

# NEW JERSEY ASSOCIATION OF COUNTIES

*County Government with a Unified Voice!*

M. CLAIRE FRENCH  
NJAC President  
Monmouth County Clerk

JOHN G. DONNADIO  
Executive Director

## STATE HOUSE NEWS

*February 28, 2014*

---

### COUNTY OPERATED NURSING HOMES

On Tuesday, NJAC had the opportunity to participate in a pre-budget address conference call with the Department of Human Services Commissioner Jennifer Velez, and subsequently spoke with Deputy Commissioner Lowell Ayre, concerning the future of funding for Peer Grouping. As you know, County Nursing Homes of New Jersey (CNHNJ) has been advocating for a viable solution to address the fact that the State had planned to eliminate nearly \$30.0 million in funding for Peer Grouping once Managed Long Term Care (MLTC) began on July 1, 2014. The State and federal governments developed funding for Peer Grouping to help counties reduce civil service, collective bargaining, and pension and health benefit operating expenses; and, to provide funding for community and home based programs. Once this mechanism is eliminated, counties will be forced to reduce or terminate essential programs such as meal on wheels, adult protective services, and transportation services for the aged and disabled.

Although we plan to provide you with a more detailed analysis as we have the opportunity to review the State fiscal year 2015 budget, we're pleased that the Department has decided to phase out funding for Peer Grouping instead of terminating the program as initially suggested. In summary, the Department intends to keep nursing home beneficiaries in a fee for service environment to allow them to continue to receive necessary services throughout the duration of their stay. As such, funding for Peer Group will continue as a resource for county operated nursing homes and will attach to each nursing home beneficiary in a fee for service environment until the nursing home beneficiary turns over. Any new individuals who are admitted to a nursing facility after July 1<sup>st</sup> will have their care managed through one of the managed care organizations. Please note that county governing bodies must use funding for Peer Grouping as they have in the past and must still allocate between 10%-50% of the monies to finance community and home based programs for the aged and disabled.

## PRE-ADJUDICATED INMATES IN COUNTY JAILS

Later this afternoon, NJAC, Monmouth County Administrator Teri O'Connor, Cape May County Jail Warden Donald Lombardo, Passaic County Jail Warden Mike Tolerico, and Cumberland County Welfare Director Cheryl Golden will meet with the Director of Medicaid Services to urge the Director to extend the 24-hour hospital stay exception<sup>1</sup> to pre-adjudicated inmates housed in county jails for the reasons set forth below:

1. County governing bodies across the State will recognize substantial cost savings on inmate medical expenses.
2. County welfare agencies and boards of social services will experience negligible increases in new caseloads.
3. The federal government will pay 100% of the medical expenses for eligible applicants for up to three years and 90% thereafter.
4. Fourteen states currently authorize the 24-hour hospital stay exception and make no distinction between pre-adjudicated and convicted inmates.

As has been well documented, pre-adjudicated inmates housed in county jails make up approximately 90% of the statewide county prison population, and including them under the exception would yield significant cost savings for county governments struggling to make ends meet. In fact, pursuant to a random sampling of pre-adjudicated inmates housed in county jails conducted by NJCJWA, Cape May, Hudson, Passaic, and Essex counties would save an estimated \$4.5 million per year in inmate medical expenses. Please note that this figure does not include potential cost savings recognized by newly eligible applicants under Medicaid expansion. Although these cost savings are substantial, the NJCJWA random sampling also demonstrates that the caseload for county welfare agencies and boards of social services would marginally increase an average of 49 new cases per month for the four counties in question.

Additionally, fourteen states currently authorize the 24-hour hospital stay exception without making a distinction between convicted and pre-adjudicated inmates housed in county jails. These states include: Arkansas, California, Colorado, Delaware, Louisiana, Michigan, Mississippi, Nebraska, New York, North Carolina, Oklahoma, Pennsylvania, and Washington. Moreover, federal regulations do not classify inmates as pre-adjudicated or convicted, and simply define an "Inmate of a public institution as a person who is living in a public institution" *Definitions Relating to Institutional Status 42 CFR 435.1009*. This same citation also outlines the 24-hour hospital stay exception referenced throughout this memorandum. Importantly note that as a means to streamline the administrative process, the above counties strongly recommend establishing a

system that authorizes counties to bill Medicaid directly; and, suspending as opposed to terminating inmate benefits upon incarceration.

Although the primary objective of NJAC and NJCJWA is to advocate for the Department to include pre-adjudicated inmates housed in county jails under the 24-hour hospital stay exception for the reasons set forth above, guidance is also necessary on whether certain pre-adjudicated inmates are eligible to purchase health insurance through the State's federally facilitated health insurance exchange. As you know, the ACA authorizes eligible individuals in custody and pending disposition of charges to enroll in a health insurance plan offered through an exchange prior to conviction or to maintain coverage if already enrolled. Finally, the county welfare agencies and boards of social services in the six counties (*Burlington, Cumberland, Essex, Hunterdon, Mercer, and Middlesex*) where the State operates and maintains prisons will need additional direction on how to manage the new caseload of State inmates housed in State prisons under the 24-hour hospital stay exception.

With a capacity to hold 18,500 inmates in county jails statewide, NJAC and NJCJWA urge the Department to include pre-adjudicated inmates housed in county jails under the 24-hour hospital stay exception and is seeking some much needed guidance or best practices from the Department on how to identify and enroll eligible inmates for healthcare coverage under a health insurance exchange and as intended under the ACA.

1. Federal regulations generally prohibit Medicaid coverage for care provided to incarcerated individuals. However, a 1997 ruling provides an exception for Medicaid eligible inmates who become inpatients of a hospital or nursing home upon the recommendation of a physician; and, then receive room, board, and professional services in the hospital or nursing home for a 24-hour period or longer.

## **INTEREST ARBITRATION**

On February 18<sup>th</sup>, NJAC, NJAC President and Monmouth County Clerk Claire French, and Hudson County Administrator Abe Antun met with the new Speaker of the General Assembly Vincent Prieto to discuss the importance of permanently linking the 2.0% cap on interest arbitration awards set to expire on April 1, 2014 to the 2.0% property tax cap levy. Although the meeting went very well and we appreciate the Speaker's time and consideration, we're strongly encouraging county officials throughout the State to contact their legislators as soon as possible, and to urge them to enact legislation before the April 1<sup>st</sup> deadline. Although contacting each legislator is important, we should pay close attention to leadership in the General Assembly that includes: *Speaker Prieto, Majority Leader Lou Greenwald, Assembly Budget Chair Gary Schaer, Assembly State and Local Government Chair Linda Stender, Assembly Appropriations Chair John*

*Burzichelli, Assembly Republican Leader Jon Bramnick, and Assembly Republican Budget Officer Declan O'Scanlon.* We're also encouraging counties to adopt the resolution below, and thank you to Atlantic, Cape May, Monmouth Morris, Ocean, Somerset, Sussex, and Warren counties for doing so accordingly.

A RESOLUTION urging Governor Chris Christie and the New Jersey State Legislature to enact legislation that will permanently extend the 2% cap on interest arbitration awards before April 1, 2014.

WHEREAS, pursuant to the sunset provision contained in P.L. 2010, c. 105 the 2% cap on interest arbitration awards is set to expire on April 1, 2014; and,

WHEREAS, this law empowers county governments throughout the State to effectively control public safety employment salaries and personnel costs by capping interest arbitration awards at 2% for base salaries, which includes step increments and longevity pay; and,

WHEREAS, county governments dedicate a substantial portion of their overall annual operating budgets for employee salaries, wages, health benefits, and other personnel costs; and,

WHEREAS, county governments face a restrictive 2% property tax cap levy where counties must prepare two comprehensive cap calculations and use the more restrictive one; and,

WHEREAS, failure to extend the 2% cap on interest arbitration awards will force county governments to further reduce or even eliminate essential services, critical personnel, and long-overdue infrastructure improvement projects; and,

WHEREAS, it is in the best interest of county governments and property taxpayers throughout the State struggling to make ends meet to permanently extend the 2% cap on interest arbitration awards.

NOW, THEREFORE, BE IT RESOLVED that the New Jersey Association of Counties does in fact hereby urge Governor Chris Christie and the New Jersey State Legislature to enact legislation that will permanently extend the 2% cap on interest arbitration awards before April 1, 2014; and,

BE IT FURTHER RESOLVED that certified copies of this Resolution are forwarded to the Governor of the State of New Jersey Chris Christie, the President of the New Jersey State Senate Steve Sweeney, the Speaker of the General

## **BAIL REFORM**

It appears that on March 10<sup>th</sup> the Assembly Judiciary Committee will consider for discussion purposes only, legislation that would establish judicial criteria for determining pretrial detention of persons charged with first degree crimes and would establish statutory bail alternatives for non-violent offenders.

Although we'll have more details shortly to review and share with NJAC's Legislative Affairs Committee and NJCJWA, the proposed legislation would authorize the court to order the detention of a defendant before trial if that defendant is charged with a crime of the first degree. Additionally, a court may order pretrial detention if the court determines that no amount of bail, non-monetary conditions of pretrial release or a combination of bail and conditions would assure that the defendant charged with a crime of the first degree would appear for trial. A court could also deny pretrial release in order to protect the safety of any person or the community, or to prevent the defendant from obstructing or attempting to obstruct the criminal justice process.

This legislation would further provide a court with alternatives to setting bail for defendants charged with non-violent offenses to ensure the defendant appears for trial. A court may release a defendant who fulfills pretrial conditions as an alternative to bail by ordering one or a combination of conditions that would require a defendant to: remain in the custody of a designated person; maintain employment; commence an educational program; abide by travel restrictions; avoid contact with the victim; comply with a specified curfew; report to a law enforcement agency; refrain from possessing a firearm; refrain from the excessive use of alcohol or other narcotics; undergo available medical, psychological, or psychiatric treatment; and, satisfy any other conditions imposed by the court.

In general, supporters of the pretrial services outlined in this bill contend that these initiatives represent a more equitable method for determining who remains in prison than the use of traditional bail bonds. Proponents contend that the State's bail system is broken and that nearly three-quarters of the 15,000 people incarcerated throughout the State are awaiting trial instead of serving a sentence. Decisions about who is released pending trial are based on the ability to pay bail and not on the risk to the community. Nonviolent, low-risk offenders are warehoused in jails for long periods of time at a great financial cost to taxpayers simply because they cannot afford to pay bail. For example, it costs approximately \$100.00 per day to hold an individual in prison at an expense to taxpayers of nearly \$30,000.00 for an individual who cannot make \$500.00 bail and is awaiting trial for up to one year. Although NJAC must still review the legislation in question, bail reform appears to make sense from a both policy perspective and fiscal reality for county governments throughout the State.

## STATE FISCAL YEAR 2015 BUDGET ADDRESS

On February 25<sup>th</sup>, NJAC and NJAC President Claire French attended Governor Chris Christie's State fiscal year 2015 budget address. NJAC is in the process of analyzing the \$34.4 billion spending plan and you may review the Governor's budget summary on our website at [www.njac.org](http://www.njac.org). NJAC also plans on testifying at the upcoming budget hearings on several issues that may include: Medicaid reimbursement rates for county operated nursing homes, Medicaid expansion for pre-adjudicated inmates in county jails, and Local Aid allocations under the Transportation Trust Fund (TTF). Some budget highlights include:

- \$2.25 billion pension contribution
- 5.8% increase in revenue projections
- \$313 million surplus
- \$4.5 million to expand the State's mandatory drug court program
- \$125 million for the managed long term supports and services system
- \$8.5 million in consolidation implementation aid

## NJAC'S ANNUAL CELEBRATION OF COUNTY GOVERNMENT

NJAC conference registration, hosting opportunities, and the action packed schedule of events are now available online at [www.njac.org](http://www.njac.org). Don't miss the opportunity to be a part of our 64<sup>th</sup> annual celebration of county government scheduled to take place from May 7<sup>th</sup> through May 9<sup>th</sup> at Caesar's in Atlantic City and includes: the nation's only county vocational-technical school cook-off challenge; all major events and workshops hosted in the main exhibit hall; informative workshops approved for continuing education credits; a timely legislative leadership panel discussion and county awards presentation; and, unique networking opportunities to share resources and ideas.

## STATE HOUSE TRIVIA

*Did you know* that the Sandy Hook Lighthouse built in 1764 is the oldest lighthouse in the United States?

*"Nearly all men can stand adversity, but if you want to test a man's character, give him power." Abraham Lincoln*

