

For a **WEB EXTRA** with a link to the radio show about the Medicaid suit, see [dartmed.dartmouth.edu/w11/we03](http://dartmed.dartmouth.edu/w11/we03).

## DH grapples with a \$100-million Medicaid gap

If the New Hampshire legislature has its way, Dartmouth-Hitchcock will soon be paying more to the state than it takes in to care for patients covered by Medicaid, the government-run health insurance program for the poor and disabled. The move came after several years of cuts to the state's already-meager Medicaid reimbursement rates.

**Care:** "We used to say, 'If [legislators] keep cutting us, they'll be paying us nothing'" to care for Medicaid patients, says Frank McDougall, DH's vice president of government affairs. "Well, they went right by nothing."

In the spring of 2011, the legislature changed a policy set in 1991; the move delivered a \$43-million hit to DH alone. But some of the state's hospitals are fighting back. In July, DH and nine other New Hampshire hospitals filed a lawsuit against the state in federal court. "Our case," says McDougall, "is that the [state's] present budget abuses the Medicaid statutes with regard to access for patients."

**Action:** In FY10, DH cared for about 43,000 New Hampshire residents on Medicaid, at a total cost of \$88 million. Of that, the state covered only \$28 million, leaving a shortfall of \$60 million. This spring's action by the legislature adds another \$43 million to the shortfall.

How the state and its hospitals got to this point is complex, but the problem stems from that 1991 policy, now dubbed "Mediscam." Here's how it worked: through a mechanism called the

Medicaid Enhancement Tax (MET), New Hampshire hospitals paid 5.5% of their net revenues to the state. The state used the money to get matching funds from the federal Disproportionate Share Hospital (DSH) program—funds intended for hospitals that provide a higher share of the state's care to Medicaid and uninsured patients. Under the 1991 policy, the state then refunded the MET payments dollar for dollar to the hospitals, using some of the DSH funds. The rest of the DSH money was used to balance the state's general budget.

In 2007, federal auditors concluded that this process did not meet DSH guidelines. The government ordered the state to return \$35.3 million in DSH funds and to modify its DSH program to comply with federal standards.

**State:** So in 2010, the state established a new method of distributing DSH funds that met federal standards. It worked well, according to McDougall. More DSH money went to hospitals that delivered more care to and under-insured patients, compared to other hospitals.

But last spring, legislators reversed course. They approved a 2012-13 state budget that eliminates DSH payments to 13 hospitals, including DHMC. (The state has 13 other hospitals classified as "critical access" because of their rural location; they'll continue to get DSH payments.) Meanwhile, the state is still col-

lecting the MET from all 26 hospitals. New Hampshire already had the nation's lowest Medicaid reimbursement rate, McDougall notes, paying hospitals just \$0.31 on every dollar of costs.

**Burden:** "We did not want to place this kind of a financial burden on the hospitals," said State Representative Neal Kurk (R-Weare) in August on a New Hampshire Public Radio talk show, *The Exchange*. But cuts had to be made somewhere in the state budget to compensate for declining revenues, he argued. "Among all of the institutions that provide medical services for the Medicaid population," said Kurk, "the hospitals are probably in the best position to deal with this kind of a hit."

The leaders of the affected hospitals, however, vehemently disagree with Kurk's assessment. They say the cuts will force hospitals to eliminate essential services and lay off workers. In fact, that's already happening. Elliot Hospital in Manchester announced a cut of 182 positions. Lakes Regional General Hospital in Laconia closed its physician practices to new Medicaid patients and eliminated routine care for its 3,500 current Medicaid patients.

**Option:** At DH, administrators trimmed costs in October by offering a voluntary early-retirement option, which almost 300 employees took advantage of. In November, DH announced that as many as 100 positions could be eliminated within the next few months, and 50 layoffs took



These 10 hospitals sued the state over Medicaid rates they see as draconian.

place a week later. DHMC also closed a popular pediatrics clinic in Canaan, where many families lack the ability to travel to the main facility in Lebanon.

**Choices:** McDougall was a guest on *The Exchange* with Kurk. "Our choices," he explained on the show, "are to eliminate services, reduce our workforce, and also, simultaneously, try and [shift costs to private insurance companies]."

If the state doesn't budge, he says, "everything is on the table."

There likely won't be a ruling on the lawsuit until sometime in 2012, but McDougall remains hopeful. DH officials are pleading their case directly to the Centers for Medicare and Medicaid Services, too, not just in the federal courts. "We are doing this on behalf of our patients," McDougall emphasizes. "I can't stress that enough."

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