

Massachusetts Law Reform Institute

99 Chauncy Street, Suite 500, Boston, MA 02111-1703

PHONE 617-357-0700 ■ FAX 617-357-0777 ■ www.mlri.org

The House Ways and Means FY 2012 Budget Proposal: Preliminary Analysis of Selected Housing, Homelessness, Cash Assistance, Health, Child Welfare, and Child Care Items

April 14, 2011

On April 13, 2011, the House Committee on Ways and Means released its budget proposal for fiscal year 2012 (FY 12). This follows the Governor's budget proposal released in January, which is referred to as House 1, and precedes debate by the full House of Representatives during the week of April 25 and the Senate budget process in May.

Homeless Services

- **Emergency Assistance (item 7004-0101) for homeless families with children.** The Emergency Assistance (EA) program provides emergency shelter to families who are homeless. It also provides these families with short-term housing subsidies, help looking for housing, and moving expenses. Currently, homeless families are allowed to stay in shelter while they look for housing if they have no other safe place to stay with their children. But language in the Governor's House 1 proposal would have denied most families access to shelter even if they did not yet have housing. Under House 1, *only* families who are at risk of domestic violence in their current housing, are homeless as a result of natural disaster or fire, or are headed by a parent under age 21 would have been allowed into shelter; other families could have been turned away even if they had no other safe place to go.
- **In a victory for homeless families and those advocating to keep them safe, House Ways and Means Chairman Brian Dempsey states in his cover letter to the House Ways and Means budget: "Immediate temporary shelter will be available as it has been in years past."** This intent is echoed in the Chairman's overview of the House Ways and Means proposal which says the proposal "Leaves EA eligibility as is to protect the safety net for families in need." Although the House Ways and Means version of the EA line item says that families eligible for shelter "shall include" the 3 categories of families to which the Governor would have restricted shelter access, it does *not* limit eligibility to these 3 categories, indicates that other families will be allowed access to shelter while they are awaiting housing placement, and prevents the Administration from revising its regulations to restrict eligibility for EA unless there is a projected deficit in the account and the Administration gives the Legislature 60 days advance notice of proposed changes. While some clarifying

amendments may be appropriate, along with an amendment to language in item 7004-0108 that would restrict access to shelter (see next to last bullet under 2 below), we are extremely grateful to House leadership for its recognition that the existing shelter safety net must be preserved as efforts are made to house more homeless families.

- **House Ways and Means includes new language providing that families are no longer eligible for shelter once housing becomes available to them and that families cannot decline an offer of housing that adequately accommodates their family size and does not result in job loss.** This language seems intended to incorporate the current EA rules, although some important technical corrections may be suggested during the amendment process.
- **House Ways and Means, like House 1, proposes to fund EA at just under \$97.8 million for FY 12.** The combined funds in the EA item and the new short-term assistance item, discussed below, equal approximately \$136 million, as compared to initial FY 11 appropriations of \$115 million and projected FY 11 spending of about \$161 million, after several supplemental appropriations over the course of the year. House Ways and Means, like House 1, would also authorize the Administration to transfer EA funding to the new item 7004-0108, but House Ways and Means would preclude such transfers if they would create a deficit in the EA line item and require the consent of the chairs of the House and Senate Committee on Ways and Means.
- **House Ways and Means includes important language that was omitted in House 1, including language requiring that families who appear to be eligible for shelter be placed while they collect verifications of eligibility and language requiring that families be placed within 20 miles of their home communities if possible.** It also includes language barring eligibility restrictions except in the case of a deficit in the account, requiring the Administration to give the Legislature 60 days advance notice before making any such eligibility changes, and preventing any such notice prior to December 5, 2011. This language has been critical in prior years to giving the Legislature time to ensure that access to shelter and housing assistance for children and their families is not unduly restricted.

2. Proposed new “Massachusetts Short Term Housing Transition Program” (item 7004-0108) would be funded at \$38.56 million.

- The new account, originally proposed by the Administration, would provide short-term assistance to help families who are homeless, as well as those imminently at risk of homelessness but not yet homeless, secure housing. The assistance could be in the form of rent and utility arrears, security deposits, utility charges, a modest and declining rental subsidy for up to 36 months, and extraordinary medical expenses. This type of assistance is similar to what has been available for the past several years through the EA account and the expiring federal Homelessness Prevention and Rapid Rehousing (HPRP) program.
- **Families receiving on-going rental assistance cannot be required to pay more than 35% of their income for rent and utilities, an important protection for**

- families added by House Ways and Means.** Total assistance per family would be capped at \$4,000 for the first year, unless the assistance is an on-going rental subsidy, in which case the assistance would be the difference between the total cost of rent and utilities and 35% of a family's income. The subsidies could extend for no more than 36 months and will decline in value by 5% per year unless the reduction would cause the family to have to pay more than 35% of income for rent and utilities. In an improvement added by House Ways and Means, families receiving rental assistance who increase their incomes over the general EA-eligibility standard of 115% of the federal poverty limit will be allowed to retain that assistance until their incomes reach 50% of Area Median Income.
- **Total rent for an eligible apartment is capped at only 80% of HUD's fair market rents, which will make the subsidies unusable in the higher cost areas of the state.** This limit may be the subject of discussion during the amendment process.
 - **House Ways and Means would bar families who received rent arrears, utility charges or help with extraordinary medical bills from receiving shelter or any further short-term housing assistance for 12 full months, and would bar families who receive any other form of assistance from shelter or other help for 24 full months, if they are determined not to have made a "good faith effort" to find housing.** Families headed by a person with a disability or someone age 60 or older would be exempt from these bars on assistance. Although using language less onerous than that proposed by House 1, these provisions will leave innocent children with nowhere else to go and will be the subject of discussion during the amendment process.
 - House Ways and Means reinforces its intent to retain a safety net for families who are eligible for short-term assistance but have not yet been housed by stating that families referred for help under the short-term assistance program "shall have housing made immediately available to them or be able to access shelter if no other viable option exists until an apartment is available for the family to rent [with short-term assistance]."
3. **Shelters and services for homeless individuals (item 7004-0102) would be level funded at just under \$37.3 million. The Home and Healthy for Good program (item 7004-0104), which provides housing for chronically homeless individuals, would be level funded at \$1.2 million.**
 4. The DHCD homelessness administrative account (item 7004-0100) would be level funded at just under \$5million.

Housing

1. **Public Housing Operating Subsidies (item 7004-9005),** which help housing authorities meet the expenses of maintaining the state's public housing units, **would be level funded at \$62.5 million.** House Ways and Means added new language instructing the administration to make "every attempt to direct efforts toward rehabilitating local

housing authority family units requiring \$10,000 or less in repairs.” We think this means that DHCD should prioritize family units requiring the least repair for rehab efforts. But without additional funding, units in need of repair will continue to stay off-line.

2. **The Massachusetts Rental Voucher Program (item 7004-9024)**, which provides modest long-term rental subsidies to low-income tenants in the private housing market, **would be funded at \$36 million.** This represents a \$1 million cut from total FY 11 appropriations of \$37 million (which included funding required from MassHousing by the FY 11 general appropriations act and a \$1.1 million supplemental appropriation). At this writing, we do not know if an FY 12 contribution to MRVP from MassHousing is expected.
3. **The Alternative Rental Voucher Program (item 7004-9030) would be level funded at \$3.45 million.** This relatively small program provides vouchers to certain people with disabilities.
4. **Department of Mental Health Rental Subsidy Program (item 7004-9033) would be level funded at \$4 million.** This program provides rental subsidies to DMH clients.
5. **The Rental Assistance for Families in Transition (RAFT) program (item 7004-9316) would be funded at the reduced FY 11 level of \$260,000, a dramatic reduction from FY 2010 of \$3 million.** RAFT provides homelessness prevention services for some families. One rationale for reducing RAFT appropriations in FY 11 was that federal stimulus dollars were available for homelessness prevention, but those federal funds are no longer available.
6. **The Tenancy Preservation Program (item 7004-3045)**, which helps preserve tenancies of persons with disabilities, **would be level funded at \$250,000.**
7. **Housing Services and Counseling (item 7004-3036) would be level funded at \$1.49 million.**
8. **The DHCD Administrative account (item 7004-0099) would receive a \$44,000 increase.** DHCD must reaffirm regulations required by the FY 11 budget ensuring that homeless households with only temporary housing subsidies retain priority for permanent state housing resources.

Cash Assistance and Related Items Administered by DTA

1. **Cash assistance (including TAFDC, EAEDC, SSI state supplement)**
 - **Annual TAFDC clothing allowance (item 4403-2000) would be eliminated.** For many years, the TAFDC program has provided an annual clothing allowance of \$150 in September for each child receiving TAFDC. Language requiring payment of the clothing allowance was first included in the state budget in 1981, with the amount set at \$150 beginning in 1987. The clothing allowance is critically important to children’s dignity and success in school. According to the noted educational scholar Jonathan Kozol, “Children who can not afford to come to school dressed

- appropriately are teased and even ostracized by their classmates. . . . The humiliation and embarrassment felt by children who can not afford to come to school in minimally decent attire will seriously hinder their participation and ability to succeed” House Ways and Means, following the Governor’s lead, proposes to eliminate the clothing allowance, reducing TAFDC benefits by about \$12 million. This would further erode the value of TAFDC grants, which have already lost 43% of their purchasing power to inflation since 1988, and would add to the hardships facing low income families.
- **TAFDC (Transitional Aid to Families with Dependent Children, item 4403-2000) would be funded at \$312.8 million, \$2.4 million less than the FY 11 appropriation so far.** The TAFDC caseload is expected to start going down as the recession moderates, but it is too early to tell whether the proposed appropriation would be enough to cover the expected caseload and provide the clothing allowance.
 - **The line item does not include language included in final budgets in previous years requiring the Governor to give advance notice to the Legislature before cutting benefits or making changes in eligibility.** The advance notice language prevented the Governor from eliminating the clothing allowance in September 2010. And in FY 10 it was critical to giving the Legislature time to work with the Governor to come up with a solution so that children in 9,100 families headed by a severely disabled parent would not lose their TAFDC benefits.
 - **The line item for the first time would say “the work activity requirement shall conform to the federal standard.”** The intent of this provision is unclear but to the extent it is intended to increase work hours, limit work activities, or remove exemptions from the work requirement for parents with disabilities and parents of very young children it would result in increased child care costs and fewer opportunities for struggling families. Anything that could be read as changing the state’s welfare law should be left to the regular legislative process and not added without a hearing to the annual budget. In any case, the change is not necessary to meet federal requirements since Massachusetts is meeting required federal work participation rates.
 - **The Employment Services Program (ESP, item 4401-1000) would be funded at \$3.7 million.** The Governor would have eliminated the program completely. Its FY 11 funding of \$15 million in FY 11 was already a dramatic reduction from previous years. The House Ways and Means proposal says that the Young Parents Program (YPP), which helps TAFDC parents age 14-21 to get their GEDs, would be funded at no less than the FY 11 level (\$3.3million), that the DTA Works program (paid internships in DTA offices) would be funded at no less than FY 11 spending (\$50,000), and that funds must be provided for Learning Disability Assessments, currently receiving \$138,000. This would leave less than \$360,000 for training for TAFDC recipients (currently funded at \$7.5 million), GED testing services, DTA vocational specialists, DTA benefits planners, and transportation assistance. The elimination of transportation assistance (currently funded at \$900,000 and limited to current and a few former recipients in education, training or job search and no more

than \$80 a month) seems virtually certain if additional funds are not appropriated and would effectively be another grant cut for those recipients who are receiving this benefit.

- **EAEDC (Emergency Aid to Elders, Disabled and Children, item 4408-1000) would be level funded at \$89 million, taking into account a \$4.3 million supplemental budget signed into law in January.** This is the same as the Governor's proposal. The caseload went up during the recession. The proposed amount would only be enough if caseload trends reverse and the caseload either stabilizes or goes down. Like its TAFDC proposal, the House Ways and Means proposed budget for EAEDC does not include current and previous year's language requiring advance notice before benefits are cut.
 - **The state supplement for SSI (Supplemental Security Income, item 4405-2000) would be funded at \$500,000 more than the FY 11 appropriation so far,** and the same as the Governor proposed. This amount apparently takes into account \$5.5 million in savings in FY 12 from changing from federal to state administration of the SSI state supplement. The change is expected to save \$11 million annually once it is fully implemented. This change was authorized by a supplemental budget that was signed on April 12, 2011.
 - **The Supplemental Nutrition Program (item 4403-2007), which has provided a small state food SNAP supplement to thousands of low income working families who receive federal food SNAP benefits, would be funded at \$900,000,** the same as the Governor the proposed. This account was not funded in FY 11 because of provisions in the federal stimulus bill which will expire this year.
2. **Teen Living Programs (item 4403-2119) would be level funded at \$6.6 million.**
 3. **DTA administration**
 - **The DTA worker account (item 4400-1100) would be increased by \$3.1 million to \$57.5 million,** the same as the Governor proposed. **The increase does not make up for the loss of one-time federal Recovery Act and other federal funds for SNAP administration. Given loss of these federal funds, total spending on DTA workers would be reduced.** The proposed amount would allow DTA to retain workers hired with the one-time federal funds, but an additional \$4.5 million would be needed for DTA to fill positions that become vacant during the year. Since caseloads are already unmanageable and are expected to continue to rise, low income individuals and families would continue to experience unacceptable problems accessing statutorily mandated benefits. DTA says that it is looking at ways to simplify program rules, especially for TAFDC, to reduce the burden on clients and workers. The Governor signed a supplemental budget on April 12 adding \$2 million for DTA workers in FY 11. It is possible that some of this funding would be carried over into FY 12 if it is not all spent in FY 11.
 - **DTA central administration (item 4400-1000) would be increased by \$1.5 million to \$53.1 million.** This is the same as the Governor's proposal.

- **The account to increase SNAP participation (item 4400-1001) would receive a small increase to \$2.9 million**, slightly less than the Governor's proposal. Half of this account pays for a grant to Project Bread.
- **DTA domestic violence workers (item 4400-1025) would receive a very small increase to \$748,734**, very slightly less than the Governor proposed.
- **Outside section 26 would impose criminal penalties for using cash assistance dispensed through electronic benefits transfer (EBT) to buy alcoholic beverages or tobacco products.** Store owners and clerks would also be subject to criminal penalties for accepting EBT payments for alcohol or tobacco. This section is very similar to a provision that passed the legislature in last year's budget. The Governor sent back last year's provision with a minor technical amendment that was not enacted, so the provision did not become law. The proposal feeds harmful stereotypes, is not based on any study showing that recipients use their benefits irresponsibly, would waste scarce law enforcement resources, and would put people who "look" low income at risk of being reported for making legal purchases. **Outside section 90 would direct DTA and DOR to study the feasibility of preventing the purchase of alcohol, tobacco, firearms and lottery tickets through EBT.** Aside from considerations of fairness and stereotyping, restricting EBT raises complicated technical issues so it makes sense to study them, as section 90 proposes, before changing the law.

Selected Health Issues in MassHealth, Commonwealth Care and the Health Safety Net

1. **House Ways and Means generally follows the Governor's lead on health funding with one major exception: No funding for 20,000 legal immigrants currently enrolled in the Bridge program (items 1595-5819 and 1595-5820).** Approximately 20,000 legal immigrants have been enrolled in a less costly type of health coverage than Commonwealth Care called the Bridge program since August 2009. The state gets no federal reimbursement for the legal immigrants in Bridge. Bridge was at risk of closing for lack of funds several times in FY 11, but the Administration's commitment to keep it going prevailed. The Governor proposed \$50 million to maintain Bridge in FY 12. House Ways and Means provides no funding for Bridge in FY 12 but adds \$20 million to the Health Safety Net in recognition of the added costs to safety net providers of treating 20,000 newly uninsured legal immigrants. A lawsuit challenging the unequal treatment of legal immigrants is pending in the Supreme Judicial Court.
2. **Authorization to continue restrictions on adult dental services and to restrict other adult optional services such as Adult Day Health (Outside sections 98 and 100).** In FY 11 MassHealth cut back adult dental services to just cleanings and emergency care. Outside section 100 continues the dental cutback into FY 12. Outside section 98 authorizes "restructuring" of benefits to the extent permitted by federal law. Legislation is needed for any benefit cuts because a statute enacted as part of the 2006 health reform law restored all optional benefits that had been cut since 2002 (G.L.c.118E, § 53). The

Governor attributed \$55 million in gross savings to restructuring Adult Day Health in FY12; House Ways and Means leaves the details of benefit changes to the Administration. In the face of strong opposition, the Administration recently abandoned plans for a rate cut affecting Adult Day Health in FY 11, but nothing in the House Ways and Means proposal would prevent the drastic “restructuring” contemplated in House 1 for FY 12.

- 3. Increase in copays from \$3 to \$5 (Outside section 51).** MassHealth currently charges \$3 copayments for most prescription drugs and a \$3 copayment for a hospital admission. Copayments for generic drugs were raised from \$2 to \$3 in FY 11. For FY 12, the Governor would authorize copays up to \$5 and specifically would raise brand name drug copays to \$4 for those under 150% of poverty and to \$5 for those with higher income, and would add a \$2 copayment for non-emergency transportation, for a savings of \$11 million. House Ways and Means would also authorize copays up to \$5.
- 4. No funding for enrollment and outreach grants.** For many years the state has set aside \$2-\$3 million for grants to community based organizations for outreach and enrollment assistance. It is in part thanks to this program that Massachusetts has achieved the highest rate of insurance coverage of any state in the country. In the last few fiscal years \$2.5 million has come from the reserves of the Health Insurance Connector Authority. House Ways and Means, like House 1, includes no funding to continue the outreach and enrollment grants in FY 12.
- 5. Commonwealth Care level funded (items 1595-5819 and 1595-1520 and Outside sections 52 and 100).**

 - These two line items would authorize \$722 million as an operating fund transfer for the Commonwealth Care Trust Fund which also receives income from the cigarette tax and other sources and pays for Commonwealth Care as well as other uses. Like House 1, the House Ways and Means budget assumes an \$822 million operating budget for Commonwealth Care to continue coverage for 160,000 residents with no other access to subsidized insurance. The Connector has already solicited bids for FY 12 and just reported that the bidding has succeeded in saving \$80 million. With this savings, the projected operate budget would cover expected medical inflation and modest enrollment growth in FY 12. Outside section 52 authorizes Commonwealth Care copayments for those under 100% of poverty equivalent to copayments in MassHealth. Outside section 100 also continues the restriction to preventive and emergency adult dental services for Commonwealth Care enrollees with income under 100% of poverty (higher income enrollees never had any dental benefit).
- 6. Health Safety Net funding increased to account for some added costs from loss of Bridge (items 1595-5819 and 1595-5820).** House Ways and Means would authorize a \$50 million fund transfer from the Commonwealth Care Trust Fund to the Health Safety Net. House 1 would have transferred \$30 million. The increased transfer proposed by House Ways and Means apparently reflects the Committee’s decision to eliminate the Bridge program which will leave 20,000 people without insurance. However, the increased transfer of \$20 million is not sufficient to cover the added costs of 20,000 people without insurance, plus the added costs of adult dental services and hospital days

no longer paid for by MassHealth, in addition to the recession-driven increased demand for Safety Net services. Hospitals absorb any shortfall in the Health Safety Net. To address issues raised by a March 2011 audit by the Inspector General critical of Health Safety Net claims processing, House Ways and Means would divide the payments to the Health Safety Net between two line items and make payments in the second half of FY 12 contingent on certain certifications and reports to Administration and Finance.

7. **Level funding for Children's Behavioral Health Initiative (item 4000-0950).** The Children's Behavioral Health Initiative funds enhanced mental health services for seriously emotionally disturbed children under the terms of a court decision in a lawsuit called the Rosie D. case. House Ways and Means proposes \$214 million for FY 12 for these services, the amount in House 1 and the amount the Administration expects to spend in FY 11.
8. **\$800 million in saving assumed from MassHealth cost control initiatives.** House Ways and Means includes the same assumptions as House 1 of almost \$800 million in gross savings from various cost control initiatives. Because half of MassHealth spending is reimbursed by the federal Medicaid agency, net state savings are about \$400 million. House 1 assumed \$66 million in gross savings from benefit and copayment changes described earlier, \$150 million in gross savings attributed to provider rate reductions, \$169 million attributed to managed care capitation cost controls, \$13 million from unspecified Program Integrity changes, and \$50 million in cost savings in 2012 attributed to a demonstration program integrating care for disabled adults with both MassHealth and Medicare. A further \$351 million gross will come from procurement and payment strategies. The House Ways and Means budget includes language authorizing benefit restructuring and increased copayments as described above, but otherwise leaves the details for achieving these savings to the Administration.

Child Welfare: Department of Children and Families, Office of the Child Advocate and Committee for Public Counsel Services

1. **House Ways and Means proposes to fund DCF at \$725.5 million, a cut of \$18.1 million from current funding.** This is \$12.4 million less than the Governor proposed. **Most of the cuts come from elimination of the lead agency account (4800-0030) and cuts in DCF's three services accounts.**
 - **The three services accounts (4800-0038, 4800-0040 and 4800-0041) would be cut by \$15.6 million from their current level.**

Item 4800-0038 which funds services for guardianship, foster care, adoption, family preservation and kinship services would be funded at \$242.5 million (a cut of \$4.9 million). The Governor had proposed a similar cut (\$4.1 million) in this line item and planned to manage that cut by eliminating one quarterly clothing allowance for children in foster care for a savings of \$3.7 million, and reducing \$300,000 in spending for voluntary services, while maintaining but not increasing current foster care rates.

Item 4800-0040 the newly created line item for family preservation and reunification services would be funded at \$39.5 million (a cut of \$1.4 million). This line item funds services needed to keep children safely in their homes or to return home safely. Currently, although over 88% of the children in DCF's caseload are supposed to be receiving services to remain or return home safely, DCF spends only 8% of its services budget on services for those children.

Item 4800-0041 which funds group care services would be funded at \$192.4 million (a cut of \$9.2 million), the same cut to group care services that the Governor proposed. The Department said that it could absorb \$3.2 million of this cut by reducing voluntary residential placements, \$2 million by more aggressively moving young adults ages 22 and over out of its caseload (despite challenges in finding appropriate adult services for them), \$300,000 more by eliminating one quarterly clothing allowance for these children, and \$1.2 million through a freeze on Chapter 766 rates.

- **Line item 4800-0030 to fund lead agencies would be eliminated altogether. The Governor had proposed to increase funding for this item from its current \$6 million level to \$10.3 million.** Lead agencies are regional nonprofits that contract for services but do not actually provide services themselves.
2. **House Ways and Means would add important new line item language to its administrative line item (4800-0015) to ensure that DCF make its administrative hearings system timely, independent and fair and preserves requirements that DCF support kinship placement and report on services to keep children safely with their families.**
 - **DCF would be required to revise its regulations by the end of 2011 to ensure that its administrative hearing system is timely, independent and fair, and would be required to submit to the Legislature a plan to clear up its hearing backlog with quarterly benchmark reports.** These hearings are often a family's only means of challenging high stakes decisions that can have a major impact on their children. Currently, although DCF's regulations require that it hold hearings within 90 days from a request, families wait an average of 12 ½ months for these hearings.
 - **House Ways and Means would retain the current requirement that the Department prioritize kinship placements and that it report to the Legislature on the services it provides to keep children safely in their homes and to support kinship families and on its efforts to maximize federal reimbursements available to support kinship guardianships.**
 3. **House Ways and Means would increase funding for social workers (item 4800-1100) by \$4.3 million for a total of \$159.5 million.** This is \$1.6 million less than the Governor had proposed. Because of increased costs resulting from collective bargaining agreements, even with the Governor's proposed increase the Department anticipated a shortfall in this account which it planned to manage through attrition rather than layoffs.
 4. **Services to victims of domestic violence (item 4800-1400) would be nearly level**

funded at \$20.1 million. This account provides beds for shelter, visitation services and supports to victims of domestic violence, as well as the payroll of DCF domestic violence staff. These preventive services are not restricted to DCF involved families, but are available to all individuals who are served by these provider programs.

5. **The Office of the Child Advocate (item 0411-1005) would receive level funding of \$243,564.** The Office of the Child Advocate was created by Executive Order in March of 2008. The legislature expanded the Child Advocate's responsibilities in G.L. c. 18C, charging her with wide-ranging duties including monitoring, examining and making recommendations to the Governor regarding the provision of services to and the treatment of children in the care or custody of state agencies. The meager budget for this office, which the Legislature reduced from its original inadequate level of \$300,000, severely challenges the Child Advocate – a former juvenile court judge – in carrying out the ambitious mission that the Governor established and Legislature expanded.
6. **House Ways and Means does not endorse the Governor's plan to incorporate the Committee for Public Services into the Executive Branch and eliminate private counsel, but in Outside section 60, it would diminish judicial branch control and increase both legislative and executive branch control by allowing the Legislature to appoint 4 and the Governor to appoint 2 of the Committee's 15 members.** The remaining nine members would be appointed by the Supreme Judicial Court. The Supreme Judicial Court would also retain the authority to approve the definition of indigency for purposes of eligibility for free or reduced fee public counsel services.
 - **In addition, House Ways and Means would require CPCS to tighten its income verification procedures for litigants seeking appointment of public counsel in both criminal and in children and family law cases to ensure that the litigant is indigent.** The chief probation officer of each court would be designated as the court's "verification officer" to verify indigency for public counsel appointments. Currently, applicants are required to execute a release authorizing a probation officer to obtain their wage, tax and other information and any other from the Registry of Motor Vehicles that the Court may find useful in verifying that person's indigency. Outside section 60 would authorize the "verification officer" to also obtain wage and tax information from the Department of Transitional Assistance. The fine for misrepresenting or omitting income information would increase from \$500 to \$1,000. The Committee would be required to use the DTA reporting system to verify financial eligibility of participants in state or federally funded programs.
 - **House Ways and Means would establish an annual billing cap of 1500 hours for private counsel. The Committee on Public Counsel Services would also be required to "compile a report detailing the committee's proposal to have the public defender division handle 20 per cent of indigent person cases assigned to the committee by the beginning of fiscal year 2013."** The report would be submitted to the House and Senate committees on ways and means by September 30, 2011.

Child Care

1. **As in past years, House Ways and Means has rejected the Governor's proposed consolidation of the three child care subsidy accounts.**
 - **TAFDC-related child care (item 3000-4050) would be funded at \$133.4 million, about \$6 million more than FY 11 expected spending.** Projected spending for this year reflects a \$5 million transfer from this account to Income Eligible child care authorized by a recent supplemental budget. Because of tight funding for TAFDC-related child care, the Administration has been unwilling to adopt policies authorizing child care for TAFDC children whose parents are not receiving cash assistance for themselves, even where the child care could enable the family to leave TAFDC. House Ways and Means would retain the longstanding assurance of subsidized child care for former TAFDC recipients who are working for the first two years after TAFDC ends, to enable them to continue working. Language in the Governor's proposal could have been read to allow a shorter period of child care for former TAFDC recipients. House Ways and Means also includes longstanding provisions assuring child care for the children of teen parents who are not receiving TAFDC and assuring that TAFDC recipients, whose incomes are far below the federal poverty level, will not be charged fees for child care.
 - **Income Eligible Child Care (item 3000-4060) for low income families who are not current or recent TAFDC recipients would be funded at \$237.4 million,** almost \$9 million more than the initial FY 11 appropriation and \$4 million more than expected FY 11 spending after the transfer. The small increase would not allow the agency to reduce the waitlist, which has been frozen for most of this year; even families with urgent priorities cannot get child care.
 - **Supportive Child Care (item 3000-4060) for families with an active case with the Department of Children and Families (DCF) would be cut by \$8.3 million to \$77.5 million.** Supportive child care has never been funded at a level sufficient to provide care to families who, with child care, could avoid the need for DCF involvement in the first place.
2. **Early Ed and Care central administration (item 3000-1000) would receive a small increase to \$11.7 million. Child Care Resource and Referral Agencies (item 3000-2000) would be level funded at \$5.9 million.**
3. **Head Start (item 3000-5000) would be level funded at \$7.5 million.**
4. **Pre-kindergarten (item 3000-5075) would be level funded at \$7.5 million.**
5. **Services for Infants and Parents (item 3000-7050) would be merged with Quality Program Supports (item 3000-6000) and the combined account (item 3000-7050) would provide grants to support child care programs' curriculum development, accreditation assistance, staff development and similar activities. The new account would be funded at \$19 million,** very slightly less than FY 11 funding for the two accounts that were merged.

6. **Mental health consultation services for child care providers (item 3000-6075) would be level funded at \$750,000.**

Other

1. **Mandatory Treble Damages Awards in Wage and Hours Cases Eliminated.** Outside Sections 53 through 57 eliminate provisions of the General Laws that now require an award of treble damages to employees who prevail in court in wage and hour employment matters. The requirement of treble damages was added by the Legislature only three years ago (Chapter 80 of the Acts of 2008). The inclusion of these sections, which would allow treble damages only where an employer has been found to have violated the law willfully, is a usual departure from the practice of the House to exclude from its budget legislation that is not directly related to budgetary matters.
2. **Adult Basic Education (item 7035-0002) would be level funded at \$27.7 million,** the same as the Governor's budget.
3. **Citizenship Assistance (item 4003-0122) would be level funded at \$237,500,** the same as the Governor's budget.
4. **MEFAP funding (item 2511-0105).** The House Ways and Means budget maintains level funding for the Massachusetts Emergency Food Assistance Program (MEFAP) at \$11.5 million. This money helps cover the cost of food and hot meals distributed to 800 food pantries, shelters and soup kitchens around the Commonwealth. Food banks and feeding organizations are concerned that this level of appropriation will not meet the growing demand for emergency food during the recession.

For more information, contact Deborah Harris, 617-367-0700 x 313, dharris@mlri.org or Ruth Bourquin, 617-357-0700 x 333, rbourquin@mlri.org.

April 14, 2011