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THE DEFICIT REDUCTION ACT OF 2005 - ERODING DECADES OF PROGRESS FOR DISABILITY POLICIES AND PROGRAMS

President George W. Bush signed the Deficit Reduction Act (BRA) of 2005, (a.k.a. the Budget Reconciliation Act) into law on February 8, 2006 (the Act is fraught with controversy. For more details, check out the next article on page 10). Many of the Act's provisions, when implemented, will be harmful to people with disabilities and their families. The following is a summary of those provisions with their effective dates.

Medicaid

Many changes to the Medicaid program are established as options for the states. Regardless of the effective dates indicated in the Act, those provisions that create new state options for Medicaid will not become effective until the state has fulfilled the requirements under state law for changes to its Medicaid state plan. Where possible, some states will likely prepare their state plan amendments in advance, so that new options are in effect on the first possible date under federal law. Below is a section by section summary of the BRA provisions related to Medicaid.

Monthly information related to mental retardation, cerebral palsy and other disabilities

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Long Term Services and Supports

The Deficit Reduction Act (DRA) includes a number of provisions affecting long term services and supports. The provisions of most interest to people with disabilities include the following:

Section 6086: Expanded Access to Home and Community-Based Services for the Elderly and Disabled

Section 6086 contains the provisions from Title II of S. 1602, the Improving Long-Term Care Choices Act, introduced by Senators Charles Grassley (R-IA), Evan Bayh (D-IN), and Hillary Clinton (D-NY) with the support of the disability community. These provisions of Section 6086 will: establish a new option for states to provide home- and community-based services (HCBS) without states needing to use a waiver process; allow states to provide any of the services now covered under HCBS waivers; and require states to establish stricter eligibility (level of care) criteria for institutional services than for community-based services. In addition, states may continue to provide services through their existing waiver programs.

However, the good provisions of the Grassley-Bayh bill are overshadowed by new state flexibility provisions. Section 6086 allows states to cap the number of people to be served under the new home and community services Medicaid option. It allows states to provide these services in limited areas of the state and explicitly allows states to maintain waiting lists for these services. If the state decides to establish new eligibility criteria in the future, HCBS beneficiaries who do not meet new criteria would have grandfathering protection, but for as little as only one year.

Essentially, this combination of new state flexibility provisions maintains the states' entitlement for federal reimbursement for allowed expenditures while it eliminates the individual's entitlement to services under the basic Medicaid state plan. Since the services will be state-plan option services, rather than waiver services, the federal government will no longer have a role in periodically approving these services.

It is unclear whether the states' new authority to establish cost-sharing for services will also apply to these non-institutional long term services and supports.

Section 6086 will become effective on January 1, 2007.

Section 6071: Money Follows the Person Rebalancing Demonstration

Section 6071 establishes a Money Follows the Person Rebalancing Demonstration to provide incentives for states to move people from institutions to community settings. The states are eligible for two- to five-year competitive grants which will provide an enhanced federal medical assistance percentage (FMAP) for services to an individual for the first year after the individual moves out of an institution to the community. The enhanced FMAP will be equal to the state's regular FMAP plus half of the difference between the regular FMAP and 100 percent. No state may receive more than 90 percent federal match.

Appropriations are made for grants beginning on January 1, 2007 through September 30, 2011.

Section 6087: Optional Choice of Self-Directed Personal Assistance Services (Cash and Counseling)

Section 6087 establishes a new state option for self-directed personal assistance services, also known as “cash and counseling.” This provision requires that self-directed personal assistance services be provided based on a written plan of care and budget for people who would otherwise be eligible for personal care services under the State’s Medicaid plan or home- and community-based waiver services. The section prohibits use of self-directed personal services for beneficiaries who live in homes or property owned, operated, or controlled by a service provider. Individuals using this new option are allowed to hire, fire, supervise, and manage the people providing the services and, if the state allows, may use family members to provide the services.

This section will become effective on January 1, 2007.

Section 6063: Demonstration Projects Regarding Home and Community-Based Alternatives to Psychiatric Residential Treatment Facilities

Section 6063 establishes a five-year demonstration project for up to 10 states to test the effectiveness in improving or maintaining a child’s functional level and cost-effectiveness of providing home- and community-based alternatives to psychiatric residential treatment for children.

The program is authorized for fiscal years 2007 through 2011.

Section 6011: Lengthening Look-Back Period; Change in Beginning Date for Period of Ineligibility

Section 6011 makes significant changes to the rules affecting transfers of assets for less than fair market value for people applying for Medicaid coverage of long term services and supports. Transfers of money or property for “less than fair market value” often include transfers or cash gifts to other family members, payment for education of grandchildren, and donations to charitable organizations, among other ordinary transactions. The new provisions extend the “look-back” period from three years (previous law) to five years and change the beginning date for the period of Medicaid ineligibility to the date on which the individual would otherwise be eligible for Medicaid.

These changes effectively mean that any transfers made for less than fair market value in the five years before an individual would otherwise be eligible for Medicaid will be treated as if the individual still has the property or funds available to use to pay for their long term support needs. The new provisions require states to establish a hardship waiver process with an appeals process. Undue hardship is defined as when the transfer of assets provisions would deprive the individual of medical care so that health or life would be endangered or would deprive the individual of food, clothing, shelter or other necessities of life.

These provisions are effective on the day of enactment.

Section 6014: Disqualification for Long Term Care Assistance for Individuals with Substantial Home Equity

Section 6014 establishes an upper limit for the excluded value of a home when determining the value of an individual’s assets for purposes of Medicaid eligibility. An individual will not be eligible

for Medicaid nursing or other long-term care services if the equity interest in his/her home exceeds \$500,000. States may increase the equity limit, but may not exceed \$750,000.

Beginning in 2011, the dollar limits will be increased yearly consistent with increases in the consumer price index. The equity limits will not apply if the individual's spouse, child under 21, or disabled adult child lives in the home. The provision does not prevent individuals from using reverse mortgages or home equity loans to reduce equity value. The Secretary of Health and Human Services will establish a hardship waiver process.

The provision applies to individuals who are determined eligible for nursing or other long-term care services based on an application filed on or after January 1, 2006.

Section 6021: Expansion of State Long Term Care Partnership Program

Section 6021 allows all states to develop Long Term Care Partnership programs, beyond the original four states - California, Connecticut, Indiana and New York. These partnership programs allow individuals who have exhausted benefits of their private long-term care insurance to access Medicaid without the same means-testing requirements as other applicants. To qualify, states and the insurance plans must meet extensive federal requirements outlined in the provisions.

The provisions become effective in a state no earlier than the first day of the calendar quarter in which the amendment is submitted to the Secretary of Health and Human Services.

Cost Sharing

Section 6041: State Option for Alternative Medicaid Premiums and Cost Sharing

Section 6041 creates a new state option allowing Governors to increase cost sharing for any group of Medicaid beneficiaries subject to certain limitations. Governors must submit "State Plan Amendments" to the U.S. Department of Health and Human Services seeking approval of such cost sharing increases. Cost sharing can be imposed and/or increased for any item (e.g. prescription drug, durable medical equipment) or service (e.g. hospital stay, doctor's visit, occupational, physical, or speech therapy session).

Under this option, states can require a premium (defined as "any enrollment fee") and/or cost sharing (defined as a "deduction, co payment or similar charge"), subject to certain/beneficiary income limitations:

- For beneficiaries with incomes below 100% of Federal Poverty Level (FPL) (\$9,800 – individual/\$13,200-couple): the law is not explicit. HHS Secretary Leavitt has indicated that no state plan amendment that requires these beneficiaries to pay more than nominal copays will be approved.
- For those with incomes between 100 – 150% of the federal poverty line (FPL) (100 percent: \$9,800 – \$14,700/individual); \$13,200 – \$19,800/couple):
 - No premium; and
 - Cost sharing cannot be more than 10% of an item or service overall (including prescription drug cost sharing).
- Over 150 percent FPL:

- No Premiums for: those in hospitals, ICF/MR residents, nursing homes, (i.e. anyone on a personal needs allowance (PNA)); and
- Cost sharing can't be more than 20 percent of cost of item or service.

It is important to note that total cost sharing amounts are capped for all of the above groups at five percent of total family income for a month or quarter (time period to be determined by the Governor). This means that total cost sharing amounts (for all items, including prescription drugs and services) cannot be more than five percent of the individual or family's income per month or quarter.

Section 6041's "enforceability" provision is one of the most problematic for beneficiaries with disabilities. Under this provision, states may allow Medicaid providers to deny any "care, item or service" to a Medicaid beneficiary who fails to pay a co-pay. That means that a pharmacist can refuse to fill a prescription if the beneficiary doesn't pay the co-pay, the doctor or speech therapist can refuse a beneficiary any item or service (e.g. prescription drug, doctor's visit, physical therapy session, etc). Providers can apply this provision on a "case by case basis".

The HHS Secretary must increase "nominal" cost sharing amounts every year by the annual percentage increase in the medical care component of the consumer price index, beginning in 2006.

The effective date of this provision is March 31, 2006.

Section 6042: Special Rules for Cost Sharing for Prescription Drugs

This section allows states to impose higher cost sharing to non-preferred (typically brand name) medications to encourage the use of preferred (typically generic drugs), subject to the following limitations. For non-preferred medications, beneficiaries whose income is below 150% FPL cannot be charged more than nominal cost sharing. States can reduce or waive co-pays for preferred drugs. For beneficiaries whose income is 150% or above FPL co-pay for non-preferred drugs cannot exceed 20 percent of the drug's cost.

Section 6042 includes a provision allowing a state to waive these rules if a physician determines that a preferred drug is not effective or causes adverse health effects, the state can charge the preferred (generic) co-pay amount for a non-preferred (brand name) drug.

The effective date for this provision is March 31, 2006.

Section 6043: Emergency Room Co-payments for Non-Emergency Care

This section creates another state option permitting states to submit a state plan amendment allowing hospitals to impose cost sharing for non-emergency services (defined as "any care or services furnished in the emergency department of a hospital that the physician determines do not constitute an appropriate medical screening, stabilizing examination and treatment required to be provided by the hospital" provided in hospital emergency rooms, if they follow strict notice requirements. This provision requires that the beneficiary receive a medical screening (as defined in Medicare law) and a determination by the emergency room that the beneficiary does not have an emergency medical condition. Before non-emergency care is provided, the beneficiary must be told that:

- the hospital can require a co-pay before the non-emergency service is provided;
- the name and location of an alternate non-emergency provider (that is available and accessible) that may charge a lower co-pay;
- the alternate non-emergency provider can provide the services with a lower or no co-pay;
- the hospital will provide a referral to coordinate scheduling of the treatment.

Alternate non-emergency providers include physicians' offices, health care clinics, community health centers, and hospital outpatient departments. Such providers must be able to diagnose or treat a condition "contemporaneously" - i.e. within the same amount of time as a hospital emergency room would have taken to provide the non-emergency services.

Co-pays for non-emergency services in an emergency room for beneficiaries under 100% FPL cannot be more than twice the nominal amount.

Section 6043 becomes effective on January 1, 2007.

Health Care

Section 6062: Family Opportunity Act

Inclusion of the Family Opportunity Act (FOA) in the Deficit Reduction Act ends the disability community's seven year battle to enact this bi-partisan bill, which Senate Finance Committee Chairman Charles Grassley (R-IA) and Sen. Edward M. Kennedy (D-MA) have championed. Under Section 6062 of the DRA states are allowed to provide a phased-in option, giving parents of children with severe disabilities whose income is at or below 300 percent of the federal poverty level (approximately \$60,000 for a family of four) the ability to buy into Medicaid. Under this provision, states can require cost-sharing (premiums and co-pays) but cannot exceed five percent of family income up to 200 percent of the federal poverty level, and 7.5 percent of family income from 200-300 percent of federal poverty. This state option is to be phased in, beginning with youngest children beginning in 2007.

Section 6064: Development and Support of Family-to-Family Health Information Centers

This provision requires the HHS Secretary to develop these centers in at least 25 states in FY 2007, 40 states in FY 2008 and all states in FY 2009. Such centers will provide information to parents of children with disabilities and special health needs so that they can make informed decisions about health care (e.g. treatment decisions, cost effectiveness, and improved health care for their children including available resources, identify successful health care delivery models, develop a model for collaboration between health care professionals and these families and provide outreach and training to health care professionals and other appropriate entities).

Section 6065: Restoration of Medicaid Eligibility for Certain SSI Beneficiaries

Section 6065 establishes that Medicaid eligibility for children (under age 21) will occur on the later of: the date of application or the date SSI eligibility is granted. This eliminates requirements that the child wait until the beginning of the following month.

This section becomes effective one year after enactment.

Eliminating Waste, Fraud, and Abuse in Medicaid

Of interest to people with disabilities, their families and their service providers are a number of provisions that were added to the Medicaid program to help prevent or detect waste, fraud, and abuse, including:

Section 6032: Encouraging the Enactment of State False Claims Acts

Section 6032 provides financial encouragement to states to have in effect a law dealing with false or fraudulent claims that meets certain federal requirements. If states have such a law in place, when recoveries are made for Medicaid funds improperly paid, the share owed to the federal government will be decreased by 10 percentage points.

This provision will be effective on January 1, 2007.

Section 6033: Employee Education About False Claims Recovery

Section 6033 requires states to ensure that any entity receiving Medicaid payments of at least \$5 million per year must establish written policies with information about the federal False Claims Act; state laws regarding civil or criminal penalties for false claims and statements; and whistleblower protections with respect to preventing and detecting fraud, waste, and abuse in federal health care programs.

This provision is effective on January 1, 2007. The exception is for states requiring state legislation to comply with this provision. These states will not be found non-compliant before the first quarter after the next regular session of the state legislature after enactment.

Section 6035: Medicaid Integrity Program

Section 6035 would establish a Medicaid Integrity Program in which the Secretary of the Department of Health and Human Services contracts with eligible entities to: review actions of individuals or organizations providing items and services reimbursed by Medicaid; audit payment claims; identify Medicaid overpayments to individuals or organizations; and educate service providers, managed care organizations, beneficiaries, and other individuals regarding payment integrity and benefit quality assurance issues.

Funds are appropriated for Fiscal Year 2006 and beyond.

Section 6036: Enhancing Third Party Identification and Payment

Section 6036 would require states to determine if third party liability exists (in order to avoid the use of Medicaid funds) for additional entities: self-insured health plans; pharmacy benefit managers; and other parties legally liable by statute, contract, or agreement for payment of a health care claim or services. These organizations would be prohibited from taking an individual's Medicaid status into account in enrollment or making payments.

This provision is effective on January 1, 2007. The exception is for states requiring state legislation to comply with this provision. These states will not be found non-compliant before the first quarter after the next regular session of the state legislature after enactment.

Section 6037: Improved Enforcement of Documentation Requirements

This section requires individuals to present documentation of citizenship or nationality when they apply for Medicaid benefits. Failure to present such documentation will make them ineligible for Medicaid services. Documentation includes a U.S. passport, Certificate of Naturalization (or other specific forms used by the Immigration and Naturalization Service), a birth certificate, valid driver's license or other documentation which the U.S. Secretary of Health and Human Services specifies is proof of U.S. citizenship or naturalization.

Section 6037 becomes effective for eligibility determinations made on June 31, 2006. It requires the HHS secretary to develop an outreach plan to educate individuals who are likely to be affected by these provisions.

Transportation

Section 6083: State Option to Establish Non-Emergency Medical Transportation Program

The States are given the option of establishing a non-emergency medical transportation brokerage program for individuals eligible for medical assistance who have no other means of transportation.

This option takes effect on the date of enactment.

Supplemental Security Income (SSI)

Two provisions affecting the SSI program were included in the Deficit Reduction Act. They are:

Section 7501: Review of State Agency Blindness and Disability Determinations

Section 7501 requires the Social Security Administration (SSA) to review eligibility decisions, before payments begin, for people age 18 or older, made by the state disability determination agencies in order to ensure that the individuals are, in fact, eligible for SSI benefits. Known as "pre-effectuation reviews," these reviews are already conducted for people in the Old Age, Survivors, and Disability Insurance Program (OASDI) and for SSI beneficiaries who also receive OASDI benefits.

The provision establishes that the SSA Commissioner will review 20 percent of all disability decisions in fiscal year 2006, 40 percent of decisions in fiscal year 2007 and at least 50 percent of all decisions in fiscal year 2008 or later.

Section 7502: Payment of Certain Lump Sum Benefits in Installments Under the Supplemental Security Income Program

Section 7502 changes the law regarding payment of retroactive benefits owed to SSI beneficiaries by the Social Security Administration. The provision requires that, when more than three months of benefits (formerly 12 months of benefits) are due, the payment must be made in installments. The

first payment will be for no more than three months of the maximum federal SSI benefit. Six months later, the second payment will be for no more than three months of the maximum federal SSI benefit. Six months after the second payment, the final payment would include all remaining amounts due.

This section will become effective three months after enactment.

Katrina Relief

Section 6201-6203: Katrina Relief

Sections 6201-6203 provide funds for Hurricane Katrina-related Medicaid waivers, including \$2.07 billion for use by the Secretary of Health and Human Services in 2006, and a total of \$2.14 billion from 2006-2010. These funds are to pay eligible States for the non-Federal share of expenditures for health care for Katrina evacuees. It also provides funding for high-risk pools that States operate for Katrina evacuees who cannot otherwise obtain health insurance.

Temporary Assistance for Needy Families (TANF)

Reauthorization of the TANF program was included in the Deficit Reduction Act of 2005. TANF was originally enacted in 1996 to provide low-income families with assistance to move from welfare to work. TANF recipients are required, with few exceptions, to find employment or lose their TANF benefits and generally may receive benefits for only five years.

A large number of families across the country have moved from welfare to work. However, the Government Accountability Office has determined that approximately 44 percent of TANF recipients' still receiving benefits have a disability or are caring for a child or adult relative with a disability. Thus, a large proportion of TANF recipients with disabilities have major barriers to employment and are struggling to obtain employment before their TANF benefits run out.

TANF reauthorization provisions included in the Act make the following changes to current law:

- Extends the block grant through 2010
- Provides \$200 million in new child care funding, subject to a state match, which is far less than the estimated need or what was proposed in previous TANF legislation. No new TANF funding is provided.
- Revises the caseload reduction credit so that the credit is applied to caseload decline after 2005. In 2007, a state will have to have 50 percent of all families participating in prescribed work activities. According to the Congressional Research Service, 47 states fall short of meeting a 50 percent participation rate, and 16 of those states have rates below 25 percent. (The current credit has been helpful in providing states flexibility in assisting people with disabilities – this will disappear.)
- Work participation rates would apply to separate state programs. Separate state programs are often used to assist two-parent families, some families with disabilities, and some families in which the parent is in college.
- While the provisions in the budget reconciliation do not change the work hours requirements and other key aspects of current law, they direct the Secretary of HHS to issue regulations (for the first time) that address the following:

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- When an activity can count as one of the federally listed work activities;
 - Uniform methods for reporting participation hours;
 - Documentation needed to verify reported hours; and
 - Circumstances under which a parent who resides with a child receiving assistance should be included in the work participation rates.
- HHS can impose significant penalties on states that do not develop state procedures to ensure consistency with the new regulations.

The TANF provisions jeopardize progress some states have made in ensuring these families are accessing the services and supports they require to achieve greater self-sufficiency. Increased work participation rates, subjecting state maintenance of effort dollars to federal TANF work requirements, and developing a standardized set of approved work activities, without ensuring states have the flexibility to meet the needs of families that include a person with a disability, all increase the risk that these vulnerable families will lose the services and supports they need.

Unless HHS regulations spell out that states continue to have this much-needed flexibility and will receive credit for their efforts to assist parents with disabilities and parents caring for a child with a disability, many people with disabilities will be unable to meet the ascribed number of work hours nor will they benefit from a standardized set of work participation activities. In all likelihood, as happened in the past, these families will face sanctions for failing to comply with requirements they cannot meet.

The Act establishes a June 30, 2006 deadline for the Secretary of Health and Human Services (HHS) to release regulations. HHS is expected to have the draft regulations completed this spring. The disability community will be working to positively influence these regulations.

CONTROVERSY EXISTS OVER THE DEFICIT REDUCTION ACT (A.K.A. THE BUDGET RECONCILIATION BILL)

Although President Bush signed the Deficit Reduction Act of 2005 into law at a ceremony on February 8, a controversy is still brewing over whether the bill actually has become law.

Due to a clerical error in the Senate, the bill passing the Senate on December 21 by a 51 to 50 vote was different than the one passing the House on February 1 by a 216 to 214 vote. The provision which is different in the House and Senate DRA conference reports relates to Medicare and payments for durable medical equipment. This calls into question the constitutionality of the bill signed by the President, since both the House and the Senate must pass an identical bill for the President to sign into law. Several Constitutional scholars have already opined that signing the DRA was illegal.

After the President signed the bill, the Senate passed a resolution (S. Con. Res. 80) later that day, declaring that the legislation Bush signed reflected Congressional intentions. However, House Democrats objected to a unanimous consent request by House Republican leaders to vote on the Senate resolution.

Even if the House would have adopted the Senate resolution, many observers question whether the resolution could fix the faulty passage of the Deficit Reduction Act. If nothing is done to correct this error, the possibility that the courts would find the law invalid is a strong possibility. One possible solution is for both the House and Senate to pass identical bills, repealing the DRA and replacing it with another bill that includes the entire legislative package with the correct language. This would result in a change of the effective dates for some provisions in the law.

Some Members of Congress describe the problem as an ordinary drafting mistake that can be fixed by the leadership. Others question the constitutionality of that approach. In the meantime, House Democrats are weighing their options while leaders of a large coalition, the Emergency Campaign for America's Priorities (ECAP), indicate they would welcome another vote on the bill. Republican leadership in both Houses are very reluctant to bring the BRA to another vote since the original conference report passed by very narrow margins in each House.

The House has already rejected a privileged motion by House Minority Leader Nancy Pelosi (D-CA) calling for an ethics investigation into the Republican leadership for its handling of the DRA. Meanwhile, an attorney representing Medicare beneficiaries from Alabama has filed a lawsuit to nullify the DRA. More lawsuits are expected. Clearly this controversy will need to be reserved, either with additional Congressional activity, through the courts or both.

THE BUSH ADMINISTRATION'S FY 2007 BUDGET AN EVEN BLEAKER OUTLOOK FOR PEOPLE WITH DISABILITIES

On the heels of major cuts to disability entitlement and discretionary programs in Fiscal Year 2006, President Bush unveiled his Fiscal Year 2007 budget request on February 6 with spending to the tune of \$2.77 trillion while only raising \$2.42 trillion in revenues. The President's budget request leaves a deficit of \$342 billion, making the outlook for disability programs and services look bleaker for the upcoming fiscal year.

Essentially, the budget would require domestic discretionary programs to be cut by \$4 billion while defense and homeland security programs would significantly increase. The budget, if enacted, would eliminate or greatly reduce 141 federal programs, including several that serve people with disabilities. The growth of Medicare, Medicaid and other entitlement programs would be constrained by proposals that would cut over \$65 billion over 5 years, more than half of which would come from Medicare. The near record deficit does not include the anticipated additional costs of the war in Iraq and funding for the Gulf States, which is deemed emergency spending and not counted as adding to the deficit.

The FY 2007 budget request represents a very bleak future for disability programs already hurt by woefully inadequate FY 2006 funding levels and compounded by the major cuts to Medicaid signed into law by the President on February 8. The table on the next page compares FY 2006 funding with the FY 2007 budget request and the Disability Policy Collaboration recommendations for FY 2006.

Very few disability programs would receive increases under the Administration's budget. Many are frozen at current levels, some are cut and others would be completely eliminated. Below is a Department by Department analysis of the budget proposal related to key disability programs.

FY 2007 APPROPRIATIONS
DEPARTMENTS OF LABOR, HHS, EDUCATION, HUD
All numbers in millions

DEPARTMENT OF LABOR	FY 2006 * Final	FY 2006 **DPC	FY 2007 President
Workforce Investment Act			
Adult Employment	857.0	987.9	712.0
Pilots, Demonstrations, Research	29.7	151.0	17.7
Youth Activities	940.5	1,093.4	840.5
Office of Disability Employment Policy	27.7	47.5	20.0
Work Incentives Grants	19.5	20.7	0
DEPARTMENT OF HHS			
Developmental Disabilities Programs			
Basic State Grants – Councils on DD	71.8	77.0	72.0
Protection & Advocacy Systems -- DD	38.7	45.0	39.0
University Centers for Excellence in DD	33.2	37.0	33.0
Projects of Nat'l Significance & Family Support	11.4	22.6	11.0
Maternal & Child Health Block Grant	693.0	755.0	693.0
Centers for Disease Control & Prevention			
Birth Defects, D.D., & Health	124.7	135.0	110.5
Chronic Disease Prevention	836.6	899.0	818.7
National Institutes of Health			
Natl. Institute of Child Health and Human Development	1,264.7	1,367.5	1,257.0
Natl. Institute of Neurological Disorders & Stroke	1,534.8	1,650.0	1,525.0
Social Services Block Grant	1,683.0	2,380.0	1,200.4
Child Development Block Grant	2,062.1	2,588.0	2,062.0
Protection & Advocacy for Voting Access	4.85	10.0	4.8
State Grants - Remove Barriers to Voting	10.9	25.0	10.9
DEPARTMENT OF EDUCATION			
IDEA			
State and Local Grants Part B	10,582.8	14,649.0	10,682.9
Preschool Grants	380.8	422.0	380.8
Early Intervention Part C	436.4	485.0	436.4
Personnel Preparation	89.7	108.7	89.7
Parent Information Centers	25.7	28.6	25.7
Transition Initiative	0.0	5.5	2.0
Rehabilitation Services Administration			
Rehabilitation State Grant	2,693.0	2,990.2	2,837.2
Rehabilitation Training	38.4	42.7	38.4
P&A for Individual Rights	16.5	22.0	16.5
Supported Employment State Grant	29.7	41.4	0

Natl. Institute for Disability & Rehabilitation Research	106.7	110.0	106.7
Assistive Technology Act Programs	30.0	31.0	22.4
P&A for Assistive Technology	4.45	6.0	0
DEPARTMENT OF HUD			
Section 811 Supportive Housing	236.6	238.0	118.8

* Final 2006 appropriations, including 1% across-the-board cut per House/Senate Conference agreement – These numbers unofficial, pending agency discretion.

** DPC FY 2006 recommendations; FY 2007 recommendations in progress

U.S. Department of Health and Human Services (HHS)

For this department, the Administration seeks the elimination of two very important programs for people with disabilities: Community Services Block Grant and National Children's Study. The Community Services Block Grant provides funding for a range of social services and other types of assistance to low-income families, persons with disabilities and the elderly (e.g. it funds Community Action Agencies which administer Head Start, energy assistance and weatherization programs). The National Children's Study was expected to track 100,000 children, including children with disabilities, for 21 years.

For Medicaid, the Administration's budget proposes \$1.5 billion in cuts over 5 years (\$5.1 billion over 10 years). A significant portion of these savings would be generated by reducing federal reimbursement for administrative costs, narrowing the scope of targeted case management and other mechanisms to shift costs to the states. For Medicare, the budget proposes \$36 billion in cuts to Medicare over five years (\$105 billion over 10 years) generated primarily from reductions in payments to providers (hospitals, nursing homes and home health agencies). Many of the proposed cuts follow recommendations from the Medicare Payment Advisory Commission, an independent federal panel.

In addition, according to the Center on Budget and Policy Priorities (CBPP), the Administration's budget also includes proposals for regulatory actions that would reduce federal Medicaid expenditures by \$30.4 billion over the next ten years, about six times the net federal savings proposed through legislation

In the Administration's FY 2007 budget, the President included tax incentives related to encouraging the use of health savings accounts for a combined cost of \$60 billion over five years (\$156 billion over 10 years).

The four Developmental Disabilities Act programs (State Grant, Protection and Advocacy, University Centers for Excellence and Projects of National Significance) would all be funded at current levels.

For prevention programs and services, the National Institutes of Health would receive level funding at \$28.6 billion. For The Center for Disease Control and Prevention's National Center on Birth Defects, Developmental Disabilities, Disability and Health, the Administration proposed \$110.5 million, which is \$14.3 million lower than Congress appropriated for FY 2006 (a cut of 11.4 percent).

U.S. Department of Housing and Urban Development (HUD)

The Administration's FY 2007 budget proposes to cut overall funding for the Department of Housing and Urban Development (HUD) by 1.8 percent and, as a result, a number of programs serving low income individuals are set for cuts as well. For example:

The Section 811 Supportive Housing for People with Disabilities Program

For the second year in a row, the Administration's FY 2007 budget cuts Section 811 in half, from its current FY 2006 level of \$236.6 million to \$119 million. Nearly the entire cut comes from Section 811's production component, which is the only federal program that develops new units of supportive housing for people with significant disabilities.

Historically, HUD used 75 percent of Section 811 funds to provide interest-free capital advances to non-profit sponsors to help finance the development of fully accessible rental housing such as independent living projects, condominium units, and small group homes, many of which offer voluntary supportive services for people with severe disabilities. Project-based renewals (also known as PRACs) cover operating costs such as insurance and maintenance. The Section 811 statute also allows HUD to use up to 25 percent of the program's funds for tenant-based rental assistance (known as the "Mainstream Housing Opportunity for People with Disabilities" voucher program).

Last year, the House and the Senate rejected the Administration's proposal and restored the program's funding. Under the FY 2006 appropriations for this department, nearly \$155.7 million is to be directed for 811's "production" component. The Administration's FY 2007 budget proposes to reduce this amount to just under \$16 million -- a cut of nearly \$140 million.

The Administration's FY 2007 budget proposes to direct most of the \$119 million in the Section 811 program to renewal of existing rent subsidies (both tenant-based and project-based), with a small amount left to fund new capital advance/project-based grants and new tenant-based subsidies. The \$119 million would be allocated as follows:

- \$75 million for tenant-based renewals for existing 811 tenant-based vouchers now in use;
- \$15 million for project-based renewals (PRACs) – renewing rent subsidies tied to 811 properties;
- \$14.9 million for new 811 tenant-based rental assistance (vouchers); and
- \$15.8 million for new capital advance/project-based grants to non-profit disability groups. This paltry amount will only fund the construction of 100-200 units.

The FY 2007 budget marks a continued effort to back away from a 30-year commitment from HUD to support the production of new housing targeted to non-elderly people with severe disabilities. Reliance solely on tenant-based assistance (portable rent subsidies that rely on voucher recipients being able to find rental housing on their own) also represents a major change in the targeting of 811 away from people with more severe impairments who need housing related supports.

Restoring this draconian cut to the Section 811 program will be of highest priority for United Cerebral Palsy and The Arc of the United States in the coming months.

Section 8 Housing Choice Voucher Program

The Administration's budget proposes a \$112 million increase for the Section 8 voucher program for FY 2007, boosting funding to \$15.9 billion. Although Section 8 is the largest program in HUD's overall budget request (nearly 62 percent of the entire HUD budget), this FY 2007 request is barely enough to renew the estimated two million vouchers currently in use (approximately 30 percent of these vouchers are used by disability households).

Community Development Block Grants (CDBG)

This is the second year that the Administration's budget seeks drastic changes in the CDBG program. The budget proposes to cut the overall Community Development Fund from \$4.178 billion to \$3.0 billion. CDBG formula grants would be cut by \$3.7 billion to \$3.0 billion.

HOME

The budget proposes an increase for HOME funding from \$1.7 billion to \$1.9 billion, including \$1.8 billion for formula grants (from \$1.7 billion in FY 2006) and \$100 million for the American Dream Downpayment Initiative (from \$25 million in FY06).

Fair Housing and Equal Opportunity

The Administration proposes to cut funding for fair housing programs by 2.2 percent from \$46 million to \$45 million. The budget proposes to fund the Fair Housing Assistance Program at \$25 million and the Fair Housing Initiatives Program at \$20 million.

Lead-Based Paint Hazard Reduction

The Administration calls for \$115 million for the lead-based paint reduction program – a 35 percent cut from the FY 2006 level of \$150 million.

U.S. Department of Education

Overall, the Department of Education would absorb a cut of about 5.5 percent in discretionary spending for education. Reflecting President Bush's remarks during his recent State of the Union Address, big winners in the Education Department's budget are programs aimed at fostering America's role in global competition, particularly programs to strengthen instruction in math and science. Big losers are the 42 programs that are slated for total elimination. Eliminating these programs would save \$3.5 billion.

The disability programs that are on the elimination block include the Supported Employment State Grant; Projects with Industry (PWI), Demonstration Projects for Students with Disabilities, Mental Health Integration in Schools, Migrant and Seasonal Farm Workers and Recreational programs. Together, these programs total \$66 million to support students and workers with disabilities.

Although not listed in the programs to be eliminated, the IDEA State Personnel Grants (totaling \$50 million) are also slated to be axed.

The IDEA State Grant program would receive a \$100 million increase, well below the average increase of over \$1 billion in recent years. The \$100 million increase would result in a decrease the per-child federal reimbursement to states and school systems due to increased enrollment and the higher cost of education.

The IDEA Preschool and Part C Early Intervention programs are frozen, as are a number of IDEA Part D National Activities such as Personnel Preparation and Parent Training Centers. Besides the IDEA State Personnel Grants, the IDEA Technology and Media services would suffer a \$7.4 million (20 percent) cut.

With regards to the Rehabilitation Act funding, the Administration request provides only the automatic cost of living increase to the State grant program (\$117 million). This increase is significantly offset by the elimination of the Supported Employment and PWI programs. Most other Rehab Act programs are frozen.

The Assistive Technology Act programs are reduced by \$8.1 million, including the complete elimination of the Tech Act's Alternative Financing program.

U.S. Department of Transportation

The President proposed modest increases in the Section 5310 program for the elderly and people with disabilities and for Section 5317, the New Freedom program for people with disabilities. Section 5310 would receive a 5.5 percent increase to \$117 million in FY 2007 and the New Freedom program would receive a 4.9 percent increase to \$81 million in FY 2007. These increases are consistent with the funding levels authorized in the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU).

U.S. Department of Labor

The Administration has once again proposed the consolidation of job training programs and giving states additional flexibility in deciding how they provide employment services and job training. The President has proposed a \$441 million dollar reduction for the Department of Labor discretionary programs.

The President's budget proposes to eliminate the Work Incentives Grant program (a \$19.5 million program). Major cuts are also proposed for the Office of Disability Employment Policy (ODEP) to the tune of \$7.4 million. In FY 2006, ODEP funding was reduced from \$48 to \$28 million and the Administration is proposing to cut another \$7.4 million in FY 2007.

U.S. Social Security Administration

The Administration has included in its proposal for FY 2007 language reflecting the President's policy for establishing and phasing in private accounts in Social Security. The individual's contributions would be capped at four percent of taxable earnings, up to a \$1,100 limit in 2010,

increasing by \$100 every year through 2016. It is estimated that these private accounts would divert more than \$700 billion of Social Security tax revenues to pay for them over the first seven years.

Other proposals would:

- End benefits at age 16 for the child of a deceased, disabled, or retired worker if that child is no longer attending school full time. [SSA estimates 2,000 students would be impacted in 2007; 13,000 in 2008; 22,000 in 2009 and each year after that.] This would affect children from ages 16 to 19. It is unclear whether it would affect disabled adult children between ages 16 and 19 also. Savings over 10 years: \$1.5 billion.
- Eliminate the one time, \$255 death benefit paid to surviving spouses or entitled children of a beneficiary who dies. Savings: \$2.0 billion.
- Increase enforcement of existing law which reduces benefits for workers who receive a pension from work not covered by Social Security (the Government Pension Offset, or GPO, and Windfall Elimination Provision, or WEP). Savings: \$2.4 billion.
- Change the reduction in disability benefits that applies to beneficiaries who also receive workers' compensation payments. Savings: \$0.4 billion.
- Extend to refugees, asylees, and certain other non-citizens (in refugee-like immigration statuses) an additional eighth year for SSI eligibility. This would allow them additional time to obtain citizenship and would continue through 2009.

In addition, SSA is requesting an increase of 4.2 percent over expenditures for FY 2006, a total of \$9.4 billion, for its administrative budget which is appropriated through the Appropriations bills for the Departments of Labor, Health and Human Services, and Education.

Budget Timetable

Following the release of the Administration's budget, House and Senate Budget and Appropriations Committees launch an extensive series of hearings, which begin with Cabinet officials defending the Administration's budget request. Public witnesses are also allowed to testify.

The Budget Control Act sets an April 15 deadline for the Congress to complete action of the next fiscal year's Budget Resolution. That deadline is often ignored, particularly when the Congress has major issues with the Administration's budget request and/or during an election year. This year may be one of those years when that deadline is not met by mid April, if at all.

It is important to remember that the Budget Resolution is used exclusively within the Congress as a budget blueprint. It is not legislation that the President signs into law. If the Congress fails to adopt a Budget Resolution, appropriators can begin working on their appropriations bills beginning on May 15.

The biggest ramification of not adopting a Budget Resolution deals with reconciliation, which is the process by which the Congress adjusts revenue policy and entitlement spending. Medicaid, Medicare, Social Security and Supplemental Security Income (SSI) are major entitlement programs.

When a Budget Resolution is approved by the Congress, certain rules apply. One of the most important limits the ability of Senators to filibuster a reconciliation bill. Only 51 Senators would need to support changes to entitlement spending or tax policy. The 60 votes needed to break a filibuster are not allowed when considering reconciliation bills. Thus, it is usually very difficult to pursue policy changes under reconciliation without the added protection of a Budget Resolution.

There is much debate right now as to whether this Congress will adopt a Fiscal Year 2007 Budget Resolution. There is still substantial heartburn, particularly among moderates, from the recently enacted Deficit Reduction Act that makes significant and hurtful cuts to Medicaid and other entitlements.

The essentially flat FY 2006 appropriations bills, which is based on the fiscally conservative FY 2006 Budget Resolution, also have angered many Members of Congress. Many are not interested in lower or flat budgets in an election year when voters are watching their performance more closely than usual. March and April will offer many clues as to if and how the Congress will support many of the Bush Administration proposals to further reduce the Federal role on human services.