

## **In the Red**

### *Minnesota Legislature faces a mounting deficit*

**By H. Theodore Grindal, JD, and Matt Schafer**

When the Legislature convenes on Jan. 6, Minnesota lawmakers' primary challenge will be tackling a significant budget deficit. Experts continue to analyze Minnesota's financial indicators, and the projected figures foreshadow an increasingly bleak financial environment for the 2009 legislative session. Predictions will continue to vary until the official release of the February forecast, but one fact will remain constant: The Legislature will be forced to make significant cuts in state spending.

The broad range of legislative priorities and policy-making principles held by Minnesota legislators will make program cutting difficult and contentious. This scenario poses the question for every entity and program that receives state dollars: How will these cuts affect me?

### **Health and human services vulnerable to cuts**

Legislators, legislative staff, and stakeholders have been speculating that the health and human services sector will be most heavily affected by budget cuts. In the 2008 legislative session, more than 70 percent of the spending cuts approved in the supplemental budget bill were made in the health and human services

budget. This trend is likely to continue, a fact that is not lost on Rep. Paul Thissen (DFL-Minneapolis), chairman of the House Health and Human Services Committee.

“I am deeply concerned about what the next session may mean for our hospitals, clinics, and medical providers,” Thissen says. “Deep cuts to programs that keep people insured, investments in public health, and medical education funding – all of these cuts eventually fall on the shoulders of the doctors and nurses who work so hard to keep Minnesotans healthy.”

Sen. Linda Berglin (DFL-Minneapolis) reportedly has been urging her Senate colleagues to find other ways to balance the budget in 2009, and explaining how cuts in previous years have affected Minnesota families. Because the health and human services budget accounts for the largest portion of the state’s budget, however, it will be a challenge to balance the budget without making further cuts.

*Provider reimbursement.* Groups representing medical providers, including the Minnesota Medical Group Management Association (MMGMA), Minnesota Medical Association (MMA), and Minnesota Hospital Association (MHA), are anticipating a long session of trying to defend public funds. Part of their strategy will be to remind legislators that physicians have received just one increase in reimbursement for public programs in the past 16 years. According to the MMGMA, although the state in the past allocated funds intended to increase

reimbursement rates, those monies were passed to health plans that did not in turn pass along the increases to providers. In some cases, health plans put some of that money back into their reserves.

Additionally, the MMA found that the Legislature had passed a law requiring the commissioner of finance to include in the biennial budget a line item reflecting an annual inflationary adjustment in payment rates for defined services, including physician services. This law was supposed to go into effect on July 1, 1999, but inflationary increases for physician services have not been included in recent budgets, according to the MMA. In the meantime, physicians have continued to treat patients in state health programs and have been reimbursed at a rate that hasn't been increased since the Clinton administration.

Provider organizations plan to spend the 2009 legislative session educating legislators on the poor level of reimbursement in hopes of dissuading them from reducing physician reimbursement rates as part of their budget cuts. The good news is that these groups will have some influential allies in the Legislature. The bad news is that friends in high places might not be enough.

***Health Care Access Fund.*** The Health Care Access Fund (HCAF) was originally created by the Legislature in 1992 to be a dedicated funding source for expanding health care coverage. It is the primary source of funding for the MinnesotaCare program, which helps low-income workers buy medical insurance.

The \$250 million HCAF surplus will remain an enticing source of revenue in a climate where cuts are inevitable and new money is nowhere to be found. Given the fiscal realities facing the state and Gov. Pawlenty's documented past interest in using this money, preserving the HCAF will continue to be a daunting challenge. Those who favor using the HCAF to help balance the budget believe this money could help lower the deficit and reduce cuts to other programs. Additionally, the political implications of raiding the fund are relatively minimal because such a small cross-section of the population actually pays the provider tax.

Berglin remains adamant in her belief that the HCAF should be preserved for its intended purpose: to fund care for low-income Minnesotans. "Protecting the Health Care Access Fund from being raided and keeping people eligible for health care programs need to be a priority for all of us, as we face a state deficit, in the upcoming legislative session," she says. Of note, several states have remedied comparable budget challenges in previous years by increasing the tobacco tax.

### **Other health care issues**

For better or worse, another likely byproduct of the budget deficit is a very bleak fate for many legislative proposals, both positive and adverse to the medical community, that come with a price tag. Some examples:

*Interpreter services.* In 2007, legislation requiring health plans to cover interpreter services in a medical setting encountered a hurdle via an onerous fiscal note courtesy of the Department of Employee Relations. Regardless of its merits, the price tag is sure to remain a thorn in the side of this proposal's proponents.

*Certificate of Need.* Legislation seeking to resurrect a Certificate of Need process (mandatory state approval for major medical equipment purchases or hospital construction) in Minnesota will also find challenges. Advocating for the reinvention of a bloated government program that has already been scrapped once because it was deemed expensive, ineffective, and an obstacle to innovation, would not be a popular move in a deficit year.

*Administrative simplification.* There is still much bipartisan interest in the cost savings that could be achieved through administrative simplification in the health care industry. The Administrative Uniformity Committee (AUC), a Minnesota Department of Health (MDH) work group, is continuing to develop a single set of billing codes that could be used to streamline three major components of the billing process: eligibility, claims, and payment remittance advice. This charge was authorized in 2007, and there is bipartisan support for allowing MDH to continue its work in this area.

*Health reform.* With respect to health policy, the big question is, how will the current state and federal fiscal realities affect the ongoing health reform

discussion? President-elect Barack Obama's health care philosophy may improve the chances of seeing some sort of federal reform. However, significant changes may not be feasible in the near future, given the financial challenges facing the federal budget. National analysts are predicting the Obama administration's primary focus in 2009 will be on national security, tax reform, and the economy.

The Minnesota Department of Health (MDH) is moving feverishly to implement the state health reform bill passed in 2008, which at this time consists largely of convening multiple work groups to look at developing a health care home system, baskets of care, and an extensive public health grant program. However, the reality is that such work groups cost money, and their findings will require start-up costs if they are authorized. Quantifying the prospective savings to the system resulting from better management of chronic conditions, which was a centerpiece of the bill passed last year, will always be a challenge. Savings are prospective and most likely cannot help remedy the state's current budget woes. Nobody at MDH wants to say it, but there is a chance that budget cuts will further delay implementation of the health reform bill.

### **Political leadership**

From a political standpoint, the November elections did not bestow on house Democrats the 90 votes needed to override the governor's veto. This means negotiations will likely be comparable to those in 2007 and 2008. While

discussions were volatile at times and select agencies exceeded their authorized appropriations, the governor and Legislature got their work done on time. This was a departure from previous sessions.

Speaker Margaret Anderson Kelliher (DFL-Minneapolis), House Majority Leader Tony Sertich (DFL-Chisholm), and House Minority Leader Marty Seifert (R-Marshall) were all reelected to continue serving as their respective party leaders. The Minnesota Senate Democrats and Republicans did not hold caucus leadership elections.

There may be some changes in House and Senate health committee membership. In July, Gov. Pawlenty appointed Sen. Betsy Wergin to serve on the Public Utilities Commission. Pending a district wide recount, Lisa Fobbe (DFL-Zimmerman) is expected to succeed Wergin, which signifies another pickup for the Senate Democrats, which already holds a veto-proof majority. Fobbe, whose husband is a practicing physician in Princeton, may be a candidate to serve on the Senate Health, Housing and Family Security Committee.

The House health committee membership will also undergo some changes. Former committee members Neva Walker and Brad Finstad both retired from the Minnesota Legislature, and both of their successors, Jeff Hayden (DFL-Minneapolis) and Paul Torkelson (R-St. James) have backgrounds that lend themselves to serving on one of the health committees. Torkelson is a past chair of St. James Health Services, and Hayden has worked extensively with the

Department of Human Services in the past on homelessness issues through his employer, the Hearth Connection. In addition, former representatives Ken Tschumper and Sondra Erickson were unsuccessful in their bids for reelection, thus creating vacancies on the Health Policy Committee and the Health finance Committee, respectively. The new committee members have not yet been announced.

### **A gloomy scenario**

Governing in a deficit year will not be easy, and it is difficult to imagine a scenario where physicians and other providers will *not* be adversely affected. Sen. Berglin has one piece of advice for physicians who are wondering what they can do to affect the situation: “Please let the governor and legislators know of your priorities as we begin the session in January.”

The state's Web site at [www.leg.state.mn.us](http://www.leg.state.mn.us) lists contact information for all members of the Minnesota House and Senate and provides up-to-date information on the status of legislation, as well as descriptions of all bills introduced during the legislative session. Or call Senate Information at 651-296-0504 or House Information at 651-296-2146. Contact information for the governor's office can be obtained through [www.governor.state.mn.us](http://www.governor.state.mn.us).

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