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Capitol Update

MINNESOTA AMBULANCE ASSOCIATION

Reimbursement Alert

Buck and I sent out a memo to ambulance providers earlier this week on the MAA list-serve that Minnesota hospitals will **not** be receiving fee-for-service Medical Assistance payments for this month. It was an accounting maneuver slipped into House File 1 from last year's special session to balance the budget. It was our understanding that ambulance services were not included. However, we just learned from Human Services that the law **does** apply to ambulance operators. June's payments will be included in the first payments in fiscal year 2012 (which begins July 1st). We have tried, but there is nothing that we can do about it.

Uncertain Future

There is little to report since the legislature adjourned, except that the two omnibus bills of interest to EMS: Health & Human Services as well as Public Safety have been vetoed by Governor Dayton. The latter contained our MRCC appropriations; and, the former included all of the other grant provisions as well as reimbursement under state insurance programs for patient care.

On the positive side, we did secure enactment of our Community Paramedic Law (Chapter 12) as well as our changes to Revenue Recapture (Chapter 71).

Article XI, section 1 of the Minnesota Constitution states:

“No money shall be paid out of the treasury of this state except in pursuance of an appropriation by law.” Basically, this means that all state grants, appropriations, etc, cease July 1st – the beginning of the next biennium. This total shutdown of the state may be mitigated by the courts should they deem that certain services are “essential” to the public health, safety and welfare. One would presume that this would include such things as law enforcement, but beyond that, we simply don't know. A court filing is being prepared as of this writing.

During the brief 2005 state shutdown, the courts identified essential services that would continue. However, previous court decisions may not reflect

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what the courts will do this time around. In addition, several funding bills had been signed into which kept many state agencies and services operational. I am quite certain that payments to Regional Systems, seat belt fine allocations, volunteer ambulance training grants, even payouts from Cooper/Sams will all be frozen. In addition, reimbursement to providers such as hospitals, nursing homes, ambulance services and the like may also be held up. We are still making an effort to define a number of different programs 'essential'.

The cessation of state funding may include the EMSRB. Should the courts intercede, however, some services may continue. In referencing the 2005 shutdown determinations, the following "critical operations" were approved for continuance:

- 1) Ensuring ambulance coverage in the area of disaster declared by Governor's emergency management response team (on call only).
- 2) Toxicology line.
- 3) Receive, investigate and resolve complaints from the public.
- 4) Monitor health professionals in HSPS program.

(NOTE: Responsibility for this program has been transferred out of the EMSRB informally, and was statutorily mandated in the vetoed HHS Omnibus bill).

5) Renewal of licenses.

As stated above, this may not reflect what will be approved in 2011. The determination went on to say that "[O]nly staff and operating expenses that are minimally necessary to continue, secure, or support these operations are authorized...."

EMSRB Executive Director Pam Biladeau and I have had several conversations over the implications of a shutdown for providers and grantees. She has been seeking some answers from OMB as to specifics, but like everyone seeking clarification, it may be premature. Once we have some idea as to where this whole mess is going, we will get the word out. It is my understanding that state agencies were required to have their shut down proposals to OMB this week.

One question that I did ask Pam Biladeau to pursue with OMB deals with retrospective payment. For argumentation sake, say that the state shuts down for 2 months. It appears as if we might have to pursue making payments for grants and everything else retroactive to

July 1st. Depending on the legislature, they may appropriate funds from the date that the Governor signs any bills. Consequently, we would have to seek language that would assure that grants be fully funded. Again, it is unclear as to whether or not this will be necessary. Retrospective allocations may be controversial depending on where the money is intended.

The Impasse

Originally, the GOP led legislature stated that they would not increase taxes. However, towards the end of session, the rhetoric morphed into 'no new revenue'. "Not a penny more" became the rallying cry. They are sticking to a total budget of \$34.2 billion. This leaves little wiggle room for the Republicans. Conversely, Governor Dayton has refused to balance the budget strictly by cuts without any new revenue. The single largest segment of all the affected parties is the 35,800 or more state employees. Some observers believe that the state workforce will pressure the Governor to give in so that they can begin getting paid again. However, union leadership has publicly supported the Governor's position.

The Governor calls a special session, but the legislature

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determines when it ends. Consequently, the state's chief executive has indicated that he will not call the legislature back until an agreement has been reached. There is an outside chance that, with prior agreement, Governor Dayton could call them back to pass a 'lights on' bill to keep parts of the state bureaucracy limping along, but I wouldn't bet on it.

It should be noted that when the special session starts, it must be viewed as a totally distinct legislative session. There is no carry over of bills that failed to pass during the regular session. Any proposals must be reintroduced and go through the entire deliberative process. Realistically, any special session agenda would be agreed to before the Governor calls them back.

Having offered a considerable amount of bad news, remember that everything is in a state of flux. I know that legislative leadership wants to avoid bringing state government to a screeching halt. I would assume that the Governor feels the same way. Despite how things appear, there is a considerable amount of work going on, to resolve the big picture differences, but particularly in the area of healthcare reform. It may pay off.

Community Paramedic Implementation

Readers may recall that Chapter 12, the Community Paramedic Law the Commissioner of Human Services "*in consultation with representatives of emergency medical services providers, physicians, public health nurses, community health workers, and local public health agencies, shall determine **specified services and payment rates** for these services performed by community paramedics...*"

We were planning on contacting the DHS commissioner shortly after the regular session of the legislature concluded. However, DHS has other priorities as they face a potential shut down. Further, even if it were possible to start meeting, the key staff people who would have to be involved may be laid off July 1st.

With all of this in mind, there is nothing preventing us from organizing a meeting of representatives of the entities listed above to start laying the groundwork. It might also be worth including some of the health plans in anticipation of them including CP services as reimbursable.

It is my understanding that the EMSRB has established a CP work group to look at their responsibilities under the law, or possibly other areas, but I have

no further information about their direction.

One last comment about CPs. A number of key legislators have very high expectations for the Community Paramedic concept. It is being discussed at town hall forums and press briefings throughout the state. We in the provider community will have one shot to make this concept work. If we fail to work collectively in a well-organized effort, the program could flop. I don't even want to speculate on the consequences of failure.

Closing Notes

- ◆ It is events such as this possible shutdown that makes a strong argument for creation of an EMS Taxing District for just about any aspect of the 'system'. Regional EMS Systems, first responder services, ambulance providers and others could create some financial stability for their programs and services by pursuing these valuable tools and help establish a dependable revenue stream. If anyone has questions about taxing districts, please feel free to contact me.

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◆ Congratulations to **Kelly Spratt** who was (or will be shortly) appointed as Chair of the EMSRB by Governor Mark Dayton. Kelly is widely known and respected in the EMS and hospital Communities. He will be an excellent addition to the Board and, based on his experience, will make an excellent chair.

◆ There was a recent rather interesting Nevada Supreme Court decision regarding paramedics, their patients and what is or is not privileged information. The patient injured himself while riding a motorcycle, but decided to drive himself to the hospital. Enroute, he caused a 7-car accident that result in at least one serious injury. In the rig, the patient told the attending paramedic that he had been smoking marijuana. The medic told the state trooper. The medic's testimony was ruled admissible by the court saying that patient-paramedic conversations (unlike a physician's) are not privileged. The patient is doing a 2 to 5-year stretch.