

# Massachusetts Law Reform Institute

99 Chauncy Street, Suite 500, Boston, MA 02111-1703

PHONE 617-357-0700 ■ FAX 617-357-0777 ■ www.mlri.org

## **The Governor's FY 2011 Budget Proposal: Preliminary Analysis of Selected Housing, Cash Assistance, Elder, Health, Child Welfare, Child Care and Related Items**

January 28, 2010

On January 27, 2010, Governor Patrick released his budget proposal for fiscal year 2011 (FY 11), which is referred to as House 2.

Despite the revenue crisis that the Commonwealth faces, House 2 generally – but with important exceptions discussed below – would protect the services for vulnerable populations that are analyzed here.

### **Housing and Homelessness Related Items**

- 1. Funding for Emergency Assistance for homeless families (item 7004-0101) would be reduced by \$20 million from current FY 10 appropriations and important protective language would be revised or omitted.**
  - Emergency Assistance (EA), which funds shelter for homeless families, would be funded at just under \$113.5 million.** This is a \$20 million reduction from the FY 10 appropriations level of \$133.5 million, including \$91.6 million in the FY 10 general appropriations act and \$41.9 million from a December 2009 supplemental budget. Given that in January 2010, there are close to 3,000 families in emergency shelter, as compared to just under 2,700 families in emergency shelter in January 2009, it is not clear that this level of funding will be sufficient to provide services to the large number of homeless families in the Commonwealth, although it is hoped that the federal Homelessness Prevention and Rapid Rehousing (HPRP) funds from the federal stimulus bill will help reduce demand for shelter over the coming months. Income eligibility for EA would remain at **115 percent of the federal poverty limit**, the level to which it was reduced in FY 10 from 130 percent.
  - House 2 omits language barring eligibility restrictions except in the case of a deficit in the account and requiring the Administration to give the Legislature 60 days notice before making any such eligibility changes.** This language has been critical in prior years to giving the Legislature time to ensure that access to shelter for children and their families is not unduly restricted. With the account potentially

underfunded in House 2, reinsertion of this language by the Legislature is critical.

- **House 2 would restrict placements of homeless families who appear eligible for shelter but who need more time to provide verification of eligibility to only 10 days, as compared to the current 30 days that has been the law for several years.** Ten days is not enough time for families to obtain needed verifications and this proposal would result in eligible homeless families being kicked out of shelter simply for not being able to obtain the right documents to prove their eligibility. In the past, more than 90 percent of those placed in shelter under the 30-day provision have ultimately been found eligible for on-going shelter benefits. **House 2 also omits language included by the Legislature in prior years allowing families to stay in shelter pending a timely appeal if they are terminated after being placed pending collection of verifications.** Elimination of this language would compound the harm from the proposed reduction from 30 to 10 days.
- **House 2 also omits language requiring that homeless families be placed in shelters as close as possible to their home communities unless the family requests otherwise,** but retains language giving families a right to be transferred back to a shelter within 20 miles of their home community if initially placed farther away. **House 2 also omits language from prior year budgets requiring the agency to report to the Legislature on how EA funds are used and who is served.**
- **House 2 would revise the uses for which EA funds can be expended, including by eliminating “transitional housing programs” and adding in “short term housing assistance.”** DHCD is currently using EA funds for one-year housing subsidies without express statutory authorization. Although it is good for families to be housed during that one year and subsidies can cost less than shelter in the short term, there are concerns about the lack of stability for these families who cannot afford housing without a subsidy after the one year ends and may again experience homelessness.

## 2. **Services for homeless individuals would be level-funded.**

- **Assistance for homeless individuals (item 7004-0102),** which provides shelter and related services, would be level funded at \$37.3 million, including the transfer of funding for one shelter (Shattuck) from the Department of Public Health to the Department of Housing and Community Development. **The Home and Healthy for Good program (item 7004-0104),** which is dedicated to housing chronically homeless individuals, would be level funded at \$1.2 million.
- **The DHCD homelessness, administrative account (item 7004-0100)** would receive more than a \$527,000 increase, according to House 2 “to meet projected need.” At the time the transfer of shelter services from DTA to DHCD was proposed, advocates predicted that the transfer would lead to the diversion of scarce resources to more administrative funding.

## 3. **Public housing operating subsidies (item 7004-9005),** which help housing authorities meet the expenses of maintaining the state’s public housing units, **would be funded at**

- \$62.5 million** under the Governor's proposal, which is level funding from FY 10 appropriations. This level of funding is making it difficult to keep up with maintenance and to keep units on line. Over 3,000 state public housing units have been approved to be transferred to the federal public housing system over the next several months. If this transfer actually occurs before or during FY 11, this line item would be funding the operation of fewer units overall, which may allow more of the state funds to be used for much-needed maintenance and other services.
4. **The Massachusetts Rental Voucher Program or MRVP (item 7004-9024),** which provides modest subsidies to low-income tenants in the private housing market, **would receive \$32.7 million.** This is down from \$35.2 million for FY 09 but essentially represents level funding from FY 10. The MRVP line-item was funded at \$29.9 million in the FY 10 budget, but that amount was increased to \$32.8 million at the end of 2009 due to a transfer of \$2.9 million from RAFT (7004-9316). See 6. below. For the third year, DHCD expects to augment this line item with additional funding from MassHousing. For FY 11, as reflected in the House 2 MRVP line item, MassHousing has committed to \$2.7 million in addition to the proposed \$32.7 million for the program.
  5. **The Alternative Housing Voucher Program (7004-9030) would be level funded at \$3.45 million, and the Department of Mental Health Rental Subsidy Program (7004-9033) would be level funded at \$4 million.**
  6. **The Residential Assistance for Families in Transition (RAFT) program (7004-9316), is funded in House 2 at \$60,000.** This represents a dramatic decrease from both the FY 09 funding level of \$5.5 million and the original FY 10 funding level of \$3.06 million, which was further lowered to \$160,000 late in 2009, when the balance was transferred to fund MRVP. The Administration intends the impact of this deep cut to be partially mitigated by the use of federal homelessness prevention funds, which are temporarily available due to the federal stimulus bill and can be used to cover some of the same costs that RAFT did.
  7. **Funding for the Tenancy Preservation Project (item 7004-3045), which helps preserve tenancies of persons with disabilities, would remain level funded at \$250,000,** although the final FY 10 appropriation was cut by 50% from the Governor's original proposal last year of \$500,000. **Funding for Housing Services and Counseling (7004-3036) would be level funded from the final FY 10 appropriation, which was reduced mid-year from \$1.62 million to \$1.49 million.**
  8. **An item related to foreclosure prevention and counseling (7006-0011), which was also in the FY 10 budget, would be reduced from \$5 million to \$3 million.** This item provides that revenues retained by the Division of Banks (DOB) from licensing fees and civil penalties collected from mortgage loan originators can be expended for counseling for non-traditional loans and foreclosure education centers.

## Cash Assistance and Related Items Administered by DTA

### 1. Cash assistance (including TAFDC, EAEDC, SSI state supplement)

- **TAFDC (Transitional Aid to Families with Dependent Children , item 4403-2000) would be funded at \$319.2 million, \$12.2 million more than the current FY 10 appropriation**, which is running a projected deficit of approximately \$8 million. The Governor's proposal would be enough if the caseload does not continue to increase above its current level but not enough if the economy does not improve quickly. Historically, declines in the TAFDC caseload lag improvements in the economy, because TAFDC recipients are often among the first to lose jobs and the last to be hired, so the amount proposed in House 2 may prove to be insufficient. **For the first time, the Governor's proposal would expressly allow a reduction in benefits to stay within the appropriation.** Absent such a cut, the Governor's proposal would maintain cash assistance benefits at their current nominal amounts, which have not been increased since 2000, and have lost more than 40% of their value to inflation since 1988.
- **The annual clothing allowance is included in the TAFDC line item at \$150** and included in the standard of need, as in prior budgets, so that it can provide a modest clothing benefit to families who otherwise do not receive TAFDC.
- **The line item does not include language included in final budgets in previous years including FY 10 requiring the Governor to give 60 days advance notice to the Legislature before cutting benefits or making changes in eligibility.** The advance notice language this year was critical to giving the Legislature time to work with the Governor to come up with a solution so that children in 9,100 families headed by a severely disabled parent would not lose their TAFDC benefits.
- **EAEDC (Emergency Aid to Elders, Disabled and Children, item 4408-1000) would be funded at \$88.8 million, \$5.3 million more than the FY 10 appropriation.** Like TAFDC, the proposed budget for EAEDC appears to rely on optimistic caseload assumptions and does not include current and previous year's language requiring advance notice before benefits are cut, although the EAEDC proposal does not expressly allow cuts in benefits if the appropriation is insufficient.
- **The state supplement for SSI (Supplemental Security Income, item 4405-2000) would be funded at \$2.5 million more than the FY 10 appropriation**, allowing for a very small caseload increase.
- **The Supplemental Nutrition Program (item 4403-2007)**, which provides a small state food SNAP supplement to thousands of low income working families who receive federal food SNAP benefits, would be funded at \$800,000, the same as the final amount in FY 10 (after the Governor's cut in October).

### 2. The Employment Services Program (ESP, item 4401-1000, and an ESP retained revenue account which House 2 proposes to eliminate) would be funded at just

**under \$13 million, a cut of \$9 million from FY 10 after a mid-year cut by the Governor.** ESP has already been cut dramatically from previous years and is already unable to provide the education and training and employment supports necessary to help TAFDC find jobs, get training and education, and address barriers to employment.

- **DTA says that it will deal with this cut in part by eliminating transportation benefits for TAFDC recipients to get to education or training.** Currently DTA provides up to \$80 a month in transportation assistance. Because of earlier cuts, DTA had already eliminated transportation benefits for employed TAFDC recipients. For those recipients who were receiving transportation assistance, loss of this benefit will be a blow and may make it impossible for them to complete their programs and prepare for work.
  - DTA plans to eliminate 3,500 training slots for TAFDC recipients, primarily slots for TAFDC recipients with fewer identified barriers to employment. The remaining slots (fewer than 3,000) will provide short term (four to twelve week) training for recipients with major barriers to employment including disabilities and low educational levels. A number of small programs will also be eliminated, including the community college “bridge” programs that provide short term academic and occupational learning.
  - The Young Parents Program (YPP), which helps TAFDC parents age 14-21 to get their GEDs, Learning Disability Assessments, GED testing services, and number of other services funded through ESP, would be reduced by 5-10% under DTA’s plan for dealing with the proposed ESP reduction.
3. **Teen Living Programs (item 4403-2119) would be level funded at \$6.6 million.**
  4. **DTA administration accounts would be consolidated into one account (item 4400-1000),** including the accounts for DTA central administration, DTA workers’ salaries, domestic violence workers, and increasing food SNAP participation. **The total proposed amount is \$112.5 million, \$2.9 million more than the FY 10 final amount.** Additional funds are needed to keep up with the recession-driven increase in caseloads.

## **Selected Health Issues in MassHealth, Commonwealth Care and the Health Safety Net**

1. **Overall MassHealth spending for fiscal year is proposed to be \$9.84 billion, a 6.5% increase over FY 10.**
  - **The Governor’s proposed FY 11 budget would cut adult dental services and raises drug copayments but otherwise would not restrict MassHealth eligibility and services compared to FY 10 and assumes a 3% growth in enrollment.** The Governor is counting on a continuation of enhanced federal Medicaid reimbursement throughout FY 11, which presumably would include continuation of the requirement that states not restrict Medicaid eligibility. The current federal provision for enhanced

Medicaid funding expires December 31, 2010, but legislation is pending to extend it.

**2. Adult Dental Services would be restricted in MassHealth and Commonwealth Care.**

- **Section 35 of House 2 would allow the Office of Medicaid to restrict adult dental services in FY 11.** According to the budget narrative the Administration intends to limit services to preventive and emergency services, and to exclude restorative services for expected savings of \$56 million. Children and people with intellectual disabilities served by the Department of Developmental Services would not see a cut in dental services. The Administration threatened to cut adult dental mid-year in FY 10 but increased revenue took that cut off the table this year. Adult dental services were last cut in 2003 and restored in 2006 as part of the health reform law. This reduction in dental services would also apply to Commonwealth Care Plan Type 1 for individuals under the poverty level, the only type of Commonwealth Care that offered dental services. The Governor's summary states that the Health Safety Net would be available to cover dental services no longer available to adults on MassHealth or Commonwealth Care.

**3. Commonwealth Care Bridge for legal immigrants continued.**

- In FY 10, the legislature terminated Commonwealth Care eligibility for legal immigrants who were subject to a 5 year waiting period under federal law and for whom the state was not federally reimbursed. However, in response to a proposal by the Governor, the Legislature appropriated \$40 million, about 1/3 of the cost of full coverage, to create a temporary lower cost program for those immigrants losing coverage. The program was called Bridge and was closed to any new enrollment; about 26,000 people are currently enrolled. **Outside Section 27 of House 2 would reauthorize the Bridge program with authority to spend \$75 million for FY 11,** and would continue to give the Executive Offices of Administration and Finance, and Health and Human Services, as well as the executive director of the Connector Authority total discretion to design the program. The proposed House 2 amount appears to be enough to expand coverage to open enrollment to new applicants but the authorization includes authority for the state to cap enrollment if needed.

**4. Increase in drug copayments in MassHealth and Commonwealth Care.**

- According to the House 2 summary, **the copayment for generic drugs, now \$2, would increase to \$3 but certain drugs to treat diabetes, hypertension and high cholesterol would remain at \$1;** these same drugs were exempted from last year's increase in copays from \$1 to \$2. This change would apply to MassHealth and to Commonwealth Care Plan Type 1 for individuals under the poverty level. No new legislative language was added.

**5. Continued funding for enrollment and outreach grants.**

- Like the FY 10 budget, House 2 does not propose a line item for this grant program that enables community groups to assist residents to obtain health insurance. This

year, \$2.5 million for enrollment and outreach was funded by the Connector and another independent authority. The budget narrative says that the Connector Authority has also agreed to a \$2.5 transfer to fund the program in FY 11.

**6. Commonwealth Care (item 1595-5819).**

- This line item would authorize \$797 million as an operating fund transfer for the Commonwealth Care Trust Fund which also receives income from other sources, and pays for other uses. According to budget summary documents, the total amount authorized for Commonwealth Care would be \$838 million to cover an expected 170,000 adults under 300% FPL in FY 11. This compares to expected spending of \$730 million in Commonwealth Care in FY 10 for about 150,000 enrollees. Neither figure includes the “aliens with special status” in the Bridge program, see above.

**7. Health Safety Net Restriction on non-Critical Access Care Services lifted for hospitals.**

- Section 22 of the Governor’s proposal would allow acute hospitals to be reimbursed under the Health Safety Net for services other than “critical access services.” Currently, most hospitals are denied coverage for routine, primary care services on the ground that these services should be provided by a local community health center. If the Governor’s proposal is adopted, hospitals would be able to bill the Health Safety Net for these services.

**8. Childrens’ Behavioral Health Initiative (item 4000 -0950) receives a 65% increase.**

- House 2 would fund the Children’s Behavioral Health Initiative at \$107 million, a major investment in children’s mental health services, thanks to the Rosie D settlement.

## **Department of Children and Families (formerly Department of Social Services) and Office of the Child Advocate**

- 1. The Governor’s total FY 11 budget proposal for DCF is \$760 million, a cut of \$14.2 million, or 1.8% below the FY 10 appropriation.** The cut is considerably larger than the half percent cut that the Governor said human services budgets in general would experience.
- 2. Like the Governor’s proposal last year, House 2 would consolidate the eleven DCF line items into five.** Because the DCF budget already has large unallocated line items, this consolidation would make DCF spending, particularly spending on services and social workers, harder to track.
- 3. The consolidated account for Services for Children and Families (4800-0038) would be cut by \$20 million a 3.9% decrease from the FY 10 appropriations for the line items.** It would combine: services for children and families line item (4800-0038), group

care services (4800-0041), sexual abuse intervention network (4800-0036), and placement services for juvenile offenders (4800-0151).

- **In FY 10, the Commissioner transferred approximately \$3.7 million from services for children and families and group care services to the lead agencies (4800-0030).** The lead agencies are regional nonprofits that contract for services but do not actually provide services themselves. The service cuts consisted of \$2.3 million from group care services (4800-0041) and \$1.6 million for the line item for services for children and families (4800-0038). The cut in the proposed consolidated account would continue to fund lead agencies at the expense of services.
  - **The Department plans to cut family stabilization and support funding by \$3 million, a 7% cut.** Given the current dearth of services for children under DCF's supervision, particularly children who need services to remain with or return to their homes, **the services funding cuts raise serious concerns that services to keep children safely in their homes will be even harder to access.** Currently, although 81% of the children in DCF's caseload are supposed to be receiving services to remain or return home safely, DCF spends only 8% of its services budget on services for those children.
  - **The cut in the services account also reflects Department plans to drastically reduce voluntary services for families with children under age 18.** These services, which families seek before their problems become crises necessitating DCF intervention, save state dollars and minimize unnecessary state intrusion into family life.
  - **These cuts take place as DCF caseloads continue to rise.** From June of 2001, to June of 2009, the number of children under 18 in DCF's caseload has increased from 40,069 to 46,288. In the last year alone, DCF has added almost 900 children under 18 to its caseload.
4. **The consolidated administrative line item (4800-0015) for "Social Worker Services and Related Operational Support" would be funded at \$237.8 million, an increase of \$4.9 million over its FY 10 allocation. Part of the increase likely reflects a continuation of the increase of \$3.7 million for the lead agencies which was transferred from two services accounts in FY 10.** The consolidated account would combine the current accounts for administration (4800-0015), social workers (4800-1100), foster care review (4800-0025), and lead agencies (4800-0030).
- **The Governor proposes to eliminate all reporting requirement language in the current line item for administration,** including four new monthly reports on services, which, according to our most recent information, the agency has not yet provided.
  - The Department plans to transfer many of the functions of the lead agencies back to the Department itself. Proposed language in the line item providing that the Department would establish its own coordination and referral function reflects the

Department's intention to make this transfer.

- The Department plans to level fund social workers and does not anticipate layoffs in FY 11.
5. **House 2 would fund services to victims of domestic violence (4800-1400) at \$20.6 million.** This represents a 3.7% cut from current funding for this small line item, and a 12% cut since the FY 09 allocation.
    - This account provides beds for shelter, visitation services and supports to victims of domestic violence, as well as the payroll of DCF domestic violence staff. These preventive services are not restricted to DCF involved families, but are available to all individuals who are served by these provider programs.
  6. **The Governor's proposal would level fund at \$2 million the transitional employment retained revenue account (4800-0016), which provides employment to older youth, including youth not involved with DCF.**
  7. **The Child Welfare Training Institute retained revenue account (4800-0091) would be funded at \$2.3 million, 9.7% less than the current appropriation.** The Institute is funded with federal reimbursements received under Title IV-E of the Social Security Act.
  8. **The Office of the Child Advocate (0411-1005) would receive level funding of \$243,564, a reduction of 11% from its original FY 09 appropriation.**
    - The office of the child advocate was created by Executive Order in March of 2008. The Child Advocate, a former juvenile court judge, has been charged by G.L. c. 18C with wide-ranging duties which encompass monitoring, examining and making recommendations to state government regarding the provision of services to and the treatment of children in the care or custody of state agencies. The meager budget for this office, originally funded for FY 09 at \$300,000, severely challenges the Child Advocate in carrying out the ambitious mission that the Governor established and Legislature expanded.

## Elder Accounts

1. **The Governor proposes to fund most of the budget items within the Executive Office of Elder Affairs at the same level as in FY 10, except for Prescription Advantage.**
  - **The Governor proposes to fund Prescription Advantage (item 9100-1455) at \$31.5 million, approximately \$2.9 million less than the FY 10 projected spending. The proposed appropriation is barely half to the \$60.5 million appropriated for this program in FY 08.** Some of the decrease reflects a reduced scope of coverage due to the Medicare Part D drug benefit implemented in 2006. However, the benefit has been restructured several times resulting in the program's diminished ability to fill the gaps in Part D coverage. Continual reductions in funding jeopardize the ability of this program to address seniors' escalating drug costs.

2. **The proposed MassHealth Senior Care line item (4000-0600) includes language setting the nursing home Personal Needs Allowance at \$72.80. In the last fiscal cycle the Governor twice vetoed language setting the PNA at this level.**
3. **The Governor’s proposal for the line item funding nursing home supplemental rates (4000-0640) includes language retaining nursing home medical and non-medical leaves of absence at 10 days.**
4. **The Governor proposes outside section 21, which would allow MassHealth to recover the costs of Medicare “clawback” payments from the estates of deceased dually eligible elders and long term care recipients.** The so-called clawback represents payments Massachusetts must make to Medicare to offset the cost to Medicare of the Part D drug benefit. The clawback amount in FY 11 is \$265.2 million. This language has been included in the Governor’s budget in prior years but has been dropped due to a series of legal and procedural issues raised by the provision.
  - As discussed above, **MassHealth adult dental benefits would be restricted to preventive and emergency services only and would not cover restorative services.** The budget narrative notes that individuals impacted by this cutback can seek Safety Net care at community health centers.
  - As discussed above, **MassHealth copayments for generic drugs would be increased by one dollar to three dollars. The copayment increase would not apply to certain generics used to treat chronic medical conditions.**

## Child Care

1. **The Governor proposes to consolidate the child care accounts into one account (item 3000-4060) at \$451.2 million.** This includes TAFDC-related child care (currently 3000-4050), Income Eligible Child Care (currently 3000-4060) for low income families who are not current or recent TAFDC recipients, and Supportive child care (currently 3000-4060) for families with an active case with the Department of Children and Families (DCF). **The combined funding is \$4.8 million less than the funding for these accounts in FY 10, after the Governor’s mid-year cuts, and FY 10 funding was insufficient.** The income eligible waitlist has been frozen for most of this year; even families with urgent priorities cannot get child care. Supportive child care has never been funded at a level sufficient to provide care to families who, with child care, could avoid the need for DCF involvement in the first place. And, because of tight funding for TAFDC-related child care, DTA has been unwilling to adopt policies authorizing child care for TAFDC children whose parents are not themselves receiving cash assistance, even where the child care could enable the family to leave TAFDC.
  - Currently, child care for former TAFDC recipients who are working is paid for from the TAFDC child care account for the first two years after TAFDC ends, to prevent competition for slots between former TAFDC recipients and other families. The Governor would eliminate that protection. Language in the line item could be read to

allow a shorter period of child care for former TAFDC recipients.

- The Governor's proposal also does not include a longstanding provisions assuring child care for the children of teen parents who are not receiving TAFDC and assuring that TAFDC recipients, whose incomes are far below the federal poverty level, will not be charged fees for child care.
2. **Early Ed and Care central administration (3000-1000) would receive a small increase to \$11.9 million. Child Care Resource and Referral Agencies (3000-2000) would receive \$5.9 million, a small increase over the final FY 10 amount of \$5.4 million.** The final amount of \$5.4 million was the result of a substantial cut in October 2009 that eliminated 45% of the amount originally appropriated for FY 10.
  3. **Head Start (3000-5000) would be level-funded at \$8 million.**
  4. **Pre-kindergarten (3000-5075) would be increased from \$8 million in FY 10 to \$9 million.**
  5. **Services for Infants and Parents (3000-7050) would be funded at \$17 million.** Although the number for this account is the same as the number for the current account called Parenting Skills (funded in FY 10 at \$5 million), the services that could be provided from it are broader, including school readiness activities and family education and engagement activities.
  6. **Mental health consultation services for child care providers (3000-6075) would be increased to \$1.5 million from \$1 million in FY 10.**
  7. **Funding to improve child care quality (3000-6000) would be cut from \$14.1 million in FY 10 to only \$4.4 million.** Among other things, this line item provides support to child care workers to get more education and helps child care programs improve curriculum. House 2 says funding was transferred to other accounts, but except for the account for Services for Infants and Parents, which appears to have a different purpose, there is no account that has been increased substantially or designated to make up the cut.

## Other

1. **Outside section 28** would provide the Governor with authority to make mid-year reductions in state appropriations to entities not within the executive branch, often referred to as "expanded 9C authority."
2. **Outside section 29** would give the Administration authority to transfer up to 5 percent of the amount in a line item to another line item within the same secretariat after 15 days notice to the Legislature.
3. **Adult Basic Education (item 7035-0002) would be funded at just under \$28 million,** a small cut.

- 4. The Citizenship Assistance Program (item 4003-0012) would be level-funded at \$250,000.**

For further information, contact MLRI Legislative Director Deborah Silva at 617-357-0700 x 340 or [dsilva@mlri.org](mailto:dsilva@mlri.org).