Bobby Jindal
GOVERNOR

Alan Levine
SECRETARY

State of Louisiana

Department of Health and Hospitals

Office of Management and Finance

November 2, 2009

The Honorable Mike Michot
State Senator
State of Louisiana – District 23
P. O. Box 94183
Baton Rouge, Louisiana 70804

The Honorable James R. Fannin
State Representative – District 13
State of Louisiana
P. O. Box 94183
Baton Rouge, Louisiana 70804

Dear Sen. Michot and Rep. Fannin:

The Department of Health and Hospitals is projecting a $307 million deficit in the Medicaid program for the remainder of the state fiscal year. It is important to note that a majority of the projected shortfall is related to what we believe are non-recurring expenditures relating to several factors; the H1N1 Influenza virus, unrealized savings from efficiencies built into the budget but not yet implemented, costs associated with the waiver programs and rate reductions built into the budget but not realized due to the time necessary to implement the reductions. The remaining contributing factors include spending related to increased enrollment, utilization increases and pharmacy costs.

H1N1 Influenza

We are seeing significant activity related to the H1N1 influenza virus. These expenditures are somewhat difficult to anticipate, as we are not yet in the most active part of the flu season. Further complicating this projection is the fact that there is a significant claims "lag". Our economists are basing this projection on a combination of increased activity in hospital Emergency Departments, physician offices and pharmacy, while assuming there will be continued activity during the greater part of the influenza season. We do believe much of this cost will be non-recurring, since we do not anticipate the volumes to sustain themselves into this time next year – or certainly that is our hope.

Unrealized Savings from Efficiencies Built into the Budget

There were several efficiencies built into the budget process, including updating and implementation of a more assertive prior authorization process for hospital admissions and length of stay, as well as prior

authorization for certain outpatient radiology services. When the budget was complete, the Department made estimates in terms of how long the process would take in order to engage these services. Unfortunately, the processes are fairly cumbersome, and are taking longer than hoped. We anticipate phase 1 of the hospital prior authorization program to be implemented by December, with phase 2 being implemented no later than June. The Radiology program will be implemented by February. Once these initiatives are in place, the savings will be recurring.

Costs Associated with Waiver Programs

Waiver costs continue to grow. The federal government approved the resource allocation program for the NOW waiver in July, and the Department is implementing this initiative. Resource allocation was initiated for the EDA waiver in March. However, the advocacy community has strongly recommended to EDA waiver participants and LT-PCS participants that each participant appeal the need determination. There have been more than 905 appeals since implementation (293 EDA appeals, 612 LT-PCS appeals). The Department is prevailing in 90 percent of the appeals, however services must continue during the appeal. This obviously delays any savings.

Last week, the Secretary announced a fraud initiative in the LT-PCS program, which will involve a 100 percent audit of all providers. We believe there is significant overbilling, based on the data the Medicaid Program Integrity Unit has been reviewing, and the Department intends to identify all possible overpayments, recoup what is possible, and use all tools and resources to eliminate fraudulent providers from the program or prosecute as appropriate.

Rate Reductions

Each reduction in Medicaid requires a separate rule, a state plan amendment and a public process notice for institutions. The reductions were widespread and affected virtually every provider category in the program. The Medicaid budget appropriation was not finalized until the last night of session, and then signed into law by the Governor. The Department took several weeks to meet with representatives of each industry affected by the cuts before drafting the rules. Thus, the emergency rules were effective August 4th. In the meantime, rates continued to be paid at the higher rates. This is a non-recurring deficit, as the rates have been implemented.

Of the $307 million deficit, $120 million is attributed to the H1N1 flu, $56.5 million is attributed to unrealized savings from efficiencies, $44 million is related to waiver growth and $24.7 million is attributed to rate reductions. In addition to these one-time deficits, an additional $21.6 million is attributed the economic downturn, $17.8 million is attributed to increased utilization, $11.9 million is attributed to pharmacy inflation and $11.4 million to other factors.

In past years, the Department has published the deficit, and come back later with notification of our reduction plan. Today, we are presenting both the forecast as well as our strategy for achieving the reductions. We do not want to delay action, and want to do all we can to avoid an end-of-year deficit.

Because the private provider community has contended with two rounds of cuts already, and because so much of the projected deficit appears to be non-recurring, the Department chose a balanced strategy of reducing some of the public program costs and utilization of one-time sources of funds. We take seriously the use of these funds, as we anticipate great needs for next fiscal year. That said, we do wish to protect the private provider community from reductions if we can avoid it at this time, as we want to

preserve access for our citizens. We must caution, however, that based on forecasts for FY 11 and FY 12, the budget process will present great challenges for the Department, the Legislature, and the provider community.

Below is a summary of the reductions and fund-shifts the Department is implementing. Any fund shifts that require JLCB approval will be requested through the appropriate legislative process.

Office of Public Health

Total Public Health Reductions: $7.7 million ($1.4 million SGF shift to Medicaid)
These SGF funds will be shifted to Medicaid to be matched with federal FMAP.

1. Replace SGF in Maternal Child Health with unallocated Federal Block Grant dollars tied to unfilled vacancies and inactive contracts. $410,000
2. Reduce Family Planning enrollment staff of four people due to wavier program enrollment goal being met. $75,000
3. Reduce travel cost in Personal Health Program – utilize video conferencing and limit use of employee private vehicles. $80,000
4. Reduce student labor by 75 percent. $75,000
5. Reduce supply costs in the DHH employee immunization program. $150,000
6. Reduce SGF portion of Genetics program by billing Medicaid for eligible patients. $320,000
7. Discontinue HIV-testing and outreach contracts with seven community-based HIV programs with positivity rates at or below 1.08 percent. These contracts are intended to reach communities that have a high prevalence of HIV. The CDC performance standard is at least 2 percent. $119,000
8. Reduce amount in HIV program contracts for six positions which have remained vacant. $170,899
9. Decrease inventory of prevention materials in HIV program. Also, eliminate redundancy between HIV Hepatitis A and B immunizations in this program and in the immunization program. $83,000

Office of Mental Health

Total Mental Health Reductions: $6.6 million ($1.3 million SGF shift to Medicaid)

1. Eliminate several vacancies and 11 administrative and support staff positions and adjust psychiatric aide staffing ratios at CELH. Reduce supply budget by bringing supply cost per bed down from $13,295 to $12,800. Merge various ancillary departments. $1.3 million
2. Adjust overall staffing ratios at SELH. Delay opening seven beds at SELH, since the demand has not increased (increased outpatient programs in Greater New Orleans, combined with expanded private capacity at Children's Hospital). Discontinue or reduce several professional or service contracts. Reduce certain supply and operating expenses. $2.3 million
3. Implement scheduling changes at ELMHS such as converting certain positions to 12 hour shifts, thus reducing scheduled overtime. Reduce medical supply and pharmacy costs, maintain vacancies, and eliminate various contracts. $3.3 million.

Medicaid

1. **Update State Generics program methodology: $8 million** ($1.5 million SGF)
   Update State Maximum Allowable Cost program to decrease acquisition cost of generic medications.

Generic acquisition cost has not been addressed in more than 20 years, and data demonstrates generic costs are higher, in some cases, than brand name drugs on the Preferred Drug list. Medicaid will submit a state plan amendment to increase dispensing fees for generics. The net savings for the state, on an annualized basis, will exceed $30 million once the acquisition cost reimbursement is reduced and the dispensing fees are increased.

2. **First Data Bank Settlement: $8.25 million** ($1.6 million SGF)
On March 17, 2009, a federal judge in Massachusetts approved an amended settlement in a lawsuit initially brought by union and consumer groups in 2005 against First Data Bank (FDB), a subsidiary of McKesson, and Medi-Span. The lawsuit alleges that FDB and McKesson began to conspire in 2001 by internally changing the mark up between Wholesale Acquisition Cost (WAC) and their published Average Wholesale Price (AWP). FDB allegedly changed this mark up from 20 percent to 25 percent on certain drugs. According to allegations, by 2004, 99 percent of all prescription drugs had marked up pricing. It is expected that this settlement will equate to a net 3 to 4 percent discount from today's prices on those specific NDCs.

3. **UCC Shift from LSU-HCSD to Private Providers: $41.7 million** ($8 million SGF)

   Of the $455.3 million allocated to LSU-HCSD in Medicaid's budget for Uncompensated Care (UCC), DHH estimates that HCSD will not generate enough costs for about $41.7 million of that allocation. DHH proposes shifting those funds and the match associated with it from UCC to partially offset the deficit in Private Providers.

4. **UCC Shift from OMH to Private Providers: $6.6 million** ($1.3 million SGF)

   The savings generated by OMH's hospitals noted in #2 above will be shifted from OMH's allocation in Medicaid's budget for UCC to the Private Providers. See "Office of Mental Health" section above.

5. **UCC Shift for Psych beds to Private Providers: $4.5 million** ($884,000 SGF)

   Approximately $4.3 in funding was allocated in Uncompensated Care for establishment of additional mental health beds for community hospitals. DHH has been notified that a hospital that has been contemplating opening up their beds has decided not to do so. This frees up that $4.3 million in funding to be shifted to the Private Provider Program.

6. **Cost report settlement: $83.8 million** (LSU-Shreveport $16.1 million SGF)

   DHH and LSU-Shreveport have settled a long standing issue regarding outstanding cost reports which have been reflected as uncollected accounts receivables on DHH's books. As a result of this settlement DHH will be able to claim about $16.1 million in federal funds from these cost reports. Those funds will be used as match to generate a total of $87.5 million for the Private Providers program. These are one time funds.

7. **Over Collections: $98.2 million** ($18.9 million SGF)

   Over the past several years, DHH program offices have collected more from Medicaid than what was budgeted for some of its facilities. These funds can be used as match to draw down $87.5 million

total funds for the Private Provider program. These are one-time funds.

8. **Limited utilization of Stimulus Funds: $48.8 million** ($9.4 million in SGF)

We are working hard to find new ways to operate more effectively and efficiently during these challenging budget times and we look forward to working with the Legislature, the provider community and other stakeholders to meet our challenges.

Thank you,

Charles Castille
Undersecretary