

# NEW JERSEY ASSOCIATION OF COUNTIES

*County Government with a Unified Voice!*

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## STATE HOUSE NEWS *July 31, 2014*

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### CAPE MAY COUNTY BOARD OF ELECTIONS LITIGATION

In light of its far reaching implications and substantial impact on county governments across the State, NJAC plans to file an Amicus brief in support of Cape May County's anticipated petition of the State Supreme Court to overturn the Appellate Division's recent decision affirming the Attorney General's denial to provide Cape May County with a defense and indemnification in connection with a tort action filed by citizen voter against the County and t Cape May County Board of Elections. We'll make sure to provide you with a summary of the brief and additional details shortly.

### PRE-ADJUDICATED INMATES

NJAC is pleased to report that Hudson County and the Department of Human Services have reached a settlement concerning the County's Notice of Claim compelling the State to facilitate the Medicaid reimbursement of eligible medical expenses for individuals incarcerated in Hudson County correctional facilities. Although the agreement in question is specific to Hudson County, the Department intends to include all 21 counties as it moves forward with extending the 24-hour hospital stay exception to pre-adjudicated inmates housed in county jails.

With this in mind, the Director of Medicaid Services requested that NJAC share with its members that the Division of Medical Assistance and Health Services is hosting a training session on *Medicaid and County Inmates* in response to the SFY 2015 Appropriations Act, which requires the State Department of Human Services to work with the county corrections agencies to promote the NJ FamilyCare/Medicaid enrollment of all eligible inmates requiring inpatient hospitalization.

This scheduled training is for hospital Presumptive Eligibility workers, county welfare agency directors, and county correctional staff. The meeting will be held on August 11, 2014 from 2:00 PM to 4:00 PM at the DCF Professional Center at 30

Van Dyke Avenue, New Brunswick NJ. The Division will present its short-term solution for paying hospitalization expenses for eligible inmates including training on a new Inmate Presumptive Eligibility application. Light refreshments will be available. Please contact Cynthia Dupree at [cynthia.dupree@dhs.state.nj.us](mailto:cynthia.dupree@dhs.state.nj.us) by August 4<sup>th</sup> if you plan on attending.

Although the settlement agreement summarized on the preceding page is specific to Hudson County, the Department again intends to include all 21 counties as it moves forward with extending the 24-hour hospital stay exception to pre-adjudicated inmates housed in county jails. In summary, the Department plans to:

1. On or before September 1, 2014, commence processing for presumptive eligibility (PE) applications for Medicaid eligible inmates of Hudson County correctional institutions when those inmates are admitted for inpatient treatment in a certified PE hospital outside the correctional system.
2. On or before September 1, 2014, train Hudson County correctional staff in procedures necessary to coordinate with a hospital PE Coordinator to begin an inmate's application under the Medicaid PE program.
3. On or before September 1, 2014, train all hospital PE Coordinators and county correctional staff assigned to medical facilities that treat inmates from Hudson County correctional facilities in how to properly apply for an inmate's enrollment under the Medicaid PE program. Correctional staff and County Welfare Agency (CWA) staff will also be trained on the process for the correctional staff to notify the CWA upon release from the correctional facility so that a full Medicaid eligibility determination can be made.
4. On or before January 1, 2015, create appropriated codes in the NJ Medicaid Management Information System (MMIS) that will permit an inmate's Medicaid state to be "suspended" while incarcerated. "Suspended" status is defined as a status indicating that an individual is eligible for Medicaid benefits, but for the fact of the individual's incarceration.

The agreement also requires the County to work with its CWA to determine which individuals with inpatient hospital stays (greater than 24 hours) were Medicaid eligible at the time of the inpatient stay on or after January 1, 2014. The County shall advise the appropriate hospital if the County refunds the hospital any amounts previously received for the patient stay, the hospital can submit a Medicaid claim for the inpatient hospital stay. Providers have up to a year from the date of service to submit a claim. Normal claim payment and processing rules will apply to any claim submitted by a provider.

## COUNTY NURSING HOMES STRUGGLING TO SURVIVE

As county operated nursing homes begin preparing for Managed Long Term Care (MLTC) and the anticipated loss of additional Medicaid funding, county governments across the State are struggling to find the resources necessary to maintain a consistent level of quality care residents deserve.

As has been well documented, county operated nursing homes provide a safety net of care for low income patients with medical conditions that typically prevent their admission to privately owned nursing homes. In fact, 79% of the estimated 3000 patients that currently reside in county operated nursing are classified as Medicaid patients without the necessary resources to afford health insurance on their own. Unlike most privately owned nursing homes that carry a much higher percentage of private pay patients, county operated nursing homes maintain an average of 11% of its population in this capacity.

Importantly, the core mission of county operated nursing homes is to provide a high standard of nursing care to residents and their families. To achieve this objective and make readily available an essential community service, county operated nursing homes retain qualified staff that offer a continuity of care as dedicated public servants. Moreover, county operating nursing homes maintain a higher than average rate of nursing hours per patient; offer comprehensive rehabilitation programs; and, provide progressive treatment initiatives with new technologies. Most notably, county operated nursing homes are committed to providing a valuable and much needed public service.

With this in mind, county facilities are concerned with the fiscal realities of MLTC and the anticipated reductions in Medicaid funding once all facilities must negotiate reimbursement rates with for-profit managed care organizations in 2016. As noted in the New Jersey Association of Counties' (NJAC) 2012 "County Impact Statement," recent State Medicaid cuts hit county governments disproportionately hard as counties lost a projected \$12.0 million in anticipated revenue during fiscal year 2012 and an additional \$1.6 million in "Bed Hold" payments for a total of \$13.6 million. As a result of these devastating cuts, Burlington, Cumberland, and Sussex counties sold their facilities in 2012; Camden County sold its facility in 2013; and, Union and Warren counties are in the process of selling their facilities. The remaining county nursing homes operated by Atlantic, Bergen, Cape May, Gloucester, Middlesex, Monmouth, Morris, and Passaic counties have been forced to reduce, privatize, or eliminate critical housekeeping, food, social, and other necessary services simply to make ends meet.

Although county governments appreciate the fact that the State “froze” Medicaid reimbursement rates through fiscal year 2016 and decided to phase out nearly \$30.0 million in funding for “Peer Grouping” as opposed to terminating the program as originally planned, county officials also face a restrictive property tax cap levy and are at a loss to find the resources necessary to maintain a consistent level of quality care residents deserve. 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 meals on wheels, adult protective services, and transportation services for the aged and disabled.

As boards of chosen freeholders across State struggle with finding a balance between what is fair to taxpayers and what is right for its senior and disabled population, it’s inevitable that additional counties will be unfortunately forced to sell their nursing homes within the coming years.

#### **OPEN SPACE PRESERVATION**

The General Assembly also has until Monday to consider **ACR-130** (*McKeon D-Essex/Spencer D-Essex*) for the question to make it on November’s ballot. In summary, this legislation would ask voters to approve dedicating existing corporate business tax revenues to guarantee funding for the preservation of open space, farmland & historic programs, water programs, and site remediation. The Senate passed its companion version **SCR-84** (*Smith D-Middlesex/Bateman R-Somerset*) by a vote of 35-1 on June 25<sup>th</sup>.

The constitutional amendment would dedicate 4% of existing corporation business tax revenues already dedicated to environmental programs for open space preservation, farmland & historic preservation programs, water programs, and site remediation through fiscal year 2019 with the amount increasing to 6% in fiscal year 2020. This proposed amendment to the State Constitution would provide a dedicated and stable source of funding to continue the State’s current programs implemented pursuant to State Constitution, the “Garden State Preservation Trust Act,” and various bond acts passed by the voters of this State over the last 50 years.

All funds from the 2009 \$400.0 million bond act are now fully allocated for Green Acres, Blue Acres, Farmland and Historic Preservation. Green Acres has less than one full grant round remaining and there are zero funds remaining for farmland and historic preservation. According to NJ DEP’s draft State Comprehensive Outdoor Recreation Plan, over 650,000 acres still need to be

preserved to protect natural and water resources, and to provide outdoor recreation to a growing population. An additional 400,000 acres of farmland must be preserved to maintain a viable agriculture industry.

## **BAIL REFORM**

Earlier today, Governor Christie convened a special session of the State Legislature to discuss **SENATE, NO. 946/ASSEMBLY, NO. 1910** (*Norcross D-Camden, Gloucester/Scutari D-Middlesex, Somerset, Union*)/*Burzichelli D-Cumberland, Gloucester, Salem/Watson-Coleman D-Mercer*), which would establish speedy trial deadlines; reform the way in which bail and pretrial release determinations are made; provide courts with the authority to deny pretrial release; and, authorize the Judiciary to revise fees to help fund certain programs and legal services for low-income residents; and, **SCR 128/ACR 167** (*Norcross D-Camden*)/*(Mazzeo D-Atlantic/Eustace D-Bergen, Passaic)*, which would propose a constitutional amendment to authorize, under certain circumstances, the pretrial detention of persons in criminal cases. Although the Senate passed both measures by votes of 28-5 and 36-0 respectively, the General Assembly did not vote on the reforms, and has until Monday for the question to make it on November's ballot.

In preparing for today's voting session, the Office of Legislative Service's asked NJAC to prepare a categorical list of the expenses incurred by a county in the processing and detaining of inmates housed in county jails. The following is a general summary of these budget categories and the specific costs incurred by the county under each. The majority of county costs associated with inmate processing and detention are accounted for through the budget of the county correctional departments. County facilities calculate per diem daily cost rates for its inmate population by dividing the daily facility operational cost by the average daily facility population.

Costs usually factored into these calculations include, but are not limited to: salaries and wages of PFRS employees; salaries and wages of PERS employees; employee fringe benefits; inmate medical expenses, which includes on-site medical, mental health, dental, vision, pharmaceutical, and hospitalization; facility utility costs; facility maintenance; inmate clothing and bedding costs; laundry service; inmate food service; barbering services; inmate re-entry services; adult educational programs; religious services; inmate narcotics anonymous and alcoholics anonymous services; law library services; securing inmate's personal property; providing personal accessories such as soap and toothbrushes; inmate telephone access; visitation services; inmate attorney conferences; commissary services; inmate trust fund services; inmate job skill training; background check costs; inmate photographing and fingerprinting; orientation services; inmate interviews and classification; disciplinary detention and protective custody

services; mental health observation and close custody services; and, costs associated with inmate disciplinary hearings, grievances, and appeals.

The budget of the county sheriff's department also reflects costs directly related to county inmate populations, outside of the per diem rates calculated by the corrections department. These costs include, but are not limited to: courtroom security conducted by sheriff's officers; and, inmate transportation to and from county correctional and court facilities. Although an indirect cost related to county inmate populations, State law mandates that county governments bear the full responsibility to pay for the operation and maintenance of the county prosecutorial offices. In addition to the departmental budget expenses outlined above, many counties absorb or account for costs that can be related to the correctional system through general appropriations or other miscellaneous line items in the county budget. Such costs may include, but are not limited to: debt service for capital improvement projects to county courtrooms or correctional facilities; paying inmate processing fees at the time of incarceration; bail forfeiture expenses; additional administrative work for county welfare agencies through social service program administration and processing; and, juvenile detention alternative programs.

NJAC also shared with OLS its initial legislative analysis on the potential cost savings of the non-monetary release alternatives using data collected from Luminosity and the Drug Policy Alliance.

- 13,000 inmates housed in county jails on any given day.
- 12% of this population are non-violent offenders who cannot make bail of \$2,500.00 or less.
- \$100.00 per day cost to house an inmate in a county correctional facility.
- 314 days is the average length of stay for an inmate who cannot make bail and is pending trial.

*Using these numbers:*

- $(13,000 \text{ inmates} * .12) = (1,560 \text{ inmates} * \$100.00 \text{ cost per day} * 314 \text{ average stay}) = \$48,984,000.00 \text{ cost to county taxpayers}$
- $(\$2,500.00 \text{ bail} * 1,560 \text{ inmates}) = \$3,900,000.00 \text{ unmet bail}$

According to this calculation, it costs county governments approximately \$48.9 million to house 1,560 non-violent offenders who don't have the means to post an estimated \$3.9 million in bail.

## COUNTY AID ALLOTMENTS

Governor Christie included in the State's fiscal year 2015 budget, a supplemental appropriation of \$4.0 million as additional County Aid to mitigate the reduction in funding to Bergen, Camden, Essex, Hudson, Mercer, Middlesex, Monmouth, Morris, Passaic, and Union counties, which lost \$5.79 million in funding when the State eliminating the Federal Aid Urban System (FAUS) minimum allotment from the County Aid distribution formula in 2012. The table below provides an overview of the revised County Aid Allotments. *Special thanks to Hudson County Executive Tom DeGise and Bergen County Engineer Joe Femia for their hard work on this important and timely matter.*

COUNTY	COUNTY AID ALLOTMENTS 2014	COUNTY AID ALLOTMENTS 2013	DIFFERENCE IN ALLOTMENTS	SUPPLEMENTAL COUNTY AID ALLOTMENTS
Atlantic	\$3,403,200	\$3,200,600	+\$202,600	<i>Not Applicable</i>
Bergen	\$6,605,000	\$8,051,900	-\$1,446,900	\$999,500
Burlington	\$4,962,100	\$4,532,000	+\$430,100	<i>Not Applicable</i>
Camden	\$4,642,600	\$5,011,400	-\$368,800	\$254,700
Cape May	\$1,656,100	\$1,355,300	+\$300,800	<i>Not Applicable</i>
Cumberland	\$3,846,900	\$3,171,300	+\$675,600	<i>Not Applicable</i>
Essex	\$4,749,000	\$5,427,200	-\$678,200	\$468,500
Gloucester	\$3,674,000	\$3,072,200	+\$601,800	<i>Not Applicable</i>
Hudson	\$3,195,100	\$3,568,000	-\$372,900	\$257,600
Hunterdon	\$1,981,300	\$1,562,600	+\$418,700	<i>Not Applicable</i>
Mercer	\$2,675,900	\$2,868,200	-\$192,300	\$132,800
Middlesex	\$5,428,600	\$6,102,300	-\$673,700	\$465,400
Monmouth	\$5,031,700	\$5,250,300	-\$218,600	\$151,000
Morris	\$3,884,300	\$4,035,200	-\$150,900	\$104,200
Ocean	\$6,191,300	\$4,966,300	\$1,225,000	<i>Not Applicable</i>
Passaic	\$3,686,100	\$4,300,900	-\$614,800	\$424,700
Salem	\$2,365,000	\$1,807,000	+\$558,000	<i>Not Applicable</i>
Somerset	\$2,889,900	\$2,532,500	+\$357,400	<i>Not Applicable</i>
Sussex	\$2,470,100	\$1,874,100	+\$596,000	<i>Not Applicable</i>
Union	\$3,414,000	\$4,487,600	-\$1,073,600	\$741,600
Warren	\$1,997,800	\$1,573,100	+\$424,700	<i>Not Applicable</i>
<b>TOTALS</b>	<b>\$78,750,000</b>	<b>\$78,750,000.00</b>	<b>\$0</b>	<b>\$4,000,000</b>

## MARK YOUR CALENDARS FOR THESE UPCOMING EVENTS

- A workshop on employee responses to an active shooter *September 19<sup>th</sup>*
- NJAC's board of directors meeting *September 26<sup>th</sup>*
- County finance officer continuing education program & public purchasing officials continuing education program *October 3<sup>rd</sup>*
- Road supervisors continuing education program *October 10<sup>th</sup>*
- County administrators certificate training program *October 24<sup>th</sup> & 31<sup>st</sup>*
- NJAC's year-end conference on transportation *December 12<sup>th</sup>*

Please contact our office at (609) 394-3467 or visit our website at [www.njac.org](http://www.njac.org) for additional details about any of the upcoming events.

## STATE HOUSE TRIVIA

*Did you know* that July is National Ice Cream Month and that Americans eat about 5.5 gallons of ice cream each year?

*"A perfect summer day is when the sun is shining, the breeze is blowing, the birds are singing, and the lawn mower is broken." James Dent*