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IN THIS ISSUE.....

- **U.S. CONGRESS IN QUANDARY OVER FY 2009 FEDERAL FUNDING -**
With five months remaining until the start of Fiscal Year 2009 ... *page 2*
- **HOUSE OF REPRESENTATIVES PASSES MEDICAID REGULATIONS
MORATORIA BILL; LEGISLATION BLOCKED IN THE SENATE -** Despite a
White House veto threat, the House of Representatives ... *page 4*
- **BACKLOG IN SOCIAL SECURITY DECISIONS CONTINUES; HOUSE WAYS
AND MEANS COMMITTEE HOLDS HEARING -** Processing times for Social
Security determinations have reached intolerable levels ... *page 7*
- **ADMINISTRATION EXCEEDS AUTHORITY ON STATE CHILDREN'S
HEALTH INSURANCE PROGRAM (SCHIP) DIRECTIVE -** On April 18th, the
Government Accountability Office (GAO) ... *page 9*
- **GINA CLEARS THE CONGRESS -** After over 12 years of advocacy, the Senate
again passed the Genetic Information Nondiscrimination Act ... *page 11*
- **THE INDIANA VOTER ID LAW UPHELD BY THE SUPREME COURT -** The
Supreme Court upheld an Indiana State voting law ... *page 12*
- **DEADLINE APPROACHING ON TRANSPORTATION FUNDING -** This is a
new program authorized in Safe, Accountable, Flexible ... *page 13*
- **LANDMARK SECTION 811 SUPPORTIVE HOUSING REFORM BILL
INTRODUCED IN HOUSE OF REPRESENTATIVES -** Representatives
Christopher Murphy (D-CT) and Judy Biggert (R-IL) introduced ... *page 16*

U.S. CONGRESS IN QUANDARY OVER FY 2009 FEDERAL FUNDING

With five months remaining until the start of Fiscal Year 2009, the Congress has done little to create a pathway to complete action on FY 2009 federal funding. There are numerous complicating factors that place hurdles to finalize the FY 2009 appropriations bills on a timely basis. Some of the constraints are political while others are policy related. When President Bush unveiled his FY 2009 budget in February, he made very clear that, as he did last year, he would veto appropriations bills that surpassed his barebones budget request. Totalling approximately \$3.1 trillion, the Administration's budget would increase defense spending while essentially freezing domestic spending. Realizing that they will be unable to override vetoes, the House and Senate Democratic majority are faced with few options. With the vast majority of Members of Congress facing re-election in a very high stakes election, they will be resistant to a schedule that keeps them in session beyond the October 1 start of the fiscal year.

FY 2009 Budget Timeline

Feb, 2008	President Introduced Administration's Budget Request
Mar - May, 2008	Congress working on developing a Budget Resolution
June, 2008	Budget Resolution not likely to occur after this date. Congress will need to "deem" amounts to be split among appropriations subcommittees for discretionary spending.
Oct, 2008	Assuming FY 2009 Appropriations bills not enacted, Continuing Resolution(s) likely through early 2009

What is a Budget Resolution?

The first step the Congress usually takes in the annual budget process is the adoption of a Budget Resolution (BR). While not a law, a BR sets the **framework** for revenues and spending for the next fiscal year.

What is Happening with the FY 2009 Budget Resolution?

Adopting a BR in a **Presidential election year** is a rarity and that may be the case again this year. Democrats will be hard pressed to secure sufficient votes as they seek to increase human services spending. Few, if any Republicans, will likely support a BR while a number of conservative Democrats could also oppose a BR if new spending is not **offset** by additional revenues or spending reductions. Tax increases in an election year are virtually impossible to pass.

Both Houses have adopted their separate versions of a FY 2009 BR, but House and Senate conferees have worked for over a month, to no avail, to **resolve the differences**. Time is getting short for the adoption of a BR.

What Happens If a FY 2009 Budget Resolution is Not Adopted?

Should the Democratic leadership give up on the passage of a Budget Resolution, the leadership will need to adopt a provision to “**deem**” a certain amount that would be available for discretionary spending. That amount would then be split among the twelve appropriations subcommittees

Given the strong White House veto threats for any funding above what the Administration wants to spend, many Members of Congress don’t want a huge budget battle prior to the election. There are essentially two choices to avert that:

- 1) go along with the Administration’s budget plan; or
- 2) hold off spending decisions until a new President and a new Congress are in place next year.

Although there are no clear signals yet, it appears that the Congress will go for the second option. If that happens, the Congress will have to pass a [Continuing Resolution \(CR\)](#) for several months until the new government is elected and the 111th Congress starts its session. A CR continues funding programs at current levels.

What is the Impact of a Continuing Resolution on Disability Programs?

Use of one or several Continuing Resolutions over a significant period of time can have major **negative impacts** on programs for people with disabilities. A freeze in spending equals a cut in spending when inflation is factored in (currently running at about 4% in the last year). In addition, local, state, and federal agencies cannot plan properly for staffing and disbursement of funds when the authorization for such action is of only a few weeks or months duration. The inability of agencies to make year-long plans and commitments for staffing and program management has negative impacts over and above the freeze in spending.

Case Example



While applicants to the Supplemental Security Income and Social Security disability programs have been paying a terrible price for the persistent and cumulative under-funding of SSA’s administrative expenses, the situation is worsened under a typical Continuing Resolution. Processing times for disability applications have increased dramatically, with over 750,000 people with severe disabilities now waiting an average of over 550 days (much more in some offices) for a hearing decision on their applications. Lives of applicants have unraveled while waiting for decisions – families are torn apart; homes are lost; medical conditions deteriorate; once stable financial security crumbles; and many individuals die. Social Security Commissioner Michael Astrue has called it “a moral imperative” to reduce these backlogs. Yet, he has testified that, if faced with a Continuing Resolution rather than an appropriation for Fiscal Year 2009, he would have to **reinstitute a full hiring freeze and prepare for furloughs**. (See related article on page 7)

What is Happening with the Second Economic Stimulus Package?

House and Senate Democrats are also eager to craft a second package of provisions aimed at avoiding a major recession and to stimulate the economy. The White House has sent signals that it will oppose any further stimulus programs until the effect of the first stimulus package can be understood. Among the possible proposals are an increase in low income programs like energy assistance, food stamps, unemployment insurance and relief for economically troubled homeowners. Governors and advocacy groups are also pressing for additional Federal reimbursement to states under Medicaid. A second stimulus package will likely be voted on separately from other funding bills.

Are There Any “Must Pass” Appropriations Bills in FY 2009?

Yes. The Emergency War Supplemental Appropriations bill is “must pass” legislation and it may become the vehicle for additional domestic spending. The President is seeking an additional \$108 billion to fund the war in Iraq. However, the White House has warned of a veto threat if non war-related funding is added on.

What Does All of This Mean for Disability Programs Funding?

Under almost any scenario, it is difficult to see how significant advances in federal disability spending can be obtained until early in 2009. Our programs will likely stay level funded at FY 2008 amounts.

HOUSE OF REPRESENTATIVES PASSES MEDICAID REGULATIONS MORATORIA BILL; LEGISLATION BLOCKED IN THE SENATE

Despite a White House veto threat, the House of Representatives by a vote of [349-62](#) passed the [Protecting the Medicaid Safety Net Act of 2008 \(H.R. 5613\)](#). This bill places a one year moratorium on separate Medicaid regulations pertaining to:

1. Cost Limits for Public Providers
2. Graduate Medical Education
3. Outpatient Hospital Services
4. Provider Taxes
5. Rehabilitative Services
6. School Administration and Transportation Services
7. Case Management Services

In addition, the legislation also requires the Centers for Medicare and Medicaid Services (CMS) to hire an independent contractor to do a study of the regulations’ impact on states and provide \$25 million annually for efforts to fight Medicaid fraud.

How Would These Regulations Affect People with Disabilities?

Only three of these regulations directly impact people with disabilities (regulations 5 through 7 listed above). They are summarized below.

Regulation	5 Year Cut	Description	Changes could impact
Rehabilitation Services (Rehab) Option	\$2.3 billion cut	Narrows scope of rehab services. See comments to CMS	⑦ Day habilitation such as DD skills training and communications skills training
School-Based Administration and Transportation Services	\$3.6 billion cut	Prohibits all Medicaid payments for school-based administration and most transportation services. See Comments to CMS	⑦ Transportation ⑦ Occupational therapy ⑦ Physical therapy ⑦ Speech/language therapy
Case Management and Targeted Case Management	\$1.3 billion cut	Restricts coverage of transitional case management. See Comments to CMS	⑦ Transition from institutional care to the community

Why Are We Opposing All 7 Regulations?

There is strength in numbers. We are more effective when we come together. The disability community is joining forces with other groups affected by the first four regulations, like public hospitals, that are being adversely affected by the Administration's regulations.

Why is The Medicaid Moratorium Bill so Critical?

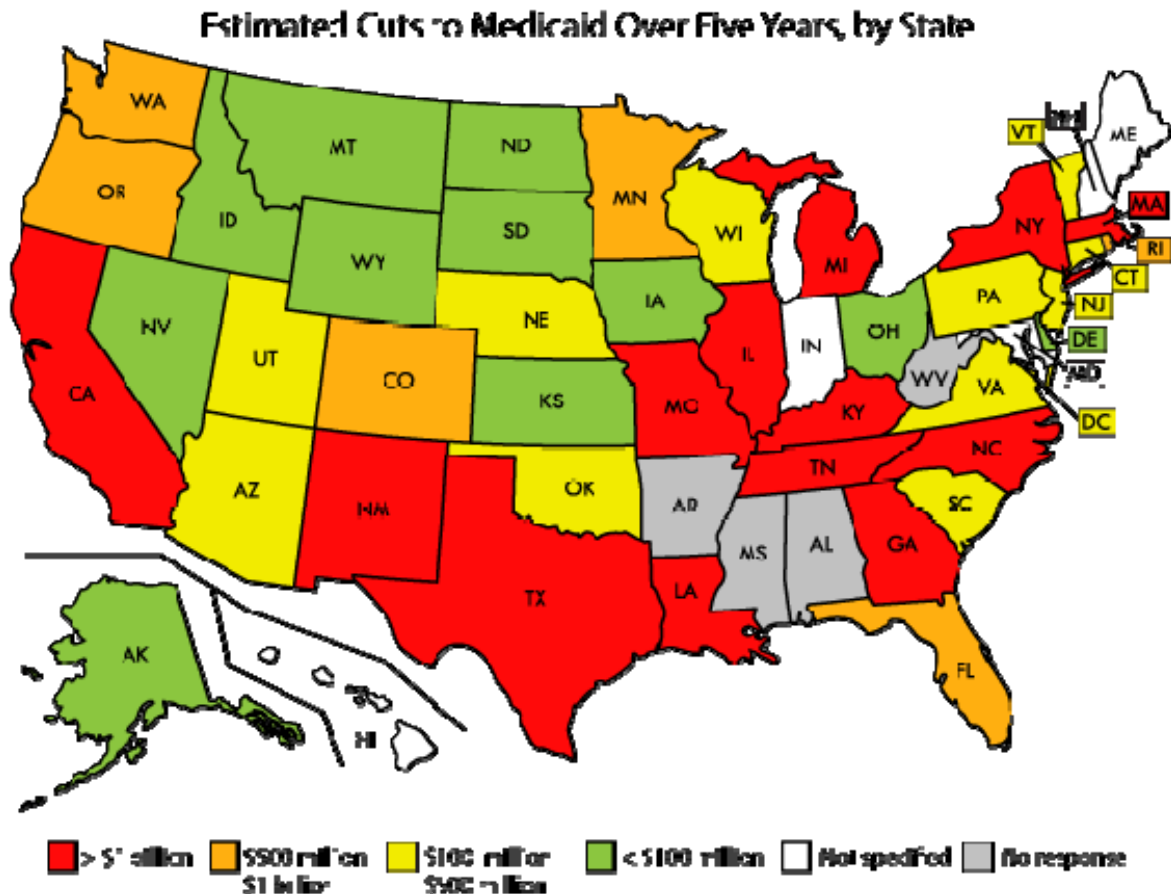
The Disability Policy Collaboration has made enactment of this legislation a top priority because of the enormous stake individuals with developmental disabilities and their providers have in the Medicaid program. As our letter to House Energy and Commerce Chairman Dingell underscored “[E]ach of these regulations will have a very harmful impact on our constituency who... are among the most vulnerable members of our society. Taken together the impact will be devastating. These cuts come at a time when most states are experiencing significant budget shortfalls due to the slowdown in the economy. No state, no matter how prosperous, can afford to absorb these cuts without significant cost shifts which will affect not only our constituents but all Medicaid beneficiaries and providers.”

How Much Funding is at Stake?

According to the Bush Administration the seven regulations would result in \$15 billion in cuts to the Medicaid program over five years. However, the House Oversight and

Government Reform Committee, chaired by Rep. Henry Waxman (D-CA), has issued a report based on state specific responses to a Committee request, that the regulations will result in almost **\$50 billion** in cuts over 5 years

To see the impact on your state, click on your state in the map below.



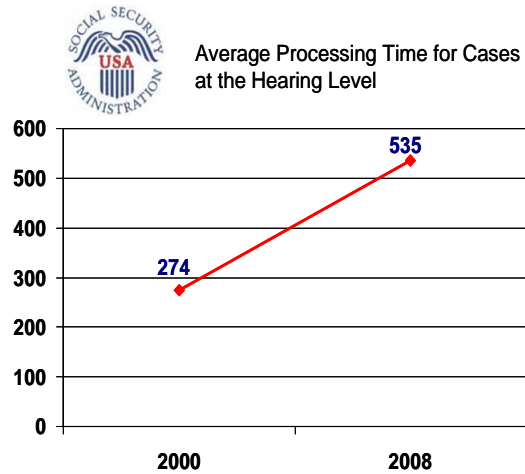
Because of the regulations' broad impact and the current economic downturn across the country, over 2,000 organizations including the National Governors Association, National Association of State Medicaid Directors, the National Association of Counties, and the National Conference of State Legislatures are strongly supporting the moratorium bill.

What is Happening with the Moratoria Bill in the Senate?

This House vote margin (349-62) was well over the two-thirds needed to override a Presidential veto. The day after this vote, several Republican Senators circulated a letter to Minority Leader Mitch McConnell (R-KY) urging the Senate to reject the House bill. Senate Majority Leader Harry Reid (D-NV) has "fast-tracked" the legislation, putting it on the Senate floor, calendar bypassing Finance Committee consideration. On April 29, Majority Leader Reid tried to bring the legislation to the floor for a vote under unanimous consent rules. Senator Tom Coburn (R-OK) blocked him. Majority Leader Reid and his colleagues in the Senate leadership are now exploring alternative legislative vehicles for moratoria legislation.

BACKLOG IN SOCIAL SECURITY DECISIONS CONTINUES; HOUSE WAYS AND MEANS COMMITTEE HOLDS HEARING

Processing times for Social Security determinations have reached intolerable levels. For instance, the average processing time for cases at the hearing level has increased dramatically since 2000, when the average time was 274 days. In the current fiscal year, SSA estimates that the average processing time for disability claims at the hearing level will be 535 days, nearly twice as long as in 2000. There is wide fluctuation, with some offices over 700 days and others even over 800 days.



Why Does SSA Have a Backlog of Cases ?

- ② **Inadequate Funding of SSA's Administrative Expenses.** The primary reason for the continued and growing disability claims backlogs is that SSA has not received adequate funds for its management costs. Between FY 2000 and 2007, Congress appropriated less than both the Commissioner of Social Security and the President requested, resulting in a total administrative budget shortfall of more than \$4 billion. The dramatic increase in the disability claims backlog coincides with this period of under-funding the agency, leaving people with severe disabilities to wait years to receive the benefits to which they are entitled.

This chronic underfunding has resulted in **fewer staff** to carry out the work that is critical to the public and people with disabilities. SSA estimates that in FY 2009 it will have a staffing deficit of essentially 8,100 full-time staff just to return to FY 2007 staffing levels for workloads. Staffing levels throughout the agency are at the lowest level since 1972.

- ② **Increasing Demands From its Other Work.** SSA has many mandated responsibilities. Workload increases for the following services are due to the aging of the population and the expanding scope of SSA's work:
 - paying benefits;
 - issuing Social Security cards;
 - processing earnings for credits to worker's records;
 - responding to questions from the public on the 800-number and in the field offices;
 - issuing Social Security statements;

- processing continuing disability reviews (CDRs) and SSI eligibility redeterminations;
- administering components of the Medicare program, including: subsidy applications, calculating and withholding premiums, making eligibility determinations, and taking applications for replacement Medicare cards.

What is Congress Doing About the Backlog?

The full House Ways and Means Committee held a hearing on April 23 on clearing the disability claims backlog and giving the Social Security Administration the resources it needs to provide the benefits workers have earned. Committee Chairman Charles Rangel (D-NY), Ranking Member Jim McCrery (R-LA), and a substantial majority of the Committee's 41 Members participated in the hearing and expressed strong concerns about the plight of applicants for disability benefits who are bearing the brunt of persistent and cumulative under-funding of the Social Security Administration's administrative expenses (known as its Limitation on Administrative Expenses (LAE)).

What Was The Hearing About?

While advocates have been pushing for adequate funding for SSA for years, the issues are gaining more attention now as the impact on individuals with disabilities is becoming more pronounced and unacceptable. Members of the Committee were fully engaged in the discussions and spoke eloquently about the human toll of the failure to adequately fund the agency, including the devastating impact of the staffing shortages on their own constituents.

Who Testified at the Hearing?

The lead-off witness at the April 23 hearing was Michael J. Astrue, Commissioner of the Social Security Administration. Other panelists representing the SSA and beneficiary interest groups, including the Disability Policy Collaboration's Marty Ford, also testified. See: <http://waysandmeans.house.gov/hearings.asp?formmode=detail&hearing=626>

What Did SSA Commissioner Astrue Say?

Commissioner Astrue testified and responded to questions for approximately 3 hours. He made numerous critical points including:

- ⑦ The recent hiring of new Administrative Law Judges (up to 175) and support staff should begin to bring the waiting times down.
- ⑦ SSA is instituting a number of technological and business process improvements intended to bring down the waiting times.
- ⑦ New workloads mandated by Congress without adequate administrative funding contribute to the backlogs.
- ⑦ SSA needs to receive the President's full funding request in order to meet its commitment to eliminate the hearing backlog by the end of 2013.
- ⑦ Increases in personnel and infrastructure costs alone for Fiscal Year 2009 (beginning October 1, 2008) will be at least \$400 million.

- ② If faced with a Continuing Resolution rather than an appropriation for Fiscal Year 2009, he would have to reinstitute a full hiring freeze and prepare for staffing furloughs.

What Did the Disability Coalition Say?

The Consortium for Citizens with Disabilities (CCD) testimony focused on:

Sharing Stories of individuals with disabilities caught in the backlog. The CCD testimony included powerful stories of individuals in 29 states whose lives have unraveled while waiting for a decision on their appeals. The stories were collected in a recent survey of members of the National Organization of Social Security Claimants' Representatives (NOSSCR), a member of the CCD Social Security Task Force. Members of Congress heard numerous stories of people with disabilities losing their jobs, homes, families, and even their lives while waiting for decisions from the SSA.

Requesting more Funds for SSA. Due to the serious consequences of persistent and cumulative under-funding of SSA's administrative expenses, CCD strongly recommended that SSA receive **\$11 billion** for its FY 2009 LAE. This amount would allow the agency to make significant strides in reducing the disability claims backlog, improving other services to the public, and conducting adequate numbers of CDRs and SSI redeterminations. At a minimum, CCD believes that SSA should receive the President's request of \$10.327 billion, plus \$240 million for integrity work.

What Might We Expect From the Hearing?

Advocates are hopeful that the intensity of the reaction of Members of Congress to the unconscionable suffering of their constituents who are waiting for disability decisions will result in significantly increased appropriations for SSA in Fiscal Year 2009.

The testimony of witnesses and other information is available at:

<http://waysandmeans.house.gov/hearings.asp?formmode=detail&hearing=626>

ADMINISTRATION EXCEEDS AUTHORITY ON STATE CHILDREN'S HEALTH INSURANCE PROGRAM (SCHIP) DIRECTIVE

On April 18th, the Government Accountability Office (GAO), an independent, non-partisan agency that works for Congress, issued a legal opinion which stated that the Centers for Medicare and Medicaid Services (CMS) exceeded its authority when it issued a directive to states on August 17, 2007. This directive stated that 95 percent of all children below 200 percent of the poverty level had to have verifiable health insurance coverage before any additional children could receive SCHIP coverage.

How did CMS Exceed its Authority?

The GAO opinion states that the August 17 directive amounted to a proposed regulation by CMS. Therefore CMS did not have the authority to impose these changes via a directive/letter to State Medicaid Directors. Rather, **the law requires CMS to give notice of the rule to Congress before the rule could be implemented.**

What is Congress Doing About the CMS Directive?

Senator Jay Rockefeller (D-WV), Chair of the Senate Finance Committee's Health Subcommittee, along with Senators Olympia Snowe (R-ME) and Edward Kennedy (D-MA), have introduced legislation to place a one year moratorium on the August 17th directive. The bill, the [Economic Recovery in Health Care Act of 2008 \(S. 2819\)](#), also imposes moratoria on Medicaid regulations and provides fiscal relief to states.

On April 9, the Senate Finance Committee's Subcommittee on Health held a hearing on this bill entitled "Covering Uninsured Children: The Impact of the August 17 CHIP Directive."

"Seth has been uninsured since August of 2007 ... He has now been deemed disabled, but the catch here is that our spend-down per month was calculated to be \$2,687, which must be spent before Medicaid can help Because of the requirements placed on States by the August 17th directive, Ohio has been unable to implement the expansion it had planned to help children like Seth.... Just as an example please let me tell you the needed care Seth has missed due to his lack of coverage. Seth had open heart surgery in March 2007 and missed his one year cardiology follow-up. Seth has missed appointments for eye exams, thyroid exams, ENT visits to replace tubes in his ears, genetic doctor appointments to track his growth and development, fittings for his orthotics, and very importantly because Seth is still non-verbal, visits to his speech therapist.

Excerpt from hearing testimony of Paula Novak of Lebanon, Ohio, parent of a child with Down syndrome

Read all testimony from the April 9 hearing at:

<http://www.senate.gov/~finance/sitepages/hearing040908.htm>

What Does GAO's Finding Mean for Children with Disabilities?

SCHIP was established in 1997 to cover children who live in families whose income is above Medicaid eligibility levels. In August 2007, 17 states were planning to expand their SCHIP eligibility levels allowing for more children (including children with disabilities) to have health insurance. The CMS directive halted those plans and several states filed lawsuits. **The GAO opinion will not overturn the CMS directive but will assist in the states' litigation regarding the directive.**

GINA CLEARS THE CONGRESS

After over 12 years of advocacy, the Senate again passed the Genetic Information Nondiscrimination Act (GINA, S. 358) by a vote of 95-0. Senator Kennedy (D-MA) called GINA “the first major new civil rights bill of the new century,” and his Republican counterpart from Maine, Senator Snowe, called GINA groundbreaking because it “prevent[s] discrimination before it has taken firm hold.”

Why Has GINA Taken So Long to Move Forward?

GINA had a long road to get here. The Senate passed GINA by a vote of 95 to 0 in 2003 and 98 to 0 in 2005, but was kept from a vote in the House by the Republican leadership. Last year, with Democrats in the majority, the House approved the bill by a vote of 420 to 3, but the Senate was forced to wait until now due to Senator Tom Coburn’s (R-OK) hold on the bill.

What Happens Next?

On May 1st, with the support of House Majority Leader Steny Hoyer (D-MD), the House passed GINA, approving small changes made by the Senate. The White House has signaled it intends to sign the bill into law. Representatives Slaughter (D-NY) and Biggert (R-IL), champions of GINA from the beginning, quip that they will hand deliver the bill to the White House.

How Does GINA Protect Us From Discrimination?

GINA would protect Americans from discrimination by health insurers or employers by:

- ① Prohibiting group health plans and issuers offering coverage on the group or individual market from basing eligibility determinations or adjusting premiums or contributions on the basis of genetic information. Similarly, they cannot request, require or purchase the results of genetic tests or disclose genetic information.
- ② Prohibiting issuers of Medigap policies from adjusting pricing or conditioning eligibility on the basis of genetic information. They cannot request, require or purchase the results of genetic tests or disclose genetic information.
- ③ Prohibiting employers from firing, refusing to hire, or otherwise discriminating with respect to compensation, terms, conditions or privileges of employment. Employers cannot request, require or purchase the results of genetic tests or disclose genetic information. Similar provisions apply to employment agencies and labor organizations.

Once signed into law, individuals with disabilities and individuals who may have a predisposition to disability can now access the care they need without fear of retribution.

THE INDIANA VOTER ID LAW UPHELD BY THE SUPREME COURT

The Supreme Court upheld an Indiana state voting law which will carry significant negative repercussions for people with disabilities as well as individuals who are poor, urban dwellers, elderly or part of a racial minority. At issue was the constitutionality of requiring government issued photo ID to cast a ballot.

Conservatives feel this law will protect the integrity of elections and reduce voter fraud. Disability rights and other civil rights groups argue that Indiana offered no evidence of the type of voter fraud Indiana hopes alleviate.

Why Are We Concerned About Indiana’s Voting Law ?

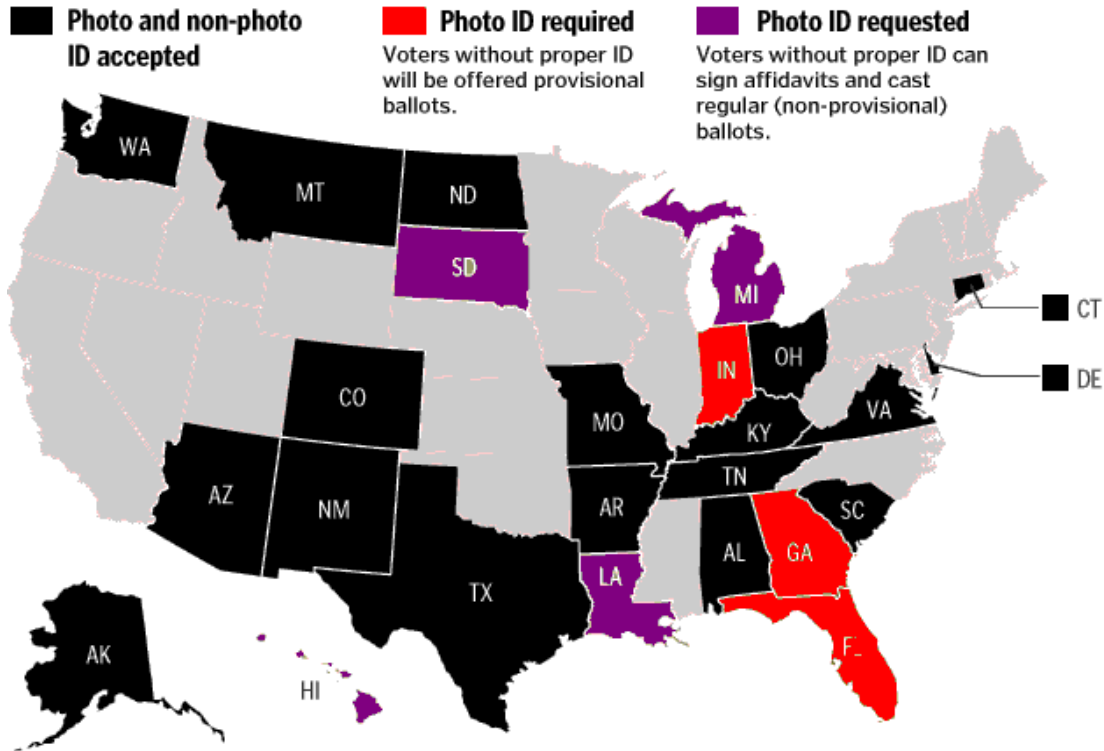
The Indiana law’s requirements would impose considerable burden on would-be voters who are already disenfranchised. While the Supreme Court opinion left open the possibility that voters who had proof that they were adversely affected by such laws could petition the courts, it is clear that it would be difficult for them to prevail.

Requirements of the law		Our concerns
For Photo IDs:	<ul style="list-style-type: none"> ⌚ Must have an expiration date (but not be expired) ⌚ Must have been issued by the state or federal government 	These requirements exclude other forms of ID, such as student or employer IDs
To cast provisional ballots for those without photo ID	An additional trip – with appropriate ID in hand – to the county seat within 10 days of voting	Although Indiana offers a free ID card from the state motor vehicle agency, obtaining this card requires a “primary document” like an original birth certificate or passport. These are documents that many people with disabilities don’t have and may not have the money or support to acquire.

Indiana’s win has far-reaching repercussions. Three states now have laws requiring photo IDs— Florida, Georgia, and Indiana. Four others -Hawaii, Louisiana, Michigan, and South Dakota — now require voters without photo IDs to sign affidavits to cast regular ballots. (See map on page 13).

Bills requiring IDs for voting are pending in two dozen other states. In light of the recent Supreme Court decision, the disability community must respond through voter education about the new ID requirement in relevant states.

States That Require Voter Identification



DEADLINE APPROACHING ON TRANSPORTATION FUNDING

What is the New Freedom (Section 5317) Transportation Program?

This is a new program authorized in the Safe Accountable Flexible and Efficient Transportation Equity Act, a Legacy for Users (SAFETEA-LU) to support new public transportation services and public transportation alternatives beyond those required by the Americans with Disabilities Act (ADA) of 1990.

How Does the New Freedom (Section 5317) Program Work?

- 1) The Designated Recipient.** The Governor selects an agency to administer the grant (called a designated recipient) for the state and the large urbanized areas. It may be the metropolitan planning organization, the transit agency, or other agencies.
- 2) The Coordinated Plans.** Stakeholders must then develop local transportation human services coordinated plans. Individuals with disabilities and disability organizations are stakeholders and should be part of the planning process. The planning process is used for New Freedom (Section 5317) and Section 5310, the program for the elderly and people with disabilities, and the Job Access Reverse Commute program. The federal guidelines in this area are general, allowing each state and local area to develop a planning process and projects suited to their needs.
- 3) The Solicitation for Projects.** The designated recipient conducts a solicitation for projects designed to meet the priorities of the coordinated plan. The designated recipient selects projects and applies to the Federal Transit Agency (FTA) for funds.

What Transportation Projects are Eligible for Funding?

The New Freedom Program enhances transportation for people with disabilities “beyond the ADA” which are “new” public transportation or alternatives to public transportation. “New” means operational after August 10, 2005 or not having an identified funding source before August 10, 2005. “Beyond the ADA” means services, equipment or facility enhancements that are not required under the ADA.

What are Examples of Grants Awarded?

- ② \$84,000 for a call center in McHenry, IL
- ② \$400,000 to Ride DuPage (IL) to reduce cost of fares from \$3 to \$1.50.
- ② \$35,000 to Winstead, CT for new Sunday paratransit service
- ② \$34,000 for travel training in San Diego County.

See http://www.fta.dot.gov/funding/grants/grants_financing_7633.html for additional examples.

How is Program Funding is Apportioned?

The funding availability formula is based on the population of people with disabilities in a state as follows:

- ② 60% for urbanized areas with populations larger than 200,000;
- ② 20% for states for use in urbanized areas of fewer than 200,000; and

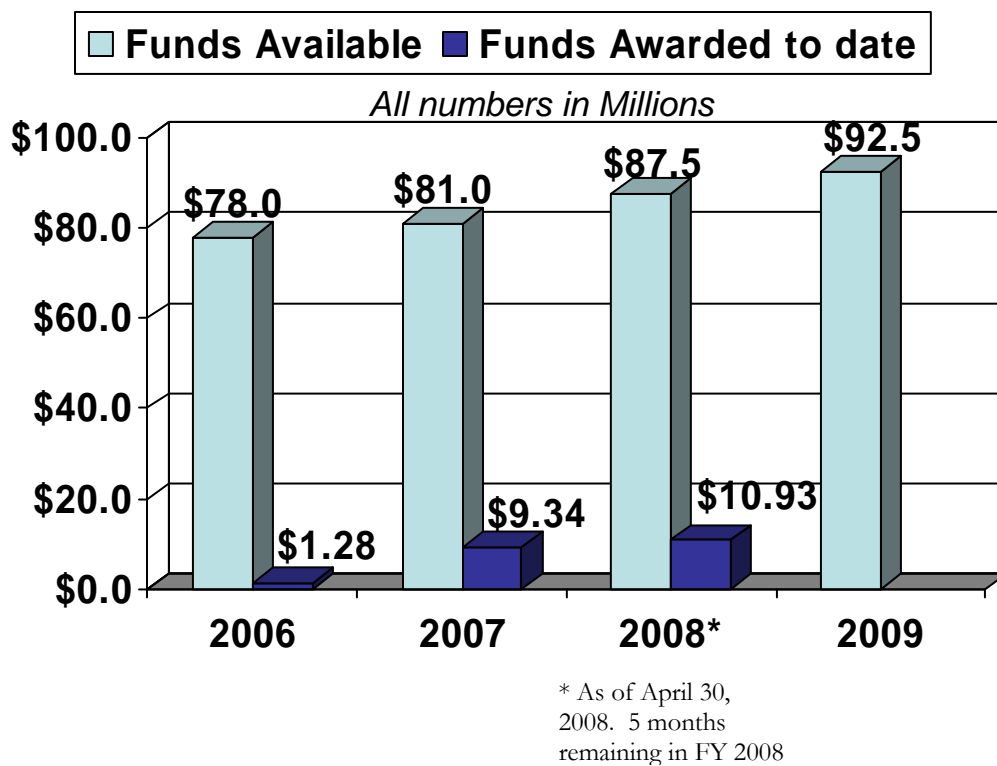
20% to states for use in rural areas.

See: http://www.fta.dot.gov/funding/grants/grants_financing_7187.html for amounts that your local area and state are eligible to receive.

How Much Funding Has Been Awarded ?



New Freedom (Section 5713) Funds Available and Amounts Awarded as of April 30, 2008



As of April 30, 2008, FTA has made New Freedom grant awards totaling \$21,561,179. Congress has appropriated \$245.7 million for the New Freedom program in its budgets for fiscal years 2006 through 2008. Only 8.7% of New Freedom funds that are available to be awarded have been awarded.

What Happens If No One Applies for the Remaining Funding?

Funding was first available in Fiscal Year (FY) 2006 and it remains available for three years.

Fiscal Year 2006 New Freedom funds that are not committed by September 30, 2008 will be added to the Fiscal Year 2009 funds and will be divided up among all states and urbanized areas.

Has Your State or Local Community Applied for Funding?

Visiting the FTA website you can learn how much funding is apportioned to your area and what projects have been funded:

http://www.fta.dot.gov/funding/grants/grants_financing_3549.html

What Can You Do?

There is still time to get involved and ensure that your state and local area access these funds and spend it in a way that makes sense for your community. Unfortunately, despite our advocacy efforts, there is not a simple way to look up information about how the New Freedom (Section 5317) program is being implemented.

The FTA website has a list of designated recipients which tells you where to start asking questions about the process in your state. Find out what plans have been developed and inquire about funding cycles. For additional information, see:

http://www.fta.dot.gov/funding/grants/grants_financing_7186.html

LANDMARK SECTION 811 SUPPORTIVE HOUSING REFORM BILL INTRODUCED IN HOUSE OF REPRESENTATIVES

Representatives Christopher Murphy (D-CT) and Judy Biggert (R-IL) introduced the [Frank Melville Supportive Housing Investment Act of 2008 \(H.R. 5772\)](#) on April 10. This bill would reform the Department of Housing and Urban Development's (HUD) Section 811 Supportive Housing Program for Persons with Disabilities.

What is the Section 811 Program?

Section 811 provides housing for people with physical or developmental disabilities or people with chronic mental illness who are 18 years of age or older and have very low incomes (at or below 50 percent of the area median income). Section 811 participants may live in supportive housing units developed and owned by non-profit organizations, or they may receive tenant-based rental assistance that helps them rent decent, accessible and safe housing in the private rental market. Tenants pay 30 percent of their adjusted income (approximately \$200 per

month) for rent which ensures affordability for those receiving SSI benefits.

Section 811 is the only HUD program that produces affordable and accessible housing for non-elderly people with disabilities.

How Has the 811 Program Worked?

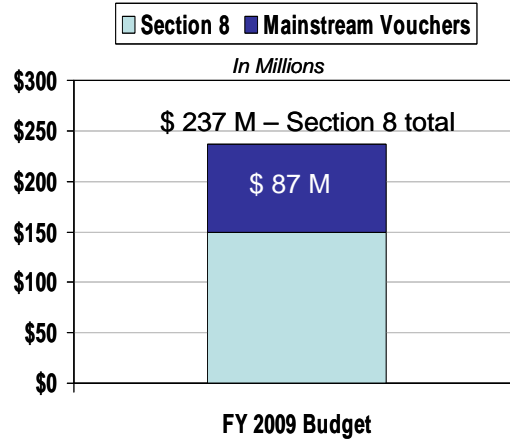
Funding for Housing Developers. Historically HUD used **75%** of Section 811 funds to provide interest-free capital advances to non-profit sponsors to help finance the development of fully accessible rental housing. These include independent living projects, condominium units, and small group homes, many of which offer voluntary supportive services for people with significant disabilities. Project-based contracts (also known as PRACs) cover operating costs such as insurance and maintenance.

Rental Assistance for Tenants. Section 811 also allows HUD to use up to **25%** of the program's funds for tenant-based rental assistance (known as the "Mainstream Housing Choice Voucher program").

Why Does the Section 811 Program Need to be Reformed?

- ② **Housing Crisis.** There is a significant housing crisis facing people with disabilities, especially individuals with developmental disabilities. For example, it is estimated that over 700,000 persons with developmental disabilities live with aging parents (one of whom is over age 65). This crisis will only escalate and demands urgent action. See graph of housing crisis data on each state at:
<http://www.thearc.org/NetCommunity/Document.Doc?&id=714>
- ② **Bureaucratic Barriers of Section 811 Program.** The current 811 program is fraught with many bureaucratic barriers that delay the construction of new units. United Cerebral Palsy affiliates and chapters of The Arc that have received 811 grants are very familiar with these problems. These barriers prevent many chapters and affiliates from even applying for 811 grants. H.R. 5772 will streamline the 811 program and remove many of the program's outdated regulations.
- ② **Mainstream Housing Choice Voucher Program not meeting needs.** Advocates believe that many "Mainstream Vouchers" have been given to individuals without disabilities due to poor management of the program. HUD has mismanaged the Mainstream Voucher program for years by treating these vouchers as traditional Section 8 vouchers which are administered by Public Housing Agencies for many different low income populations on their waiting lists. Even though these vouchers were supposed to go to persons with significant disabilities who needed supportive housing, HUD did not put a tracking mechanism into place to ensure that this occurred until 2005. Disability housing advocates believe that many non-disabled people and persons with non-significant disabilities (who could use traditional Section 8 vouchers) were receiving Mainstream vouchers.

This mismanagement created severe fiscal burdens for the small (\$237 million) 811 program because renewal of the Mainstream Vouchers must come off the top of the 811 budget every year. For example, the FY 2009 budget requires that over \$87 million be used for renewal of Mainstream Vouchers. This would leave only \$150 million for the production of new units ($\$237 - \$87 = \$150$).



What Will the Frank Melville Supportive Housing Act Do?

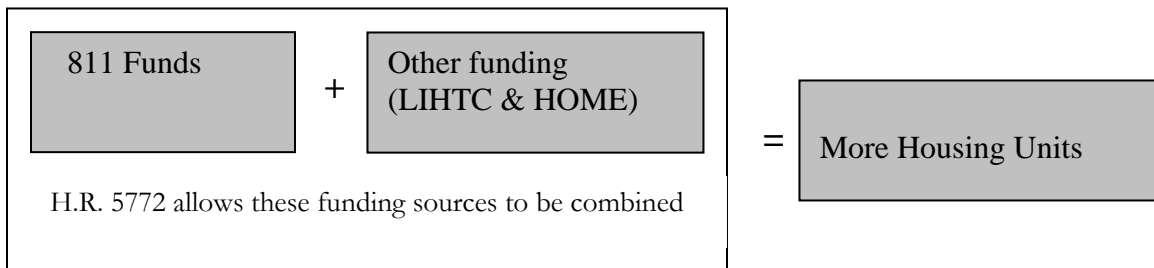
- **Reform the Mainstream Housing Choice Voucher Program.** The bill will shift fiscal responsibility for the Mainstream Housing Choice Voucher Program to the Section 8 budget where it belongs. As noted above, although funded and renewed from 811 appropriations, these Mainstream Housing Choice Vouchers have never created new permanent supportive housing units and are not targeted to people with the most serious and long-term disabilities. By shifting the Mainstream voucher funding to the traditional Section 8 program, all Mainstream voucher renewal funds will be freed up for production of new units via the PRAC Demonstration.

- **Create the Section 811 Project Rental Assistance Contract (PRAC) Demonstration Program.** The PRAC program will “fast-track” and sustain the creation of thousands of new permanent supportive housing units every year.

How Will the PRAC Demonstration Program be Funded?

The PRAC Demonstration will **leverage new set-asides** of supportive housing units in federal Low Income Housing Tax Credit (LIHTC) properties and HOME-funded projects.

Currently, only Section 811 funds can be used to construct housing units for non elderly people with disabilities. The new bill would re-write the law to allow for other funds to be combined with Section 811 funding, thereby increasing the number of units built.



The PRAC Demonstration program will provide the essential **rental subsidy** to reduce rents to affordable levels for people receiving SSI in a small but significant percentage of the hundreds of thousands of units that are routinely created every year through the LIHTC and HOME programs administered by states and local jurisdictions.

About Frank Melville - The bill honors the memory of the late Frank Melville – the first chair of the Melville Charitable Trust. Since 1993, the Trust has been a leader in promoting and advancing the creation of permanent supportive housing across the nation.

