



June 14, 2013

## **2013 Legislative Wrap-Up: Advocacy Works!!!**

In many ways the 2013 Legislative Session was a huge success for individuals with developmental disabilities and their families. Legislators heard the voices of advocates and responded. Some highlights of legislative action include: increasing funding for New Opportunities Waiver slots, the Individual and Family Support Program, and Families Helping Families Centers; restoring funding for Children Special Health Services clinics that were slated for closure; and rejecting proposed changes to the education funding formula. LaCAN and LaTEACH members rejoiced at the news that legislators understood the urgency of their needs and responded with these specific actions.

Although advocates were able to protect, restore and enhance many home and community-based services, some uncertainties lie ahead that are cause for concern. Specifically, the budget instructs the Division of Administration to reduce expenditures by \$20 million and the Department of Health and Hospitals (DHH) is likely to take a lion's share of those cuts. These DHH reductions may impact supports and services for individuals with developmental disabilities such as those provided through the Human Services Districts/Authorities and Families Helping Families. The approved budget also contains \$29 million less than what DHH reported was needed in the Medicaid budget.

And it's not over yet. While Governor Jindal cannot change the overall budget, he can eliminate funding added by the legislature for specific programs through the line item veto process.

A summary of major issues, bills and decisions impacting individuals with developmental disabilities and their family members are discussed below.

### **HOME AND COMMUNITY BASED SUPPORTS**

Although the Legislative Session began with a \$1.3 billion shortfall for Fiscal Year 2013-2014, LaCAN's advocacy efforts resulted in the legislature prioritizing a significant number of services and programs. The main state budget bill (HB1) passed with the highest amount of agreement by Legislators in history, with funding for the following:

- 200 additional New Opportunities Waiver Slots (added \$3.8 million)
- Individual and Family Support Program (added \$950,000 to regional Districts/Authorities)
- Families Helping Families Resource Centers (restored \$54,732)
- Children's Special Health Services Clinics (restored \$794,000)

Unfortunately, the cuts to DHH will most certainly have some impact on supports and services for people with developmental disabilities. The extent of that impact is not yet known.



### Future Funding Restriction Concerns

In addition to the uncertainty in funding for the current year, advocates should be very concerned about the future impact of companion bills [HB 533](#) and [SB 76](#) on home and community-based services. Under HB 533, the Louisiana Medical Assistance Trust Fund would be created as a constitutionally protected fund for certain Medicaid provider fees (Nursing Facilities, Intermediate Care Facilities for People with Developmental Disabilities, Pharmacies, and Medical Transportation Providers). SB 76 calls for monies in the fund to be divided into subaccounts, one for each type of provider, and to be used solely in the provision of support for those providers. Previously, DHH had flexibility in how it used these funds in the Medicaid budget. HB 533 also includes rate protections for these particular providers.

Home and community based waiver providers are at a distinct disadvantage because federal law prohibits those providers being charged a fee. In testimony before the Senate Finance Committee DHH Secretary Kathy Kliebert stated HB 533 would limit the department's flexibility in making rate reductions or changes to programs. The Public Affairs Research Council (PAR), the La. Budget Project, AARP, the Advocacy Center and others have also expressed concerns about the ramifications of this proposed constitutional amendment. PAR's commentary on the subject reads *"...the proposed new system would establish winners and losers in the private marketplace. For example, nursing homes are included in the deal while home care and community care providers are not. Higher education and health care providers without this status will be at significantly greater risk for reductions."* Read the entire [PAR Commentary released May 28, 2013](#).

**This proposed constitutional amendment must be approved by voters and will be decided on the November 4, 2014 ballot. Advocates should share their concerns with others.**

### EarlySteps – Family Cost Participation

To raise revenue for the program to address cuts in the Governor's Budget, and avoid cutting other services for people with developmental disabilities, EarlySteps will now charge some families for their child's services. Families earning at least 300 percent of the Federal Poverty Level (FPL) will have co-pays (on a sliding scale and with a maximum monthly cap) for many EarlySteps services (e.g., therapies, counseling, and nutrition). Some services such as referrals, evaluation and assessment, and case management, will continue to be available at no cost. Families who experience financial hardship will have the right to request reconsideration of their case and apply for a hardship and will not have services terminated until they are at least three months behind on payments. This change and other updates to the state early intervention system were accomplished through the passage of [HB 375](#). For more information: [click here](#) to see the Fact Sheet on Family Cost Participation.

In 2012, [LaDDC News](#) shared how changes in EarlySteps' eligibility criteria resulted in termination of early intervention services to approximately 2,500 infants and toddlers. The Council will monitor the impact of Family Cost Participation on the number of children participating in EarlySteps.



## HEALTH CARE

### Medicaid Expansion

Medicaid Expansion was a passionately-debated topic throughout the session with innumerable consumer, healthcare, community, faith-based, and disability advocacy groups lined up in support. However, with the Governor's unwavering opposition, any legislative attempt to make the expansion available in Louisiana failed. Two bills, [HB 233](#) and [SB 125](#), sought to allow the use of federal funds to purchase private insurance for working families who currently cannot afford health care coverage. Two other bills, [HB 110](#) and [HB 449](#), and a resolution ([HCR 8](#)) sought to expand the current Medicaid program.

### Medicaid Cost Containment

Efforts to have Medicaid recipients share the cost of health services failed to make it through the Legislature ([HB 251](#) and [HCR 113](#)).

### Newborn Oxygen Screening Mandated

Newborns in every birthing facility in Louisiana will now have (Pulse Oximetry) screening to identify heart defects and/or disease ([HB 322](#)).

## EDUCATION

### Funding

Advocates were pleased that legislators did not approve proposed changes to the main education funding formula, called the Minimum Foundation Program or MFP ([SCR23](#)). Every advocacy organization and education advisory panel (LaTEACH, the DD Council, the Special Education Advisory Panel, the La. Special Education Administrators Association and the Superintendent's Advisory Council) requested that time be taken to research the issues and not move forward with the proposed changes. Since the current (2012-2013) MFP was ruled unconstitutional, and the legislature did not pass the proposed 2013-2014 MFP, the 2011-2012 MFP formula will be used for this year (2012-2013) and next (2013-2014).

Senator Claitor continued to request BESE to address inequities in funding for students with disabilities in school choice programs (i.e., charter schools, course choice and scholarships). An effort to address some of the inequities in funding between traditional public schools and school choice option programs failed ([HB643](#)). Selection of an advisory group to study the education funding formula and make recommendations for changes will be determined at the BESE meeting on June 18<sup>th</sup> and 19<sup>th</sup>. The recommended list of representatives from the Dept. of Education does not contain any special education advocates.

### Private School Scholarship for Students with Disabilities

A proposal that parents feared would create private segregated schools for students with disabilities did not move forward ([HB 642](#)). The proposal maintained that even private schools designated to serve students with disabilities would not be required to provide the needed services and would allow students to be removed if they had challenging behaviors! LaTEACH advocates were clear that they did not want separate schools for children with disabilities.



### Student Assessment

High school students with disabilities who are not pursuing a diploma will not have to take any test in the Louisiana Education Assessment Program (LEAP) or the American College Test (ACT) ([HB 343](#) and [SB 127](#)). The student's Individualized Education Plan (IEP) will indicate the appropriate assessment for the student and not taking standardized assessments will not cause any penalty for the student, school or school system. Currently school performance scores and district performance scores are negatively impacted when students do not take the tests or when students score poorly on tests. Considering students were being tested on subjects they had not been instructed on, this is a step in the right direction to reduce an incentive for school systems to not serve students with more significant disabilities.

### Seclusion and Restraint

Two years ago LaTEACH led the charge to have regulations and rules for the appropriate use of seclusion and restraint of students with exceptionalities in schools. The legal definition of 'students with exceptionalities' includes students who are gifted and talented. [HB 89](#), now Act 1, revised the regulations so that the appropriate use of seclusion and restraint no longer apply to students deemed gifted and talented (unless they also have a disability).

### EMPLOYMENT

An effort ([HB 268](#)) to provide tax incentives for employers who hire individuals with developmental disabilities did not move forward due to the cost to the state in lost revenues. However, a resolution ([HSR 7](#)) passed requesting a study on providing this tax incentive to employers.

While advocates received many things they requested, one item that was on the Council's advocacy agenda was an increase of state funds for vocational rehabilitation services. Unfortunately, there was no increase in the state's matching funds and Louisiana will again send back millions of available federal dollars that could support employment efforts for people with disabilities.

### CHILD SUPPORT AND CUSTODY

A request was made for a review of laws and consideration of extending child support, custody and visitation laws and rules to apply beyond the age of twenty-two for adult-aged children with developmental disabilities ([HCR 32](#)).

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