

## **MEMORANDUM**

TO: Jordan Hutchinson, Committee on Health

FROM: Sharra E. Greer, Policy Director, The Children's Law Center  
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DATE: May 7, 2010

**SUBJECT: Section 5002, Bill 18-, Fiscal Year 2011 Budget Support Act of 2010**

Thank you for the Committee on Health's commitment to ensuring the public has open and timely access to information about the District's health agencies and their budgets. We are writing to recommend a simple way the Committee can promote access to information in the *Fiscal Year 2011 Budget Support Act (BSA)*.

Section 5002 of the Mayor's proposed BSA removes Council review and approval of "any waiver, modification to the state plan, or modification to a waiver" in the Medicaid program during FY 2011. The Department of Health Care Finance (DHCF) has requested this change to help them secure waivers, SPAs and waiver modifications more quickly than if Council review is required. DHCF indicates this will help facilitate associated cost savings.

We are concerned that eliminating Council review will remove all formal public notice, and greatly reduce transparency. Access to timely information about potential changes in the Medicaid program is critical to promoting a healthy discussion of priorities. It enables the DC Council to perform its agency oversight functions, and empowers residents to have meaningful involvement that can support the Council's oversight and improve program results for Medicaid recipients.

Because of that concern, we urge the Council to strip section 5002 and in its place substitute a provision to promote transparency. This provision would require DHCF to notify the Council and post a copy of any final draft waiver, SPA or waiver modification on its web site by 10 business days prior to submission to CMS, and to post a copy of the final waiver or SPA by 1 business day after submission to CMS. This would ensure that the public is aware of pending changes in the Medicaid program and is able to access related information and provide input in a timely manner.

Adding the following language to section 5002 of the Budget Support Act (inserting new paragraphs (4) and (5) in § 1-304.02(a)) would accomplish this:

“(4) By no later than 10 business days before submitting a waiver, modification to the state plan, or modification to a waiver as provided in paragraph (1) of this subsection, the Department of Health Care Finance shall:

(A) Submit a copy of the final draft to the Council; and

(B) Make a copy of the final draft available on the Department of Health Care Finance web site.

“(5) By no later than 1 business day after submitting a waiver, modification to the state plan, or modification to a waiver as provided in paragraph (1) of this subsection, the Department of Health Care Finance shall:

(A) Submit a copy to the Council; and

(B) Make a copy available on the Department of Health Care Finance web site.”

However, if section 5002 must remain, we recommend that the Council instead use the same language used in the *FY 2010 Budget Support Act* which only waived approval for items that were relied upon in the budget for savings and put before the Council through the budget process. This way, the Council will have an opportunity to consider any proposed changes to the Medicaid program without slowing down the process of seeking waivers and SPAs. If the Council chooses to adopt this substitute for section 5002, we suggest changing the above language related to transparency to add the following (with a new paragraph (6)):

“(4) By no later than 10 business days before submitting a waiver, modification to the state plan, or modification to a waiver as provided in paragraph (1) of this subsection, the Department of Health Care Finance shall:

(A) Submit a copy of the final draft to the Council; and

(B) Make a copy of the final draft available on the Department of Health Care Finance web site.

“(5) By no later than 1 business day after submitting a waiver, modification to the state plan, or modification to a waiver as provided in paragraph (1) of this subsection, the Department of Health Care Finance shall:

(A) Submit a copy to the Council; and

(B) Make a copy available on the Department of Health Care Finance web site.

“(6) By no later than 1 business day after the release of the Budget Support Act, the Department of Health Care Finance shall make available on its website a summary description of every waiver, modification to the state plan, or modification to a waiver discussed in the Budget Support Act.”