

# CENTER FOR FAMILY POLICY AND PRACTICE

23 N. Pinckney St., Suite 210, Madison, Wisconsin 53703

TEL 608.257.3148 FAX 608.257.4686

[www.cffpp.org](http://www.cffpp.org)

## POLICY BRIEFING

October 2005 \_ Vol. 7, No. 7

### **Maryland Ruling Requires Custodial Father to Pay Arrearages to State**

The Maryland Supreme Court ruled recently that a father who has had legal custody of his four children since 1996 will have to pay child support arrearages accrued prior to gaining custody despite the fact that the arrearages are owed to the state. The father, Derek T. Harvey, has been making monthly payments on arrearages that once amounted to approximately \$32,000, of which all but \$1,600 was owed to the state.

In May 2001, Mr. Harvey sought to have the \$10,000 remaining in child support arrearages either set aside or forgiven by the state. He argued that, since the remaining arrearages were owed to the state and not his children, it was in the best interest of the children to forgive the arrears. The state's claim to the arrearages resulted from the fact that the mothers of his children had received welfare benefits during the period that Mr. Harvey accumulated arrearages. As a condition of receiving welfare, recipients must assign their rights to any child support to the state in order to repay the government for its expenses in providing benefits to the family. According to Mr. Harvey, the unpaid arrearages affected his credit rating, prevented him from purchasing a home and made it more difficult for him to finance his children's education, all of which were against the best interests of his children.

Harvey earns \$10.96 per hour as a landscaper and has had custody of his four children since the mother of his oldest child died in 1996 and the mother of his other three children was unable to continue to care for them in that same year. In 2001, the court granted Harvey's request to gain custody of all four of his children retroactively, beginning October 1, 1996, and directed that his child support obligations be terminated as of that date. Since then, Harvey's payments have been exclusively directed to the child support arrearages.

Harvey's lawyers argued that the state has the power to forgive the arrears, and should do so since it was in the best interest of the children. The state child support agency (CSEA), however, sought to retain its discretion in the matter and to prioritize the best interest of the state over the children as allowed by Maryland law. The state's objections were in response to the private company, MAXIMUS, Inc. that contracts with the state to operate the Baltimore City Office of Child Support. MAXIMUS did not want to reduce the arrearage because to do so would "potentially harm the numbers that show the local enforcement office's collection rate." The court's ruling affirms that, "by acquiescing in MAXIMUS's financial considerations, the CSEA was serving the best interest of the state."

The case, *Derek T. Harvey v. Robin Laverne Marshall, et al*, in the Court of Appeals of Maryland, No. 109 (filed October 14, 2005), is available at <http://www.courts.state.md.us/opinions/coa/2005/109a04.pdf>.

## **Florida Set to Implement Medicaid Changes that Cap Limits and Convert to Private Plans**

The U.S. Department of Health and Human Services has granted a waiver to the State of Florida allowing far-reaching changes to its Medicaid program that will cap spending and convert to a system managed by private health plans. Under the plan, eligible enrollees will be assigned a lifetime benefit cap based on their medical status and history. Decisions regarding health care and allowable benefits will be made by the private health plans. Enrollees will be responsible for any costs that exceed their cap.

The program, planned to begin in Broward and Duval counties in July 2006, is expected to be a model for other states struggling to contain Medicaid costs. In Florida, Medicaid currently consumes about \$15 billion per year or one quarter of the state's budget.

A spokesperson for HHS Secretary Michael Leavitt stated that federal officials are prepared to approve similar Medicaid reform programs from other states. South Carolina, Georgia and Kentucky are reported to be in the process of developing similar proposals.

The Winter Park Health Foundation has prepared a policy brief on the Medicaid changes, and lists the following key issues:

- The impact of the reform measures on the state's Medicaid budget and on per person expenditures is unknown and not assessed in the proposal.
- The expansion of managed care gives private insurance carriers and other managed care networks unprecedented discretion in determining benefits that recipients can receive.
- Research suggests that Medicaid delivers care more cost-effectively than private insurance, but the proposal assumes that competition among private insurers will save money despite the fact that this assumption has never been tested.

For more information, see *Issues to Consider in Governor Bush's "Florida Medicaid Modernization Proposal,"* at [www.wphf.org](http://www.wphf.org), *U.S. Gives Florida a Sweeping Right to Curb Medicaid*, October 20, 2005 at [www.nytimes.com](http://www.nytimes.com) and *Feds Approve Florida's Medicaid Reform Plan, but Recipients, Lawmakers Have Concerns*, at <http://www.wjhg.com/home/headlines/1816806.html>.

## **Testimony at Senate Hearing Exclusively in Favor of DC Marriage Proposal**

The U.S. Senate Appropriations Committee held hearings recently on a proposal contained in the District of Columbia appropriation to establish marriage development accounts (See July/August 2005 Policy Briefing for a summary of the proposal). All of the testimony at the hearing was from individuals, organizations and government representatives who are in favor of its passage. To view the testimony, go to <http://appropriations.senate.gov/hearings/topics.cfm?code=hearings>.

## **House Committee Approves Deep Cuts to Child Support and Other Programs**

The U.S. House Ways and Means Committee recently proposed additional budget cuts to several programs under its jurisdiction. The proposed cuts are in response to a call from the House Republican leadership to find \$8 billion, instead of the committee's earlier proposal of \$1 billion, in cuts to programs under the jurisdiction of Ways and Means. Overall, the leadership is seeking to increase cuts in programs from \$35 billion to \$50 billion in order to pay for costs incurred due to Hurricane Katrina relief efforts.

The child support enforcement program is the target of a large share of the proposed cuts. The program would be affected by two measures that would dramatically reduce federal funds available to state child support enforcement agencies. According to the Committee *Reform of Mandatory Spending Programs Summary*, these provisions would:

- Reduce “the federal matching rate for child support administrative costs, bringing it in line with other major programs like Medicaid, food stamps, foster care and adoption,” and
- End “the federal payment of matching funds when states spend federal child support incentive funds.” The Summary explains that, “current law gives states bonus money when they meet certain goals. States are given more federal payments when they spend the federal bonuses. This provision ends this wasteful ‘double dipping’.”

According to the Center for Law and Social Policy (CLASP), the cuts would reduce federal child support program funding by 40%. The reduction in the federal matching rate would mean that by 2010, the current 66% federal share of administrative costs would drop to 50%. The Congressional Budget Office (CBO) estimates that the reduced federal share would result in a drop of \$6 billion in child support collections over the next five years and almost \$17 billion over the next ten years.

The Committee’s proposal would also direct states to charge custodial parents who are not TANF participants a \$25 fee for services that would be deducted from child support collections.

The cuts would also limit federal payments to some foster care families and cut welfare payments to the disabled. TANF reauthorization legislation would be incorporated into the budget bill, and reduce the amount of funds available for child care subsidies by half, to \$500 million over the next five years.

For more information, see [www.cbo.gov](http://www.cbo.gov); [www.cbpp.org](http://www.cbpp.org) and [www.clasp.org](http://www.clasp.org).

### **Deep Cuts to Food Stamps Proposed Despite Increase in Food Insecurity**

In its recent annual survey of household food security, the U.S. Department of Agriculture has reported that:

- Nearly 11.9% of households were food insecure in 2004.
- Almost 2 million more people were food insecure in 2004 than in 2003.
- Approximately one third of the food insecure households had household members who were hungry because they could not afford food at least some time during the year.
- Hunger among children occurred in 41,000 to 50,000 U.S. households on a typical day.
- Just over half of the food insecure households in 2004 had participated in one or more of the three largest food assistance programs – the National School Lunch Program, the Food Stamp Program and the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) – in the previous month.

Despite the continued growth in food insecurity, the House Agriculture Committee approved more than \$840 million in cuts to the Food Stamp Program as part of a renewed effort to find additional targets for budget cuts. Robert Forney, President and CEO of America’s Second Harvest, stated that the cuts will have tragic results for struggling families and children, and that, “hungry and poor Americans are not responsible for creating the federal deficit, and they should not be expected to pay for it.”

The USDA report, *Household Food Security in the United States, 2004*, is available at [www.ers.usda.gov/publications/err11](http://www.ers.usda.gov/publications/err11). The Second Harvest press release in reaction to the report and the proposed cuts, is available at [www.secondharvest.org](http://www.secondharvest.org).