

NEW HAVEN LEGAL ASSISTANCE ASSOCIATION, INC.

426 STATE STREET
NEW HAVEN, CONNECTICUT 06510-2018
TELEPHONE: (203) 946-4811
FAX (203) 498-9271

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TESTIMONY OF SHELDON TOUBMAN IN SUPPORT OF HB 6587 AND IN OPPOSITION TO PROPOSED CUTS TO LOW-INCOME CONNECTICUT RESIDENTS IN SB 1013

Good afternoon, Members of the Human Services Committee:

My name is Sheldon Toubman, and I am a staff attorney with New Haven Legal Assistance Association. I am testifying concerning the Governor's proposed cuts to the safety net for low-income Connecticut residents in SB 1013, and in support of HB 6587, which would create a Basic Health Program for low-income Connecticut residents below 200% of the poverty level as an alternative to buying insurance on the health insurance exchange going into effect in 2014.

First, in general, we support the Governor's budget because it attempts to balance the need for more revenue with budget cuts. In addition, there are some affirmatively good things in the budget for low-income residents, like including smoking cessation for all Medicaid enrollees and finally moving the HUSKY population out of the inefficient capitated HMOs and into an ASO with statewide PCCM and other care management options, for all Medicaid enrollees.

Nevertheless, there are several harmful cuts in the budget, many of which are contained in SB 1013. And while the Governor appropriately says there must be "shared sacrifice," the state's poor have **already made that sacrifice** over several years of Rell Administration budgets with successive cuts. So we should instead increase taxes on Connecticut's wealthiest residents a little more, as provided in the Better Choice Coalition agenda (attached).

I just want to mention a couple of the harmful proposed cuts in the Governor's budget - one of them is penny-wise, pound-foolish and the other is unconstitutional.

Imposing copays on Medicaid recipients, as provided in Section 7, is something this legislature has repeatedly done, and **repealed**, on short order, because of the harm that these seemingly small copays have caused. What we found is that, even with copays as little as 50 cents, a significant percentage of the low-income population simply goes without some of their prescriptions, resulting in medical complications which often require very expensive hospital-based care. In addition to our own experience in Connecticut, many studies over several years have concluded this. Most recently, a December 2010 report by the Robert Wood Johnson Foundation found: "Cost-sharing increases are associated with adverse outcomes for vulnerable populations. Elderly, chronically ill, and welfare patients had increased expenditures for emergency department visits and hospitalizations when cost sharing for prescription drugs was increased." (summary available at <http://www.rwjf.org/files/research/121710.policysynthesis.costsharing.brief.pdf>)

The copays proposed by the Governor are even worse than those drug copays adopted and quickly repealed by the legislature in the past, because they apply both to prescription drugs

and other services; although there is a \$20 monthly cap on drug copays, that does not apply to the additional copays for doctor visits and other health services. In addition, at the time those previous copays were implemented, there was a federal law which prohibited providers from refusing to serve Medicaid patients if they said they could not afford the copays. That federal law protection has now been removed, so they will simply go without their drugs without these copays.

The proposal to cut food stamps benefits for legal immigrants, down to 50% of what citizens receive, as provided in Section 26, besides being unfair and a significant cut to the safety net, is unconstitutional. Just last month, a federal district court in Washington granted an injunction against that state for eliminating food stamp benefits for legal non-citizens not eligible for federally-funded food stamps, i.e., the same group which the governor's proposed cut is directed against. See *Pimentel v. Dreyfus*, Case No. C11-119 MJP (W.D. Wash., Feb. 17, 2011). The court ruled that this was discrimination by a state on the basis of alienage, which is subject to "strict scrutiny," and it failed that scrutiny because a state's desire to save money does not meet that high standard. It does not matter whether a state intends total elimination of the state-funded benefits for legal non-citizens, as in Washington, or the reduction of the benefits relative to citizens, as here; either involves prohibited discrimination on the basis of alienage.

Second, I also strongly support HB 6587, which would create a Basic Health Program (BHP) for Connecticut residents between 133 and 200% of the federal poverty level, and require that the benefits, cost-sharing and consumer protections under the program be identical to that offered under Medicaid. While the health insurance exchange going into effect in 2014 under the Patient Protection and Affordable Care Act (PPACA) will bring essential relief for many uninsured individuals, for low-income individuals, a move into the health insurance exchange would not be appropriate, because, among other things, the cost sharing would be too high -- even with the federal subsidies which will be available. For that reason, it is necessary, as this bill provides, that Connecticut exercise the option under the PPACA to establish a BHP for all adults up to 200% of the federal poverty level.

Please keep in mind that, even for 2014, Connecticut has the **choice** to continue providing services to some of this group -- parents of minor children whose income is between 133% and 185% of the federal poverty level and who do currently receive all their health care (without copays) -- through Medicaid/HUSKY A, at the same federal match rate we have always had, 50%. The PPACA in no way interferes with this state prerogative. All things being equal, we would prefer that these individuals stay on Medicaid so that all the long-standing federal Medicaid substantive and procedural protections could be guaranteed to apply to them in the future.

Nevertheless, we recognize that substantial savings will come to the state from moving this particular Medicaid population to the BHP, which would be funded by the 100% federal money which would otherwise go to cover their substantial health insurance subsidies under the exchange. We can support this move **if** the critical protections in HB 6587 are included in the authorizing legislation, namely, that the medical assistance provided through the BHP will include "all benefits, limits on cost-sharing and other consumer safeguards that apply to medical assistance provided in accordance with Title XIX [Medicaid] of the Social Security Act."

If these basic protections are adopted for all enrollees in the BHP, we can support moving the HUSKY parents between 133% and 200% of the poverty level out of Medicaid and into the

BHP, to bring substantial savings to Connecticut's taxpayers.

Thank you for the opportunity to speak with you today.