
Committee Meeting

of

SENATE HEALTH, HUMAN SERVICES, AND SENIOR CITIZENS COMMITTEE

*"The Committee will receive testimony from invited speakers regarding
Medicaid nursing home reimbursement rates"*

LOCATION: The Jewish Home at Rockleigh
Rockleigh, New Jersey

DATE: October 3, 2011
1:00 p.m.

MEMBERS OF COMMITTEE PRESENT:

Senator Loretta Weinberg, Chair
Senator Robert M. Gordon
Senator Paul A. Sarlo



ALSO PRESENT:

Elizabeth J. Boyd
*Office of Legislative Services
Committee Aide*

Jason Redd
*Senate Majority
Committee Aide*

Christine Velazquez
*Senate Republican
Committee Aide*

***Meeting Recorded and Transcribed by
The Office of Legislative Services, Public Information Office,
Hearing Unit, State House Annex, PO 068, Trenton, New Jersey***

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SENATOR LORETTA WEINBERG (Chair): Good afternoon, everyone.

I'd like to call this meeting to order. And I'm going to introduce, and ask to say a few words of welcome, in just a moment.

But for those of you who traveled to what probably feels like the end of the world -- those of you who are used to only testifying in Trenton, we figured this is really good for the soul to find out what life in Bergen County is like, and the reverse trip that we all have to take.

We are recording this so those members of the Committee who are not here will be able to read all of your testimony.

And I'd like to give a special thank you to my colleague, Senator Paul Sarlo -- who also happens to be Chair of the Senate Budget Committee -- who agreed to sit in for a while this afternoon. So you're getting a two-for: not only the Health Committee, but the main voice of the Senate Budget Committee. So thank you for-- He comes from south Bergen, so it's almost as long a trip for him as for some of you to get here.

So with that, I would--

SENATOR SARLO: Could I just-- One thing?

SENATOR WEINBERG: Yes, sure.

SENATOR SARLO: Thank you, Senator Weinberg, for having me. I know these issues are just as much a budgetary issue as a Health Committee issue, and I know we're going to be-- And we spend a lot of time after the first of the year meeting and dealing with this.

So I, unfortunately, do have to sneak out a little early, but I know that everything's being recorded. And we'll be meeting with each and

every one of you again soon, hopefully before the budget gets introduced so we're ahead of the curve come the next fiscal year.

Thank you.

SENATOR WEINBERG: Well, first of all, I'm going to give a little commercial -- for which I'm not being paid -- for the Jewish Home at Rockleigh. I've had some first-hand experience, having had an aunt here for quite some time, and it is a wonderful, loving, compassionate, terrific facility. And besides all of those things I just outlined, they are also one of the few long-term care facilities where everybody has a private room and bath, which is quite unusual. And I understand, by the way, Chuck, in talking to Bernie Koster that when the place was being built that was a fight as to whether or not that should be provided, and obviously people with a good head on their shoulders won out.

So I think if it's not famous for all the afore-mentioned, it should be famous for that.

And first, I would like to introduce a very good friend who is the President of the Board here at the Jewish Home at Rockleigh, Myrna Block -- just to say a couple of words of welcome to everybody.

M Y R N A B L O C K: Thank you, Loretta -- Senator Weinberg. I just want to thank you very much for coming here.

I think we all agree that how we take care of our seniors really shows the humanity of our society. And it's certainly of interest to everyone here, and we appreciate very much you coming and letting us hear and giving us a voice.

So thank you very much, and welcome.

SENATOR WEINBERG: Thank you.

And next, I guess you're now known as *President of the Family*, or *Chair of the Family*, Chuck?

C H A R L E S P. B E R K O W I T Z: (off mike) (Indiscernible)
(laughter)

SENATOR WEINBERG: Chuck Berkowitz is probably the father of the Jewish Home at Rockleigh, and also a good friend and a great spokesperson for the kind of people who Myrna just outlined.

So Chuck, if you want to say a word or two?

MR. BERKOWITZ: (off mike) Yes, I--

SENATOR WEINBERG: Come to the microphone, because that's how it gets recorded.

MR. BERKOWITZ: Thank you. It's good to see you, Paul. Thank you, Senator Sarlo, and your staff.

I'm going to let the representative of our association speak on behalf of our association, rather than to have duplicate conversations. But again, as-- We welcome you; we're glad you came to see our home-- Well, it's been here for 10 years; it was in Jersey City for 86 years before that, so this is a long-term organization.

And we thank all of you for thinking of us.

SENATOR WEINBERG: Thank you.

SENATOR SARLO: Thank you.

SENATOR WEINBERG: And last, but not least, the Executive Vice President -- I guess comparatively new in your position -- Sunni Herman, it is, right?

S U N N I S. H E R M A N: Yes.

SENATOR WEINBERG: Yes -- Sunni.

MS. HERMAN: Good afternoon.

I wanted to thank you as well for taking the time to come up here to Rockleigh. You'll see as you walk the halls that we have a lot of pride in the care and caring that we provide to our residents. So we're very interested in hearing what goes on today because every single dollar counts. And we really appreciate all that you do to advocate for our seniors.

SENATOR WEINBERG: Thank you.

And to all the residents who are here, let me point out: This is an official meeting of the Senate Health, Senior Services Committee -- I'm sorry, I forget the name of my own Committee. Shows I qualify now (laughter) -- the Health, Human Services and Senior Citizens Committee. So we are-- Any bill that becomes a law that has to do with health care goes through our Committee first, and then goes to the full Senate, and the same is repeated on the Assembly side. So we're bringing the Committee to you. And if anybody, after you hear the testimony, feels like they would like to come forth to say anything, we'd be happy to recognize you.

So with that, just a few words -- and I'm sure Senator Sarlo will back me up on this: That the 2012 State budget reduced the Medicaid reimbursement rate to nursing facilities by 3 percent, which was a net saving in the budget of \$25 million. Nursing homes receive an average reimbursement of \$8.35 an hour for each resident. Most of you know that you can't hire a babysitter at home for \$8.35 an hour. And this reduction impacts all of the facilities that are represented in the State of New Jersey.

And according to the Centers for Medicare and Medicaid, the 65-and-under population in nursing homes increased -- that's under 65 -- increased by more than 27 million from 1999 to 2008; from 11.1 percent to

13 -- almost 14 percent. And we don't know whether there's a shortage of nursing homes in the state; we're starting to talk about those kinds of statistics as we start to put money -- and I know Marilyn Askin is here from AARP and it's one of their favorite subjects -- as we try to put more money into home care to allow people to stay at home rather than to come into a nursing facility -- as wonderful as it is. And you do have an at-home care division now under the Jewish Home at Rockleigh, which is a tribute to your foresight.

So that kind of sets the stage for what we would like to talk about, and to really hear from you. So we're not going to do much more talking beyond that.

And the first person I'm going to call is Michele Guhl, who is from LeadingAge New Jersey, formerly the New Jersey Association of Homes and Services for the Aging -- and you actually represent the Jewish Home.

MICHELE M. KENT: I do -- proudly.

SENATOR WEINBERG: So all of you who are residents here, listen carefully to what Michele has to say, and if you don't like it, let her know. (laughter)

MS. KENT: You can fire me.

SENATOR WEINBERG: Michele.

MS. KENT: Thank you, Senator.

I will point out that not only did our organization have a name change, but I did, too -- it's Michele Kent now.

SENATOR WEINBERG: Well, okay. I want that story, too. Can you work that into your testimony?

MS. KENT: Oh, my. That's for another time. (laughter)

Okay, good morning, Senator Weinberg, Senator Sarlo, members of the Committee -- I guess that's it. At any rate, I am Michele Kent, and I'm President and CEO of LeadingAge New Jersey, which used to be NJAHSA -- it used to sound like a sneeze, so I think we've improved in that sense.

On behalf of the association and its members, thanks for providing me this opportunity to testify today on Medicaid funding for nursing homes and senior services, and, quite frankly, on public policy decisions in difficult economic times.

I would respectfully suggest that my professional experience has provided me with a strong vantage point from which to understand the many complexities of government funding and service delivery to vulnerable populations. I've been fortunate to serve under two governors -- both Governor Corzine and Whitman; I've worked for the Senate; I've led New Jersey's largest agency, the Department of Human Services; I've run the trade association representing managed care; and I now manage LeadingAge New Jersey.

LeadingAge New Jersey represents some 145-plus non-for-profit organizations across the state that span the entire long-term care and senior services continuum. Briefly, these include nursing homes, assisted living residences, continuing care retirement communities, residential healthcare facilities, and independent senior housing. In addition to these services, many of our members also provide an array of home and community-based services, as you heard today from the Senator, and as witnessed here at the Rockleigh Home -- including things like hospice care, adult day services,

Meals on Wheels, congregate housing service, and intergenerational child care.

Because LeadingAge New Jersey maintains a mission-driven service to serve low-income people, a majority of the facilities we represent participate in the Medicaid program -- which, as you know, brings us to why we're here today.

Throughout the past decade, the organization I'm privileged to run -- LeadingAge New Jersey -- and its colleagues have faced budget proposals containing cuts to the Medicaid nursing home budget. Time and time again we've been spared those reductions, thanks largely due to your efforts and those of your legislative colleagues. Unfortunately this year, while again the Legislature attempted to restore proposed Medicaid cuts to nursing facilities, that restoration was vetoed by the Governor, as you well know.

As a point of reference, these cuts total approximately \$80 million, as you heard, when combined with the Federal matching dollars which are resultantly lost. The cuts to nursing homes -- 3 percent -- is an amount which is exacerbated by the fact that these homes have not received any increase since 2008.

By the way, nursing homes have yet to receive these new rates reflecting the cuts -- the reduction -- that were effective July 1.

SENATOR WEINBERG: What do you mean? So what rate-- What kind of rates are they being paid, based on the--

MS. KENT: They're being paid what they were being paid, Senator, until the new rates are issued. And that's -- to be honest, there's

generally a lag. But they don't know how the 3 percent will impact each facility. They have not been told that, so that makes it extra challenging.

SENATOR SARLO: On the reimbursement? They're not sure what the reimbursement's going to actually be?

MS. KENT: Right. I'm sorry if that wasn't clear.

SENATOR WEINBERG: Will they have to pay back, I guess, if they've gotten overpaid?

MS. KENT: Yes.

UNIDENTIFIED MEMBER OF AUDIENCE: That's correct.

MS. KENT: Right, so, okay.

Would this were the only funding issue affecting critical services to seniors. As I'm sure you know, Medicare was just cut by 11 percent effective this past October 1. Adding to the concern and uncertainty is the effect which Federal healthcare reform will have on our delivery to seniors; additional Medicare cuts proposed by the Obama Administration to address deficit reduction; and on the State level, the recent waiver submission by New Jersey Medicaid program to CMS that would, among other things, place long-term care and home- and community-based care under HMOs, and would also discontinue PACE programs.

How this latter, that is managed care for long-term care, would work is yet to be known; frankly, we just don't have the details on that. One thing we all know is that nursing homes and assisted living facilities will surely face additional cuts. Why do we know this? Because this is one of the key reasons states across the country have moved more and more Medicaid recipients into managed care. It saves states millions and millions

of dollars. Frankly, I did it when I was Commissioner. And it's not necessarily a bad thing when done carefully; that is, when the Medicaid members are ensured access to high-quality care; when the providers of care are provided with rates that allow them to provide access and quality. States that overdo it -- that is, they try to save too much money -- create systems with disastrous results.

A word on nursing homes: While none of us wants to end our days in a nursing facility, in fact, many of us shall. However, thanks to the increases in home- and community-based services and supports, and also better health and other variables, many people are avoiding nursing homes until much later in life. This is certainly a good thing. The result, however, is that nursing home residents are now older, frailer, sicker, and that means that cost of care is higher. I invite you to visit one of our nursing facilities -- which you're doing -- to see for yourselves. The point is simply this: We need to keep a strong infrastructure well-funded in order to continue to be able to provide high quality care.

Back to the issue of the approved and pending cuts. Why is all this happening with such ferocity? You and I know well that Medicare and Medicaid are considered financially unsustainable in their current configuration. These two massive social programs consume a huge amount of government dollars, to be sure. Further, to state that the economy is not in good shape is to state the obvious. Governments at all levels are scrambling for savings.

And then there's our aging population. As a nation and as a state, we're on the leading edge of a huge tsunami of senior citizens. In fact, the fastest-growing cohort of our citizenry are those over 100 years of

age. We shall need a strong infrastructure of high quality facilities and programs available to care for this predictably massive influx of elderly. To use an overused phrase, a perfect storm seems to be brewing; not a time for the weak of heart. Really a rough time to be a legislator, or a governor, or a President.

With the sincerest of respect to you, my message is simply this: As you struggle daily to balance multiple priorities for limited funding, don't forget that what we choose to fund as a society is a direct expression of our values. Let's face facts: Funding decisions speak volumes about what we believe. They say that one program or service should be funded over another. They say that government should play a role or not.

I hope that you would agree that there is a moral imperative to care for the least among us: for the abused, the disabled, the frail, and the poor. Surely government cannot be all things to all people. When money is flowing, there is that temptation; however, when difficult choices must be made, when we need to triage, we also need to remember the unique strength of this nation: caring for others.

Medicaid is an expensive program and money should not be squandered; however, we need to ensure a strong infrastructure of facilities and services to care for our oldest residents. They cannot be cast aside as useless in the sunset of their lives. These are the people who raised you and me and who, one day, will be you and me.

I implore you to do all you can to keep our delivery system strong and not to cut funding to nursing homes and to other facilities and services for our low-income elderly.

Thanks for allowing me to testify.

SENATOR WEINBERG: Let me ask a quick question: I don't know if it's ever factored in, but when we cut Medicaid, it also reflects on the paying population, because you have to raise those rates to offset the cost of operation, I would assume.

MS. KENT: In general, private pay, in part, subsidizes low income -- right.

SENATOR WEINBERG: So if your low income rates are cut -- that's what my point is -- it affects--

MS. KENT: It affects the entire funding deliver system -- absolutely, Senator; yes.

SENATOR WEINBERG: Okay.

MS. KENT: Now, that would put money back -- and pressure -
- on private payers, which are generally the insurance companies.

SENATOR WEINBERG: Paul? No?

Thank you very much, Michele; thank you.

SENATOR SARLO: Thank you.

MS. KENT: Okay, thank you.

SENATOR WEINBERG: And what's your new name?

MS. KENT: It's easy. Think of Clark Kent--

SENATOR WEINBERG: Kent; K-E-N-T?

MS. KENT: K-E-N-T, yes.

SENATOR WEINBERG: I'll remember.

Okay, Paul Langevin from the Health Care Association of New Jersey, and/or John Indyk.

P A U L R. L A N G E V I N JR.: Well, since we don't have two chairs up here, I'll take the prerogative.

I did not prepare written remarks, as far as a formal speech. But I would like the opportunity to address you, Madam Chairwoman, and Senator Sarlo, and Senator Gordon, wherever he may be.

Just to review some of the facts and some of the data that we're now facing. At the end of the day-- In your packets there's a pie chart that shows you the nursing facility patients by payer. And as you can see from that pie chart, Medicaid's far and away the biggest payer of nursing home care -- in this state and most other states. And I thought I would talk to you a little bit today about what we're facing, because it's more than just that upcoming budget and what may be proposed.

In your packets also, there's, I believe, a history going back to 2005 of cuts that were proposed and made to nursing homes. So we're the usual suspect when it comes to saving money in the budget in the State of New Jersey. We are one of the biggest budget line items; along with the education budget, Medicaid is either the biggest or second-biggest. And we're a big part of the Medicaid budget. So clearly, when you're looking to save a lot of money, you have to look there.

But I think this is a very unique year from several different aspects. Senator Weinberg, you pointed out that the cuts that were made in Medicaid are going to have to be cross-subsidized by private pay; and as you can see, private pay is not exactly a big piece of the business.

Secondly, one of the things that we're facing now is the first time in a long time that Medicare has been cut on the order and magnitude that it's been cut. Michele referenced an 11 percent cut; that's \$207 million that is going to be cut from the State of New Jersey, starting last

Saturday, in Medicare. And those are mostly short-stay patients that come through the building for rehabilitation--

SENATOR WEINBERG: Rehabbing.

MR. LANGEVIN: --services. And they have, historically, subsidized an anemic -- my apologies -- but an anemic Medicaid rate that I think either you or Senator Sarlo said was \$8-and-change a day -- or an hour, rather -- and that's not a lot of money.

And the Medicare cut is not finished, because as we sit here now, a super-committee -- I don't know what's super about it, but both sides of the aisle are represented. And they're going to try and make savings which -- every day I listen to the radio and read the paper, I am less sanguine about them reaching an agreement -- which means we're going to be facing another 2 percent sequestration in the Medicare program. So we could be losing an additional significant amount of money here in the State of New Jersey to the Medicare reimbursement.

Now, if those two things weren't enough, what we are facing right now is also the implementation of a comprehensive waiver program which will present a bunch of different challenges and roll all of the long-term care beneficiaries in the Medicaid program into managed care. And I--

SENATOR WEINBERG: Paul, excuse me.

MR. LANGEVIN: Yes.

SENATOR WEINBERG: --but just for the edification of staff from the Home, and the residents who are here -- would you explain what a comprehensive waiver is?

MR. LANGEVIN: I wish I could.

SENATOR WEINBERG: You don't have to explain what--

MR. LANGEVIN: I haven't met a person in New Jersey-- Basically what they're doing is proposing to take all of the services--

SENATOR WEINBERG: Or just say what the-- Just say what it means -- what a waiver is.

MR. LANGEVIN: Well, everything is categorical now, so you basically have-- You have home and community-based waivers; you have what they call the Global Options Programs -- lets people stay at home -- and a whole series of other benefits for the aged, blind, and disabled, to developmentally disabled, so on and so forth. And the plan is, is to throw all these people into one gigantic Medicaid program and turn it over, over a fairly rapid period of time, to managed care companies -- known to people from the '70s as HMOs. But, basically, they will take care of you regardless of where you need your care, whether it's in your home or in the hospital. And that's a one-minute sketch -- or in a nursing home. And by doing that we're told they will save \$300 million this year.

I'm not quite sure how that savings occurs, because Michele and I have actually shared jobs over the years. I, too, represented managed care companies from 1995 to 2000 -- yes, that's where we became very friendly, Senator (laughter) -- and I can tell you-- (laughter)

SENATOR WEINBERG: Till we were on opposite sides of--

MS. KENT: We're more enlightened now. (laughter)

MR. LANGEVIN: Actually, I got my health care, from 1975 to present, in some form of a managed care company. So I think done right, it can be done very well; but it's not always done right.

And I think what we need to do is to look at-- If I'm Chuck Berkowitz, what am I looking at for funding over the next year to two

years? Definitely looking at a Medicare cut -- a significant Medicare cut; I'm looking at, most likely, another 2 percent cut come the first of next year. Don't know what the state of the State budget is as we sit here today; I don't imagine it's going off the charts because I would imagine revenue in this State, like every other state, is in a shortfall situation. Our private payers are slim and none. And I think the go-forward, as far as the Medicare waiver, cannot mean, at the very least, more money for nursing homes. Because there is one of two ways you can cut back on the bill -- well, three ways, actually: be incredibly more efficient; and I think Chuck and all of his colleagues can tell you: I think nursing homes are, perhaps, one of the most efficient healthcare delivery systems that we have in the whole healthcare delivery community. Secondly, you can cut back on the utilization, and I'm sure Marilyn will be thrilled that it's-- You know, everybody says it's cheaper to take care of people at home; and if we can take care of more people at home, we'll save -- I don't know if \$300 million is the right number; we'll save some money there. Or you can cut back on services in general and get a better deal -- i.e. lower price -- out of the provider.

And so I think as a nursing home -- provider of long-term care services and a nursing home operator, if I were planning for the next two years, I'd be very concerned about *a)* the likelihood of having more significant cuts, and *b)* the uncertainty of it all.

The global waiver will be a grand experiment in changing the delivery system. My concern is, is that the network -- the safety network that we have in place now, will it survive that experiment?

SENATOR WEINBERG: Yes, and let me add-- You did a great job of outlining what people have to be worried about. But in addition to what Paul outlined in terms of putting everybody into a managed care plan, that means, do they have the expertise to take care of somebody who is blind and disabled at home, in a nursing home, in a hospital -- whatever? They don't -- I don't want to make a pejorative statement-- Do they have the ability to figure out who should be home, who should be in a daycare facility, who should be in a nursing home? They are going to be called upon to do all of that, and I think that's the grand experiment that many of us are worried about.

MR. LANGEVIN: Well, I think that if we look in other states, Senator--

SENATOR WEINBERG: Just their expertise to do all this -- yes.

MR. LANGEVIN: --Rhode Island is-- I actually would be happy to forward a piece to the Committee on why the Medicaid waiver in Rhode Island won't be like Medicaid waivers in other states. I've talked to my colleagues in Texas where they've had managed care and long-term care in Texas; I would say it hasn't gone swimmingly. I think in Arizona -- in Maricopa County -- which is where Phoenix is, and probably the only populated county in Arizona -- I don't mean that pejoratively, but at the end of the day it's not a very analogous state to New Jersey -- but in their most populous county, the state government actually had to step in after multiple years of managed Medicaid long-term care and bail out the provider network, otherwise it would have collapsed. And they would have

had no place for people to go into any kind of a long-term care setting other than their own home. So I think there's a lot of concern -- rightfully so.

SENATOR SARLO: Chair, if I may just--

On this chart here, if I'm reading this correctly, we collect a hundred -- and this is purely from a budgetary standpoint -- we collect \$129 million from the nursing home providers?

MR. LANGEVIN: Correct.

SENATOR SARLO: And that equates to \$11.92 per patient per day.

MR. LANGEVIN: Correct.

SENATOR SARLO: Now, \$51.5 million -- we're just sending to the general funds. We're taking--

MR. LANGEVIN: Correct.

SENATOR SARLO: And that money is not being used. If we were to keep that in for nursing homes to provide -- to help our nursing homes, we would have a greater match. Am I reading that chart correctly?

MR. LANGEVIN: It's basically a--

SENATOR SARLO: There's a diversion of \$51.5 million--

MR. LANGEVIN: Correct.

SENATOR SARLO: --that's going to the General Fund that's not helping the nursing homes.

MR. LANGEVIN: Well, I think if you talk to the Treasurer he will tell you that they, basically, use that for the overall \$750 million of the State's share of long-term care services and Medicaid, whether it's nursing homes or whatever.

SENATOR SARLO: But is that--

MR. LANGEVIN: And then it gets matched. But we have no-- Once it goes into the General Fund, from your seat as the Budget Chair you know it's kind of like trying to find a drop of water in the ocean.

SENATOR SARLO: I would have to imagine that that \$51.5 million diversion is not doing anything to help us fund nursing home facilities.

MR. LANGEVIN: You could draw that conclusion, and I don't know if the Treasurer would agree with you.

SENATOR SARLO: He would disagree with me--

MR. LANGEVIN: Right.

SENATOR SARLO: --but we always-- We disagree on everything.

MR. LANGEVIN: I would also point out there's a very similar-looking chart that just has a little bit more light blue right, behind the one you're looking at now.

SENATOR WEINBERG: While you do that, why don't we ask that you do-- We can ask our staff -- maybe Elizabeth -- and the group to do a joint letter from Senator Sarlo and myself requesting the Treasurer give us more information on this.

MR. LANGEVIN: This is what happened in the years when we got the enhanced--

SENATOR SARLO: Correct.

MR. LANGEVIN: --Federal matching amount from Washington, and they basically took the entire amount of \$19.6 million and put that towards the General Fund. So again, we lobbied the provider tax in '05, and that's the single-largest--

SENATOR WEINBERG: I remember that.

MR. LANGEVIN: I remember because, back then I think we had a Republican President and a Democratic Governor, and when you arrived in Washington and said you were from New Jersey, they were underwhelmed. (laughter) And that-- Circumstances have reversed, so I guess any other lobbying that we're going to have to do down there on Medicare will be similarly underwhelmed when you say you're from New Jersey.

But this is what we face. We're going to be down there now trying to avoid any further Medicare cuts. And it could actually be worse than the 2 percent, depending on what the super-committee does; but we're facing Medicare cuts. Again, I don't know what the State is planning for Medicaid, but it's very hard on a little over \$8 an hour to take care of all the needs of the people. And there is also a piece in your folder that talks about how sick and disabled the people are that we're taking of.

SENATOR WEINBERG: And I noticed in your chart you talked about the elimination of the medical reimbursement. And that, too, for the residents here and for the staff, if -- hopefully not, but if God forbid -- you have to go into the hospital, the nursing home holds your bed for how long?

MR. LANGEVIN: Ten days.

SENATOR WEINBERG: By law, they must-- They cannot give that bed to somebody else -- it's yours for 10 days. It used to be that the State would reimburse the nursing home for holding that bed from another paying patient. We eliminated that, so now they have to hold the bed, but they're not getting paid for it. So literally it stays empty and it

generates no income for the nursing home. So something else you can think about, in terms of what should be righted here.

But, go on -- sorry.

MR. LANGEVIN: I really don't have too much to present to you, other than it's a bleak year and I don't know what next year's budget is going to be. And the only thing worse than bad news is ambivalent news, like we're facing right now, which is how big is the cut. Chuck did have a lot of foresight when he and his board built this building.

I think we've been fighting to right some, what we believe, were incorrect regulations proposed by the Administration relative to the current rate-setting system, which is only about 18 months young right now. And by the time we get those things fixed -- and we still haven't heard back from them in this second rate year -- it may be-- The need to change that may be obviated, because if everybody's in managed care, we won't need a Medicaid rate-setting system anymore because managed care companies will pay nursing facility providers what they please.

And so I would urge you, as again Michele pointed out, the Legislature was very supportive last year restoring many of the cuts, but we took, basically, a \$75 million rate hit in the Medicaid program in this fiscal year. We did away with several things -- bed-hold was one of them -- and the number of regulations that are being passed and imposed are not going down; they're only going up. So I would ask that you keep all those things in the front of your mind as you consider the budget coming up.

And thanks for your time.

SENATOR WEINBERG: Thank you, Paul.

Okay, Neil Eicher and Theresa Edelstein from the New Jersey Hospital Association.

THERESA EDELSTEIN: Good afternoon. Thank you for having me.

I'm Vice President of Post-Acute Care Policy at the Hospital Association; and I also-- Before I joined the Association I was a nursing home administrator for 10 years. So I have some on-the-ground experience with some of this from an operational standpoint. And, you know, they say the more things change, the more they stay same; I think, unfortunately, in this instance it happens to be the case.

As always, my colleagues Michele and Paul have really laid out the major issues for you. I just would like to add a few points of emphasis that haven't been mentioned.

With regard to the overall 3 percent spending cut that we're anticipating under Medicaid, included in that plan are the Special Care Nursing Facilities. And these are facilities, as you know, that serve people with AIDS, with behavioral health conditions, people who are ventilator-dependent, children with severe medical problems, and some children who are technology-dependent.

And during the budget hearings, the Legislature certainly heard from those facilities about the original plan, which was to make severe reductions to Medicaid payments for them. In the final budget, the special care facilities were subsumed under the overall reduction; but until we have the general nursing home rates we don't really know what that means for the SCNFs either.

So taken all together -- as Michele and Paul have already said -- these cuts are being imposed at a time when the nursing homes are still getting used to a case-mix payment system that may now be obsolete in less than a year, and facing Medicare cuts that are very significant.

Left unaddressed by the budget plan related to the special care facilities is the need for a better, more accurate understanding of what it takes to provide that specialized care for those very fragile populations. This is something that NJHA believes is necessary, and should be undertaken immediately -- whether we're going into a managed Medicaid system or not, we all should have a better understanding of what it costs to provide that kind of care.

The comprehensive waiver which Paul outlined for you includes this transition to the four managed care plans as of next July. It is really our hope that the lessons and the information that we gathered from the years of work to put the case-mix system together would actually be used to inform the process of coming up with a managed Medicaid system that makes sense. We have a lot of data now about the acuity of nursing home residents; we have a much better understanding of who is in our 362 facilities. We should use that information in this brave new world that we're entering.

It would certainly be unfortunate if the primary factor considered in rate negotiations between managed care plans and nursing homes is how cheaply care can be provided, without significant emphasis on how well a nursing home manages the care of sicker residents, prevents conditions like pressure ulcers, includes meaningful leisure activities, offers

its meals in an attractive and appealing way, reduces admissions and readmissions to hospitals, and addresses palliative care.

We have questions about the plan for an orderly transition of these fragile nursing home populations who already live in our member facilities, as well as about payment adequacy, ongoing beneficiary choice, access to nursing homes, and how highly specialized nursing care will be incorporated into the networks of the managed Medicaid plans.

Of equal concern to us is the stated plan in the comprehensive waiver application to discontinue the PACE program. PACE stands for Program of All-Inclusive Care for the Elderly, and this is a CMS-recognized care delivery model. It's fully capitated for payment by Medicare and Medicaid. And PACE organizations in New Jersey -- of which there are four that are operational, and another 10 under development -- coordinate everything from primary care through acute and institutional care, and everything in between including behavioral health care. Nationally PACE has been effective for more than 30 (*sic*) years, when it first began in San Francisco for the dual-eligible, nursing-home-level-of-care senior and disabled population.

The State of New Jersey has shepherded the development of PACE over the last eight years. This resulted in about a \$60 million investment by the healthcare industry in this model. We are really hoping we can work with the Administration and CMS to remove this proposed elimination of PACE from the comprehensive waiver, and to keep the program as a distinct provider-based service option.

Thank you for the opportunity to talk with you today.

SENATOR SARLO: In the Senate Budget Bill 4000 I sponsored, I believe we fully put the Special Care Nursing Facility cutback into the budget.

MS. EDELSTEIN: You did.

SENATOR SARLO: And then the Governor vetoed it out when he got-- But I believe we put the full amount back in.

MS. EDELSTEIN: You did. They were all put back in.

SENATOR SARLO: And I do know, and we actually-- There was a tremendous video put forward by--

MS. EDELSTEIN: Children's Specialized--

SENATOR SARLO: --the Children's Specialized to actually show these children who-- Too expensive to put them into a hospital; they can't go home -- they can't go back to their homes because it's physically, purely from a technological standpoint -- there's no way they can be taken care of at home.

MS. EDELSTEIN: Exactly.

SENATOR SARLO: They have no place to go. So that cut was really devastating.

MS. EDELSTEIN: Well, under managed Medicaid, it could be even more scary.

SENATOR WEINBERG: Did they put forth any logic for cutting out the PACE program?

MS. EDELSTEIN: We have not really received a lot of detail on the rationale behind that plan. We are still trying to get a response to that.

MS. KENT: (off mike) If I may, Senator-- Excuse me.

SENATOR WEINBERG: Sure.

MS. KENT: To add, Senator.

They say--

SENATOR WEINBERG: Come to the microphone, just so we make sure it's recorded.

SENATOR SARLO: So that we can record it.

SENATOR WEINBERG: That's Michele Guhl again.

MS. KENT: Kent. (laughter)

SENATOR WEINBERG: Sorry.

MS. KENT: That's okay; I'll answer to whatever -- if you put the money back, I'll really answer-- (laughter) I'm kidding.

The waiver says discontinued. Now, Theresa's been-- We've had meetings where they say, "Well, we're putting in a PACE-like program." We have no idea what that means, but we can read, pretty obviously, that they're just unraveling it all to subsume it under managed care.

SENATOR WEINBERG: Yes, right, okay.

SENATOR SARLO: And we have no-- At this point in time on the whole fate -- we don't have an answer on it, right? It's purely, just sort of out there.

MS. EDELSTEIN: Right. It's very nebulous; and, as Michele said, there is no such thing as a PACE-like organization. There's no licensure category for that. Right now, PACE organizations are licensed under the ambulatory care regulations. And under that licensure they provide home care, adult day care, primary care; and they contract for nursing home care, and hospital care, and behavioral health.

PACE-like has no meaning in the regulatory licensure scheme. So are these organizations going to be allowed to be licensed now as adult care, as a home care agency? There are other rules that pertain in those situations. We have, for example-- We have a moratorium on newly licensed adult day care centers; so how does that work if you take away -- you strip the license of a PACE organization, but now you want them to do PACE-like services? We really just don't know.

SENATOR SARLO: I would just say one thing to the Hospital Association, and I know it's sort of a-- You're dealing with the nursing homes, but you also are dealing with all of your hospitals, statewide. And I would just hope -- and take this is as a critique or a something positive, but I would hope they become more vocal in this year's budget. I know -- the last two years, the Hospital Association was a little bit too quiet for me; and I would hope that you're a little bit more vocal this budget process. You could take that back to the leadership-- (laughter)

MS. EDELSTEIN: Okay; point taken.

SENATOR SARLO: --but I would hope that they are more vocal this year, as they have been in past years. And the last two years I found them to be a little too quiet for my liking.

Thank you.

SENATOR WEINBERG: Marilyn Askin from AARP.

M A R I L Y N A S K I N, ESQ.: Thank you, Chairwoman Weinberg, for giving us this opportunity to educate people on the need for adequate funding for nursing homes.

I'm delighted to see representatives here of what we call the *Greatest Generation*. These are the folks who traveled through Europe --

didn't travel; they marched through Europe. They marched through the jungles of the South Pacific; the Rosie the Riveters stayed home and manufactured. And we called them the *Greatest Generation*.

But with these cuts to the budget -- and we're talking about the \$25 million cut, which is really \$50 million because there's a Federal grant -- they are going to be called the *forgotten generation*. They are going to linger in nursing homes without the adequate care that we, as a people, should give them.

It's very important for our members that the funding be restored, not only because our loved ones will be in harm's way, but the cuts are dangerous. And also, from another point of view, the cuts are dangerous because it's bad fiscal policy -- because it carries an equal loss of millions of Federal dollars. And many funding programs -- which I've attached -- show that Medicaid funding is good for the economy. You cut Medicaid, you are going to see low-income workers dismissed from nursing homes. And they're going to be going out and going to the unemployment lines, many without any kind of health insurance. So it is a bad, bad decision.

According to a recent report from the National Voice for Equality Long-Term Care -- and I did electronically transmit to you -- I hope you read it -- the cost of poor care in America's nursing homes is staggering, whether it is measured by poor health outcomes and the numbers of lives lost, or the amount of money spent on treating preventable conditions.

While the trauma inflicted upon nursing home residents and their loved ones is not easily categorized, the financial cost is quantifiable.

Here are a few examples. Falls: Falls are the leading cause of injury among adults 65 and older. And not surprisingly, nursing homes are a high-risk fall setting. When staff is dismissed and there aren't enough staff to service people, picture yourself sitting in a bed, ringing for somebody to come and assist you to go a bathroom; not getting anybody to help you, and deciding, "Well, I don't think I want to sit in my own remains, my own urine -- I'm going to risk it." And they get out of bed and they fall.

And it's pennywise and pound foolish, because they fall, and the cost of hip fractures -- the cost of falls is devastating compared to-- Let's say nursing homes get their \$200 a day -- and it's going to be reduced under Medicaid; the cost in a hospital is \$4,000 a day. Studies have shown that the hip fractures, specifically -- the average cost has been estimated at \$35,000. In some cases, researchers have documented care for one individual after a fall can reach \$86,000. And this is because we deny adequate funding for adequate personnel to help people in nursing homes.

Pressure ulcers: Pressure ulcers are a sign of neglect. People aren't moved, they develop pressure ulcers; they go from Stage I, Stage II, Stage III, Stage IV -- and eventually these folks die. And there's a lot of money involved in that. The estimate in the materials which I electronically sent to you is that the cost of pressure ulcers, throughout the nation, is \$11 billion.

Dehydration is a widespread problem in nursing homes. Of all persons discharged after a hospitalization primarily for a fluid or electrolyte disorder in 2008, more than half were 65 or older. Between the ages of 65 and 84, the average length of their hospital stay was 3.9 days for dehydration.

It's hard to imagine how nursing homes will be able to provide care to not only the forgotten generation, but to those of us who may some day need it.

And finally, according to the Kaiser Family Foundation, Medicaid spending generates positive economic activity, including jobs, income, and state tax revenues. People pay income tax on the money that they earn at the state level. Medicaid payments, made on behalf of enrollees, directly impact healthcare providers, supporting the jobs, income, and purchases associated with delivering healthcare services.

Our elderly citizens -- our Greatest Generation people -- and our State should not turn our backs on them. AARP extends its hand to work with legislators in any way we can on both sides of the aisles to help the Governor develop a plan that will keep our older citizens safe and healthy, and restore this critical, critical funding.

Thank you.

SENATOR WEINBERG: You know, let me follow up with something that Senator Sarlo said a little earlier when he suggested that the Hospital Association, maybe, become a little bit more vociferous.

Far be it from me to teach any of you how to lobby; but I think that it is not too early to start. And part of it is spelling out for the public -- which is one of the reasons that we're holding this hearing -- spelling out for the public what all this truly means. In not too long a time -- January, I guess -- the Governor starts working on his budget, and delivers it to the Legislature in February or March, some time like that. This is the time to start that lobbying.

And I'm going to make my own suggestion in addition to what Senator Sarlo said: That collectively you visit a couple of editorial boards so that they know what's at stake here and they can help translate it to their readers. That you talk to some health reporters for the TV stations so that they all-- So that when it happens -- whatever gets out there -- they have some background of the implications of a *PACE-like program*. That's a good line, Theresa. (laughter) A PACE-like program -- so that they have a body of knowledge to pick from.

So as I said, far be it from me to be talking about lobbying, but I'm doing it anyway. I'm taking the prerogative of being the Chair to add to that. So I hope that you and I-- And I'm so glad that the Board is here who, along with AARP, can speak on behalf of our citizens, to get the word out -- and certainly to the residents of Rockleigh who chose to come here. You can start talking among yourselves; you know, the power of you calling your own State legislators, or Congress members, or U.S. Senators cannot be underestimated.

And we all, as elected officials, listen to the voters, because we're only elected officials by virtue of their voting for us.

So don't underestimate your power -- and I'm speaking to the residents here -- to actually start the wheels turning; to coin what Marilyn said, to remind people that you're not the forgotten generation. So that's my homework assignment for all of you today.

SENATOR SARLO: I just want to add one thing before I leave, is that I believe all of you who spoke here today outlined some-- If you don't treat nursing home facilities -- if you don't provide them with the resources they need to take care of the folks who are living here, and the

patients here, and they end up back in the emergency room, the cost to the State of New Jersey is monumental. You really-- You're sort of-- You're being pennywise, dollar foolish by not doing it right the first time, and making sure these facilities are-- I mean, this is sort of-- This is amazing, this facility. I've never been to this facility. I mean, you could eat off the floors in this facility; it's just an amazing facility. But there are many other facilities--

SENATOR WEINBERG: Take a bow, Chuck. (laughter) And Sunni.

SENATOR SARLO: But there are many other facilities that are struggling, and when you start to cut the resources and the number of folks who are taking care of those who are most vulnerable, those who are our senior citizens, they end up back in the emergency room. And then you see our charity care numbers go through the roof.

MS. ASKINS: Absolutely.

SENATOR SARLO: It's sort of being shortsighted. So we need to make sure we get it right the first time.

MS. ASKINS: Absolutely.

SENATOR SARLO: And just to add to what Senator Weinberg said about the budget process: Although the Legislature has an opportunity to make changes -- and we will fight to make our necessary changes -- it's always easier if it's in that original budget document. Sometimes if it's not in the original budget document, it's sort of like the ship has sailed. Now you're down to a compressed, three-month period, and there's intense lobbying going on on a lot of different issues. So the

more that could be put in front, into the original budget document, always makes life a little bit easier.

Thank you.

MS. ASKINS: I absolutely agree with all of you.

And again, thank you.

SENATOR WEINBERG: And anybody from the public, or any resident, who would like to -- or any staff member here -- who would like to add a few words, feel free.

This is your chance to make history, if you haven't already made it in your life.

Would you carry the microphone over? And just give us your name for the record, please.

UNIDENTIFIED MEMBER OF AUDIENCE: Just say your name first.

S A U L S I N G E R: Good afternoon. My name is Saul Singer. I've been a resident here for just about a year.

And I have nothing but praise for the building, and their operation, and the care I get. I don't think I could get this care anywhere else. I was in assisted living in River Vale for two years, but then my health deteriorated and I felt -- or my family felt -- that I had to be in a more helpful situation. And I have nothing but praise for the people who I have been coming in contact with, and what more can I say?

SENATOR WEINBERG: Well, you can urge your elected officials to make sure they get funded. (laughter)

MR. SINGER: I'm sorry -- I can't hear you.

SENATOR WEINBERG: I said you can urge your elected officials to make sure we keep the funding there -- keep the money coming. That's what you could say.

MR. SINGER: True. (laughter)

SENATOR WEINBERG: Okay, he agrees.

Thank you, Mr. Singer. Thank you.

MR. SINGER: My pleasure.

SENATOR WEINBERG: Thank you.

Anybody else, or even any members of the staff? -- you're on the first line of care here.

Don't trip on the wire.

B R A N D Y S T E F A N C O: I'm Brandy Stefanco; I'm the Chief Financial Officer of the Jewish Home Family.

We are in the midst of our 2012 budget year, and are attempting to write a balanced budget with all of these unknown variables on the horizons. And how do we plan for the future? And we don't know what the future is. We know the cuts from the Medicare, which have been substantial to our facility. I spoke with Frank and he advised me I needed to look at a 3 percent cut for Medicaid -- it's overwhelming. And we start talking about what do we need to do to be able to continue to provide the quality of care that we do for our residents. Do we have to start looking at cutting staff? Are we going to have the staff that we need to continue to provide the quality that we do?

We're very proud of what we do. We are a very mission-driven organization. We believe in offering our residents the highest quality of life. We offer recreational programming every night. We have staff that

comes in just in the summertime to take people outside so that they can walk the grounds, and they can see the lake, and we can have barbecues.

And we have huge family opportunities. We bring in students from all over the county to do intergenerational programming. These are very important to the lives of our seniors, and by cutting the funding, are we going to have start cutting back on some of that, because we won't have the funds to pay for the staff to do that?

To be able to have a one-to-six ratio of aides on our floors, are we going to -- excuse me, but -- become a for-profit and only have one-for-eight, or one-for-ten? That defeats our purpose, our mission. It's-- I urge the Committee to think about that. Cutting staff, you are eliminating people's livelihoods; where are they going to go and get jobs? You're talking about people who have, possibly, a high school education; who have gone to a training class to become a certified nursing assistant. This is their livelihood. They've been doing this for 20 years; some of them 30 years. And to be forced to take that away from them -- what else are they going to do but go to the unemployment line, to get onto welfare programs.

So I urge you to look at both sides of that.

SENATOR WEINBERG: Thank you -- well said. Thank you very much.

Anybody else? (no response)

Well, first of all, this does go out throughout the Legislature, and there will be-- Yes, sure, Myrna. Come forth.

Myrna Block, again, Chairperson of the Board.

MS. BLOCK: Thank you, thank you, Senator.

What I want to say is, while we are sitting in our budgetary meetings and looking at the cuts and trying to figure out what has to happen, is that we were looking -- going from the black to the red. And what we did was talk about what we could do to deal with this if -- the loss of dollars. And what we kept looking at was cutting staff. And cutting staff means that person who is ringing for someone to take them to the bathroom -- that that lead time gets longer. It means that we are not caring for our seniors the right way. It wasn't just cutting superfluous things, though -- parties -- it meant cutting the guts of really taking care of our people. And it's heart-wrenching and it would be awful to feel that we're not taking care of our people properly.

I think we all have the responsibility to take care of our people, and we urge, from the bottom of our hearts, your Committee and the government to please take care and to not cut it, and give us the proper funding so that we can do the job. The Jewish Home at Rockleigh, as well as other nursing homes in the state, all care about their residents and work very hard to do the right thing. We just need your help.

So thank you.

SENATOR WEINBERG: A good note to close on, Myrna.

First of all, thank you to the staff -- who managed to find this place (laughter) -- from both sides of the aisle; as well as our professional staff in the Office of Legislative Services who recorded this and will transcribe it so that every member of the Committee, and anybody else who so chooses, will be able to read the full transcript.

And this is the first meeting to kind of kick off what I think we need your collective help in doing -- and that's to start to lobby that this funding is not done away with. And it's not too early to start.

So thank you all for your time, and thank you to the staff for getting up here. And particularly Chuck and Myrna -- thank you to the Jewish Home. Believe it or not, we're so careful about ethics. When they offered to serve the Committee lunch -- and any of the rest of you who were able to join -- we had to show to the State Legislature that you do this for any group, that we were not getting special attention in any way.

And I do know that the Home is open to many, many nonprofit groups who choose to use the facility for a variety of things. We actually had to show that lunch was not a special privilege extended to the Senate and/or the Committee. So thank you for your hospitality. Lunch was very good. (laughter) And we appreciate it all.

Thank you.

And the meeting is closed. (applause)

(MEETING CONCLUDED)