.

FLORIDA

- There is one casino gambling initiative that has qualified in Florida. There may be an Everglades restoration amendment, a sugar tax initiative, and/or an anti-immigration initiative added at later dates. However, neither the Everglades initiative nor the immigration initiative are expected to make the ballot.
- The possible Constitutional Amendments are as follows: barring affirmative action in public employment, education, and contracting; a property tax exemption for schools; enacting stricter minimum sentence guidelines for prisoners; eliminating the state parole board; and another immigration initiative.

Proposed Constitutional Amendments:

#1: Tax Limitation: Should two-thirds vote be required for new constitutionally-imposed state taxes/fees? (Initiative)

#2: Constitution Revision Commission: Convening; duties with respect to taxation and state budgetary matters. (Legislative)

#3: Judiciary: Proposing amendments to allow judicial nominating commissions to recommend from three to six persons to fill a court vacancy; and to restructure the Judicial Qualifications Commission and permit additional sanctions for judicial misconduct. (Legislative)

GEORGIA

- There will be 4 to 6 referendums put to voters by the general assembly - no initiatives.

KENTUCKY

- None anticipated at this time.

LOUISIANA

- None anticipated at this time.

NORTH CAROLINA

- There are three initiatives that are being suggested: an act to grant the Governor veto power, an act guaranteeing the rights of crime victims, and an act to aid statewide school and highway construction. A lottery referendum is expected, but no certainties.

OKLAHOMA

- There is an act to reform the way the grand jury signatures are calculated that is being proposed. (#670)

- There is also an act to extend School superintendent contracts for more than one year. (#671)

SOUTH CAROLINA

- There are three possible initiatives that may reach the ballot: a gambling initiative, an anti-affirmative action movement, and a one cent sales tax versus reduction in property taxes.

TENNESSEE

- None anticipated at this time.

TEXAS

- None anticipated at this time.

VIRGINIA

- There are no initiatives, but there may be one referendum from the General Assembly.

WEST VIRGINIA

- None anticipated at this time.

THE MIDWEST

ILLINOIS

- None anticipated at this time.

INDIANA

- None anticipated at this time.

IOWA

- None anticipated at this time.

KANSAS

- None anticipated at this time.

MICHIGAN

- There is an initiative on the Fall '96 ballot asking voters to disapprove 1994 PA 118 which prohibits political parties, candidates, etc. from using bingo for fundraising purposes. The Democrats oppose PA 118, and put together the petition drive to place the issue on the ballot. At the present time, it is unknown as to whether the Democrats will achieve their goal of passing this initiative.

- Another initiative is on the Fall '96 ballot to amend the State Constitution, and require that all judges be admitted to the practice of law for five years. There is wide bi-partisan support for this initiative and more than likely will pass without a problem.

- There is an initiative on the Fall '96 ballot which would amend the State Constitution to create a Veterans Trust Fund. The chances of passage are good, and there is a fair amount of bi-partisan support for the initiative.

- There is a possibility that an Indian Gambling initiative will be on the Fall '96 ballot. Mayor Dennis Archer has talked about possibly putting on the ballot an initiative regarding building a casino in Detroit. Thus far, the Mayor has not put together an operation to obtain the needed signatures. The deadline for turning in the filing signatures is July '96, which does not give the mayor a substantial amount of time to obtain the signatures. This is a very divisive issue within the Democratic Party, but it is still unclear as to how serious the City of Detroit and Mayor Archer are about placing it on the Fall '96 ballot.

MINNESOTA

- None anticipated at this time.

MISSOURI

- There is a proposed initiative to raise the minimum wage. Currently, supporters are gathering signatures to place this issue on the ballot. The filing deadline is July, 1996.

- There is a proposed initiative to raise or eliminate loss limits at casinos. Currently, supporters are gathering signatures to place this issue on the ballot. The filing deadline is

July, 1996.

NEBRASKA

- There is a proposed initiative to lower the property taxes in the state. Currently, supporters are gathering the 100,000 signatures needed to place this issue on the ballot.
- There is a possibility that an initiative placing a lid on the state budget will be on the Fall '96 ballot.
- There is a possibility that an initiative to limit terms for State Representatives and State Senators will be on the Fall '96 ballot.

NORTH DAKOTA

- There is an initiative to direct the U.S. Congress to call for a constitutional convention to consider an amendment to the U.S. constitution that would limit members of the U.S. House and Senate to three and two terms, respectively.
- There is an initiative to create term limits for state legislators and statewide elected officials.

OHIO

- Supporters are currently gathering signatures to place an initiative to legalize river boat casinos on the Fall '96 ballot. The filing deadline is August, 1996.
- Supporters are currently gathering signatures to place an initiative to build a nuclear waste site on the Fall '96 ballot. The filing deadline is August, 1996.

* Supporters are proposing that none of the public health care levy funds be used for abortion. This may reach the November ballot.

OKLAHOMA

- Ballot Initiative #669, which would limit State Property Taxes at the 1973 level is on the Fall '96 ballot.

SOUTH DAKOTA

- A Constitutional Amendment relating to the vote required to impose or increase taxes is on the Fall '96 ballot.

- A Constitutional Amendment relating to the investment of permanent education funds by the state investment council is on the Fall '96 ballot.

- An initiative relating to state trucking taxes is on the fall '96 ballot.

WISCONSIN

- None anticipated at this time.

THE WEST

OREGON

- Although the deadline for filing ballot initiatives in Oregon is not until late June, the following issues will most likely arise: affirmative action; anti-gay rights; an amendment to ban 2nd and 3rd trimester abortions except saving the mother's life; an immigration initiative barring public benefits or services to illegal immigrants; and a right-to-work law.

ARIZONA

- 100 HCR 2003 (1995) Effective dates of Legislation.
  Relates to effective dates of legislative enactments.

- 101 HCR 2003 (1996) Property Tax Exemption.
  First $50,000 of personal property is exempt if used for agriculture, trade, or business.

- 102 23-C-96 Juvenile Justice Reform
  Would allow for children over the age of 15 to be tried as adults.

- 200 11-196 Drug Policy reform.
  Will reform drug policy in Arizona.

- 201 15-1-96 Fairness in Indian Gaming.
  Will require the state to enter into gaming compacts with Indian tribes that did not enter into compacts before.

- 202 8-1-96 Stadium Tax.
  Require that the levy of a transaction privilege tax to finance a major league baseball stadium be approved by the voters.

- 203 13-1-96 Healthy Arizona.
  Will require funding for programs that insure the health of Arizona's workers, mothers and children.

- 300 Commission on Salaries Recommendation
  Will raise elected officials salaries.

CALIFORNIA

- Prop. 664-- Attorneys Fees. Right to Negotiate Frivolous Lawsuits. Statute.
  Prohibits attorneys from charging/collecting excessive or unconscionable fees. Authorizes court to impose sanctions upon attorneys who file lawsuits or pleads which are completely without merit or filed solely to harass opposing party.

- Prop. 670 Campaign Contributions and Spending limits. Disclosures. Initiative Statute.
  Limits a contributor's campaign contributions per candidate to $100 for districts of less than 100,000, $250 for larger districts, and $500 for statewide elections.

- Prop. 672 Prohibition Against Discrimination or Preferential Treatment by State and other Public Entities. Initiative Constitutional Amendments.
  Prohibits the state, local governments, districts, public universities, colleges, and schools, and other government instrumentalities from discriminating against or giving preferential treatment to any individual or group in public employment, public education, or public contracting on the basis of race, sex color, ethnicity, or national origin.

- Prop. 691 Minimum Wage Increase. Initiative Statute.
  Increases the current state minimum wage of $4.25 per hour to $5.00 per hour on March 1, 1997, and then to $5.75 per hour on March 1, 1998 for all industries.

- Prop. 680 Attorney-Client Fee Arrangements. Securities Fraud. Initiative Statute.
  Prohibits restrictions on fee arrangements attorneys may make with clients, except those existing on January 1, 1995. Allows courts to prohibit illegal or unconscionable fees.

- Prop. 696 Spending limits and Campaign Contributions. Lobbyist Restrictions. Initiative Statute.
  Limits contributor's contributions per candidate per election to $200 for statewide offices, $100 for most other offices. Bans contributions from businesses, unions, banks, and nonprofit corporations. Prohibits transfers between candidates.

- Prop. 694 Limitation on Recovery to Felons, Uninsured Motorists, Drunk Drivers. Initiative Statute.
  Denies all recovery of damages to a convicted felon whose injuries were proximately caused during the commission of the felony or immediate flight therefrom. Denies recovery for non-economic damages (e.g., pain, suffering, disfigurement).

- Prop. 724 Health Care Businesses, Regulation, Consumer Protection, Initiative Statute.
  Prohibits health care businesses from the following: discouraging health care professionals from informing patients or advocating for treatment; offering incentives for withholding care; or refusing services recommended by physician or nurse without examination by business' own professional.

- Prop. 681 Medical Use of Marijuana. Initiative Statute.
  Provides that patients for defined care givers, who possess or cultivate marijuana for medical treatment recommended by a physician, are exempt from general provisions of law which otherwise prohibit possession or cultivation of marijuana.

- Prop. 683 Voter Approval for Local Government Taxes. Limitations on Fees, Assessments, and Charges. Initiative Constitutional Amendment..
  Limits authority of local governments to impose taxes and property-related assessments, fees and charges.

- Prop. 703 Top Income Brackets, Continuation, Revenues to Local Agencies. Initiative Statute.
  Continues highest tax rates of 10% and 11% on residents with taxable income over $100,000 and $200,000, respectively, and residents who are heads of households with taxable income over $136,115 and $272,230, respectively.

- Prop. 719 Health Care. Regulation. Consumer Protection. Initiative Statute.
  Prohibits health care business from the following: discouraging health care professionals from informing patients or advocating for treatment; offering incentives for withholding care; refusing services recommended by physician or nurse without examination by business' own professional; conditioning coverage on arbitration agreement; increasing charges without filing required statement.

COLORADO

- Although not yet official, citizens are expected to place initiatives on the following subjects on the ballot: finance reform, state tax reform which would phase out taxes in six categories via tax credits until taxes are eliminated; affirmative action barring the state from considering race as a factor in any decision pertaining to public employment, contracting or education; anti-gay reform; pro-gay rights; environmental issues.

IDAHO

- This list is of all Qualified Ballot Initiatives to date.

- Initiative to limit property taxes to one percent (1%) of value subject to assessment and providing exceptions.

- Initiative to prohibit the use of dogs or bait while hunting Black bear and to limit the bear hunting season.

- Initiative requiring legislative and voter approval of agreement for the receipt of additional radioactive waste and nullifying prior agreement.

- Initiative Instructing Candidates for State Legislature and U.S. Congress To Support Congressional Term Limits; Requires Statement Indicating Non-support on Ballot.

WASHINGTON

- Initiative No. 173--Shall the state pay scholarship vouchers for primary and secondary students to attend private or public schools of the choice?

- Initiative No. 177-- Shall voters be authorized to create "renewed" school districts where nonprofit organizations may operate publicly-funded "independent" public schools with parental choice and revised state regulation?

- Ballot status will be updated in early August for the state of Washington.

ALASKA

- Ballot Measure No. 1-- Constitutional Amendment relating to the Alaska Statehood Act (Senate Joint Resolution 31).

- Ballot Measure No. 2-- 95 Fish "An Act relating to the management of salmon".

- Ballot Measure No. 3-- 95 Hunt "An Act relating to the same day airborne hunting of certain animals".

- Ballot Measure No. 4-- 95 BITL "An Act requiring ballot information pertaining to congressional term limit voting records and certain acts or omissions of candidates".

NEVADA

- <u>Question 1.</u> Assembly Joint Resolution 19 of the 67th Session: Proposing to amend section 2 of Article 9 of the constitution of the State of Nevada to prescribe additional restrictions on the public employee's retirement system.

- <u>Question 2.</u> Senate Joint Resolution 2 of the 67th Session: Proposing to amend section 8 of Article 1 of the constitution of the State of Nevada to provide expressly for the rights of victims of crime.

- <u>Question 3.</u> Assembly Joint Resolution 6 of the 67th Session: Proposing to amend section 9 of Article 2 of the constitution of the State of Nevada to revise the standard for determining the number of signatures of voters required for a petition seeking to recall a public officer, and to increase the number of days within which a special election upon such a petition must be held after the issuance of a call.

- Question 4. Senate Joint Resolution 27 of the 67th Session: Proposing to amend the ordinance of the Nevada constitution to repeal the disclaimer of interest of the state in unappropriated public lands.

- Question 5. Senate Joint Resolution 23 of the 67th Session: Proposing to amend section 1 of Article 3 of the constitution of the State of Nevada to authorize specifically the legislative review of administrative regulations.

- Question 6. Assembly Joint Resolution 26 of the 67th Session: Proposing to amend section 3 of Article 9 of the constitution of the State of Nevada to clarify the exemption from the debt limitation of money borrowed to retrofit state buildings to make the use of energy in the building more efficient.

- Question 7. Assembly Joint Resolution 35 of the 67th Session: Proposing to amend section 9 of Article 8 of the constitution of the State of Nevada to allow the investment of state money to stimulate economic.

- Question 8. Initiative to amend the Nevada Constitution: Removed From The Ballot

- Question 9A. Initiative to amend the Nevada Constitution: Proposing to amend section 11 of Article 6 of the Constitution of the State of Nevada to limit terms of judicial officers.

- Question 9 B. Initiative to amend the Nevada Constitution: Proposing to amend section 11 of Article 6 of the Constitution of the State of Nevada to limit terms of judicial officers.

- Question 10. Initiative to amend the Nevada Constitution: Proposing to amend by adding section 10 of Article 2 of the Constitution of the State of Nevada to define and limit campaign contributions.

- Question 11. Initiative to amend the Nevada Constitution: Proposing to amend section 18 of Article 4 of the Constitution of the State of Nevada to require two-thirds vote to pass a bill or joint resolution which creates, generates or increases any public revenue in any form.

- Question 12. Assembly bill 13: Proposing to issue General Obligation Bonds to provide grants to local governments and department of transportation to carry out projects for the control of erosion and the restoration of natural watercourses in the Lake Tahoe Basin; requiring the state land registrar to adopt regulations necessary to carry out a program for awarding such grants and to report to the interim finance committee concerning the program if the proposal is carried; and providing other matters properly relating thereto.

- Question 13. Assembly Bill 373: Proposing to amend the Sales and Use Tax Act of 1955 to provide an exemption from the tax for orthotic appliances and ambulatory casts, other supports and casts if prescribed of applied by a licensed provider of health care, and splints, bandages, pads, compresses and dressings prescribed, furnished or sold under certain circumstances; contingently providing the same exemption from certain analogous taxes; and providing other matters properly relating thereto.

- Question 14. Senate Bill 144: Proposing to amend the Sales and Use Tax Act of 1955 to provide an exemption for the gross receipts from the sale, storage, use or other consumption of tangible personal property sold by or to a nonprofit organization created for religious, charitable or educational purposes; contingently providing the same exemption from certain analogous taxes; and providing other matters properly relating thereto.

- Question 15. Senate Bill 311: Proposing to amend the Sales and Use Tax Act of 1955 to revise and clarify the provisions governing the exemption for aircraft and parts of aircraft; clarifying the provisions governing the administration of the existing exemption for aircraft and parts of aircraft; contingently creating the same exemption from certain analogous taxes; and providing other matters properly relating thereto.

- Question 16. Senate Bill 546: Proposing to require that a bill which imposes or increases a tax or assessment must be considered and approved twice for final passage by each house of the legislature before it may be enacted; and providing other matters properly relating thereto.

HAWAII

Statewide ballot initiatives do not technically exist, but the issue of same-sex marriage initiatives in Hawaii merits discussion. In Hawaii, issues are presented through the constitutional amendment process -- which must pass both Houses.

While the House does not want to advocate a same-sex marriage initiative, the Senate is willing to promote domestic partnerships for both. However, the courts may come out with a decision sanctioning same-sex marriages.

WYOMING

- None anticipated at this time.

UTAH

- A ban on the sales tax on food, initiated by the Democratic Coalition of Leadership, is expected.

- A prohibition of state or local guarantees on the Olympics is anticipated on the ballot.

MONTANA

- Montana will present an environmental initiative on clean water and another proposing a new standard on minimum wage.

- The following are listed but not anticipated to reach the ballot: a proposal on workman's compensation reform; a proposal to keep militia from forming; and a proposal on tax reform.

NEW MEXICO

- Constitutional Amendment 1
  A Joint Resolution
  Proposing amendments to Article 8, section 10 and Article 12, sections 2, 4 and 7 of the Constitution of New Mexico to protect the state's permanent funds against inflation by limiting distributions to a percentage of each fund's market value and by modifying certain investment restrictions to allow optimal diversification of investments.

- Constitutional Amendment II
  A Joint Resolution
  Proposing and amendment to Article 9, section 11 of the Constitution of New Mexico to enhance education by authorizing school districts to incur debt without an election for the limited purpose of acquiring education technology equipment through lease-purchase agreements.

- Constitutional Amendment III
  A Joint Resolution
  Proposing to amend Article 10 of the Constitution of New Mexico by adding a new section to provide for recall of elected county officials.

- Constitutional Amendment IV
  A Joint Resolution
  Revising the constitutional amendment process by providing additional methods for voters to amend the constitution and directing the Secretary of State to inform voters about constitutional amendments.

- Constitutional Amendment V
  A Joint Resolution
  Proposing an amendment to Article 4, section 10 of the Constitution of New Mexico to limit Legislative per diem and mileage to an amount allowed by the Internal Revenue Service.

- Constitutional Amendment VI
  A Joint Resolution
  Proposing to amend Article 11 of the Constitution of New Mexico by abolishing the State Corporation Commission and creating a single regulatory agency for corporations, public utilities, transportation companies, transmission and pipeline companies, insurance companies and other public services as provided by law.

- Constitutional Amendment VI
  A Joint Resolution
  Proposing to amend Article 11 of the Constitution of New Mexico by abolishing the State Corporation Commission and creating a single regulatory agency for corporations, public utilities, transportation companies, transmission and pipeline companies, insurance companies and other public services as provided by law.

- Constitutional Amendment VI
  A Joint Resolution
  Proposing to amend Article 11 of the Constitution of New Mexico by abolishing the State Corporation Commission and creating a single regulatory agency for corporations, public utilities, transportation companies, transmission and pipeline companies, insurance companies and other public services as provided by law.

- Constitutional Amendment VII
  A Joint Resolution
  Proposing an amendment to Article 9, section 10 of the constitution of New Mexico to authorize counties to borrow money to acquire real estate for open space and open-space related uses and to purchase capital equipment for road and bridge construction and repair.

HOT ISSUES

IDENTIFIED

BY

AGENCIES

Preservation and Support" was effective July 1, and contracts for services were awarded with a July 1 start date. An issue has arisen with services that are Medicaid eligible that may require the State to obtain a waiver from HCFA. (HHS)

KENTUCKY

School Councils: Understanding the functions and authority of school councils required in the 1990 KY Education Reform Act continues as a major problem with teachers. (DoEd)

Drug-Related Charges: Sixteen individuals were indicted on drug-related charges arising from a conspiracy that spanned seven years and involved at least 5,000 lbs. of Mexican marijuana brought into KY for distribution. Two known deaths resulted from the group's activity. (DOJ)

Air Quality: The northern KY region is currently in non-attainment of the health-based environmental standards for smog-causing pollution (ozone), and the State has not yet submitted a plan to EPA that details how it will bring the area into attainment of air quality standards. (EPA)

Chris Jen

The Uninsured: Labor and citizens' groups continue to express concern for the health of the uninsured and the lack of action on the State's health care reform plan. (HHS)

Inaccurate 1990 Census: Elkhorn City (in Pike County) is concerned that its population count in the 1990 Census is still inaccurate, partly due to a mistake in the town boundaries. (DOC)

SSI Disability Benefits: Continuing concern about payment of SSI disability benefits to children who feign mental or emotional disabilities. (SSA)

LOUISIANA

Funding for infrastructure: The State DOT has identified highway construction needs in excess of $3 billion that current federal and state funds are not meeting. (DOT)

Marathon Pipeline Rupture: On May 24, hazardous pipeline operated by Marathon ruptured in a swamp near Baton Rouge releasing about 8,400 barrels of unleaded gasoline. The rupture occurred about 200 yards from US Route 61 and caused re-routing of the carrying of the Olympic torch. Environmental damage included a large fish kill, six alligators and one deer. (DOT)

Wetlands: Preservation of wetlands as it relates to port development is applicable to the air. (EPA)

Environmental Results Program: The Commonwealth of Massachusetts has embarked on a highly controversial effort to eliminate more than 16,000 State environmental permits for 10,000 companies, substituting them with a self-certification process, and in theory freeing-up resources to target enforcement at more egregious violators. EPA is working with the Commonwealth to determine if the project is viable without compromising environmental and public health protection. (EPA)

Health Insurance: On July 2, the State Senate passed health insuarnce legislation that will be funded by a 25-cent increase in the cigarette tax and a 12.5 percent tax on cigars, pipe and smoking tobacco, which together are expected to raise $100 million a year. It is anticipated that Governor Weld will veto the bill because of the cigarette tax increase, but the legislature appears to have the votes to override a veto. (HHS)

Child Support: On June 26th, Governor Weld unveiled a legislative plan that would impose a minimum one year sentence on deadbeat parents who have not made Child Support payments for the last 6 months and who owe at least $7,500. The one year minimum sentence would also be enjoined in extreme cases of statutory rape. *The Globe* reports at least 31,000 parents, mostly men, owe at least $5,000 each and have not paid for 12 months. (HHS)

Export Control Modernization: Reforming export controls on software/hardware encryption technology. (DOC)

MICHIGAN

Minimal Standards of Competence: 90 percent of the state's elementary and middle schools failed to meet minimal standards of competence set by the state. (DoEd)

Infrastructure Funding: Shortage of funds has created increased pressure on State revenues to fund capital improvement or ongoing needs. This has increased the tensions between the State and local governments. (DOT)

Native Americans and Hazardous Materials: FRA has worked closely with the Bad River Band of Lake Superior Tribe of Chippewa Indians to relieve fears of hazardous material shipments over their reservations. (DOT)

Potential Land Exchange at Sleeping Bear Dunes National Lakeshore: A local developer wants to exchange wetlands for a very developable parcel within park boundaries; a flurry of opposition and debate has ensued. (DOI)

Indictment of Chairman, Keweenaw Bay: Fred Dakota, Chairman, was indicted on 54 counts for allegedly taking kickbacks from International gaming Management of St. Louis Park, MO. (DOI)

Indian Gaming: Secretary Babbitt has requested public comments on his authority to establish Departmental procedures to authorize Class III gaming on Indian lands. (DOI)

Increased Exports: Dry bean producers see a major opportunity for increased exports to Mexico and want USDA to provide GSM-102 export credit assistance. (USDA)

Copper Range Company: Five miles south of Lake Superior, the Copper Range Company has begun the first phase of a solution-mining pilot project involving the injection of 50 million gallons of acidic solution into an underground copper mine. EPA is still reviewing the proposal for the second phase, which would involve the injection of 11 billion gallons. Local Chippewa tribes are opposed to this project. (EPA)

Wayne Disposal: EPA and the State intend to approve permits for the Wayne Disposal Landfill, a commercial, combined PCB and hazardous waste landfill located 25 miles west of Detroit, that has created considerable controversy because of its location reported odors. (EPA)

Welfare Waiver Request: Governor Engler recently submitted a huge welfare waiver request to HHS which appears to significantly effect Medicaid coverage in MI. According to reports, it appears that Governor Engler, like Governor Thompson of WI, is seeking national attention with this waiver. (HHS)

Waiver/Minor Parents: MI also just received from HHS a waiver focusing on minor parents and the need to live with a parent, step parent or legal guardian. Failure to comply with this program will result in the minor parent and child losing welfare benefits. (HHS)

China Trade Policy: Firms from western MI have substantial investment and marketing interests in China, and ongoing trade disputes with that country leave business interests from this region nervous about U.S. trade policy. (DOC)

Detroit Newspaper Strike: There is an ongoing strike against Detroit's two daily newspapers. (DOC)

Shortage of Skilled Labor: Manufacturers from Western MI lament what they perceive to be a shortage of adequate skilled labor, holding the State's educational system responsible. (DOC)

SSI Disability Insurance: Legislation removing drug addicts and alcoholics from Social Security/SSI disability insurance rolls affects significant number of state residents. (SSA)

Census Sampling/Multiracial Category: Due to the state's high minority population, there is concern about plans to use sampling in the 2000 Census. In addition, in MS there are concerns about possible plans to create a multiracial category for the 2000 Census, which could dilute minority counts. (DOC)

MISSOURI

Desegregation Plan: State battling over the Kansas City and St. Louis desegregation plan. (DoEd)

Safe School Acts: MO Legislature passed the Safe Schools Act proposed by Gov. Carnahan. (DoEd)

Airport Expansion: The City of Bridgeton is suing the City of St. Louis to block a proposed expansion of Lambert-St. Louis International Airport. Expansion would destroy a significant part of Bridgeton. FAA will conduct public hearings on their EIS this summer. (DOT)

TWA Air Routes: MO continues to strongly support allowing TWA to obtain additional authority to serve London, since TWA is a major employer in St. Louis. Under Executive Orders, discussion of this pending application is prohibited. (DOT)

Restoration of Kansas City Train Station: City activists want to restore the station as a science and technology museum, and have AMTRAK return to the station. Funding has not been determined. (DOT)

State Infrastructure Bank: MO is one of 10 states awarded a SIB pilot program. (DOT)

Impacts of FY96 Budget Shortfalls on National Parks: Parks throughout the National Parks System are experiencing unprecedented interruption in visitor service operations including closing of some facilities, reduced hours of operation and elimination of programs. (DOI)

Methamphetamine: Western MO, has been identified as the number two area of production of the illegal drug methamphetamine for the country. (DOJ)

Arson Trial: The top trial for the balance of the year will be the prosection of five defendants for setting on fire construction equipment that led to the deaths of five Kansas City, Mo. fireman. (DOJ)

Food Stamp Error Rate: MO's FY95 food stamp payment error rate was 12.95 percent, above the national average of 8.75 percent; the state faces a potential sanction of over $5 million. (USDA)

Hog Operation Regulations: MO legislators are looking at stricter regulations on corporate hog producers in response to recent hog waste spills and complaints about odor from hog operations. (USDA)

Merger of Railroads: Farmers could be negatively impacted by the proposed merger of the Union Pacific and Southern Pacific railroads, causing little competition. USDA opposes the merger. (USDA)

Winter Wheat: Much of MO's winter wheat has been rated poor or very poor as a result of winter kill. (USDA)

McDonnell Douglas: On June 27, the first talks since the beginning of the McDonnell Douglas strike were held. After meeting for several hours, the parties recessed. On June 5, nearly 7,000 workers represented by the Machinists at the St. Louis area plants of the military aircraft maker walked off their jobs after negotiations failed to produce agreement on a new contract. Outsourcing and job security are the principal issues in dispute. The company has continued operations with supervisory and other nonunion personnel. (DOL)

Aviation and Troop Command (ATCOM) Scheduled Closure: ATCOM in St. Louis is scheduled for closure. As a result, 3,700 civilian and military personnel will go through a layoff procedure beginning in October 1996. Approximately 500 people will be transferred to other locations. The State has received a $5.85 million Defense Conversion Adjustment (DCA) Grant from the DOL to serve 1,500 workers. (DOL)

Times Beach Superfund Cleanup: Despite opposition from local residents, incineration of dioxin-contaminated soil from 27 eastern Missouri sites began in March 1996. EPA and the State's Department of Natural Resources have determined that incineration is the best available technology to remove the dioxin-contaminated soil, which is posing a threat to public health. (EPA)

Missouri Automobile Inspection and Maintenance Program: The MO General Assembly did not appropriate funds for its enhanced automobile inspection and maintenance program as part of its plan to meet air quality goals for 1995. (EPA)

St. Louis Air Quality: EPA expects to issue a proposed decision within several months on the State's request for EPA approval of a waiver from nitrogen oxide (NOx) controls. The Clean Air Act allows states to request waivers if they can demonstrate that NOx controls won't help alleviate ozone (smog) problems. (EPA)

The Increased Use of Methamphetamine: The increased use of methamphetamine, and the proliferation of methamphetamine labs in the midwest have been chronicled in a three-day series of articles in *The Kansas City Star*. Each media outlet has carried extensive stories about the details of the articles, and the activity of local law enforcement officials.

General McCafferty has been invited to the area by Representative Danner to address this drug issue. (HHS)

Ongoing Audit of the St. Louis City Director of Health & Hospitals: The ongoing administrative audit of the St. Louis City Director of Health & Hospitals, Dr. Kathryn Vedder (a Mayor Bosley appointee) continues to receive media attention. (clips have been sent in). According to reports, this is a part of a much larger effort to discredit the Bosley administration in preparation for next spring's mayoral election. (HHS)

Chris/Jen

NAFTA Avenue of the Americas: Through the *Avenue of the Americas* program, the St. Louis Bi-State Region has been very active in pursuing new opportunities created by NAFTA. (DOC)

ACCESS U.S.-Japan: *TWA* and other St. Louis-based organizations in *ACCESS U.S.-Japan* (Aviation Coalition for Competition and Expanded Service between the U.S. and Japan) are urging the Administration through talks with Japan to allow more passenger flights using more air carriers between more cities in the U.S. and Japan. (DOC)

Census Multiracial Category: There are concerns from representatives of minority organizations, in particular Black, and American Indians, with regard to the possible creation of a multi-racial question on the next Census questionnaire. (DOC)

New Mississippi River Bridge: Approval of a new MI River bridge for commuters in the St. Louis metro area. (DOC)

FAST Program: 8(a) minority contractors have been upset with this new project. We hope to have resolution this week. (GSA)

MONTANA

New World Mine: An underground precious-metal mining operation (New World Mine) is being proposed in the Yellowstone River near the northeastern corner of Yellowstone National Park. The National Park Service and DOI have expressed serious concerns about possible effects to Yellowstone National Park. A draft EIS on the proposed mine is scheduled for release by the U.S. Forest Service within the next month. (DOI)

Rocky Mountain Front Oil and Gas Leasing: Proposals to drill oil/gas wells along the Rocky Mountain Front, particularly in the Badger-Two Medicine and Blackleaf areas, have generated significant controversy and are opposed by national and local environmental groups. (DOI)