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SECOND CLASS CITIZENS: ILLINOIS' RURAL UNINSURED AND THE HOSPITAL UNINSURED PATIENT DISCOUNT ACT

by **BILL METZINGER**

On January 26, 2009, during then-Governor Rod Blagojevich's anti-impeachment, turned farewell media tour, the Governor snubbed residents of Springfield and smaller Illinois communities telling Larry King that he refused to live in the Springfield Governor's mansion because he wanted his kids to "live as normal a life as possible."¹ With the recent passage of the Hospital Uninsured Patient Discount Act (HUPDA), rural Illinois residents have yet another reason to feel slighted.²

OVERVIEW OF HUPDA

HUPDA addresses the problem of Illinois citizens without private or government health insurance being charged sometimes two or three times the actual cost of medical care.³ Part of this disparate pricing is a product of private insurers and government programs like Medicare and Medicaid using their bargaining power to gain more favorable pricing from medical centers. Uninsured individuals with little or no bargaining power are often stuck with the full “sticker price” of medical care.⁴ A 2007 study in *Health Affairs*, a leading policy journal, reported that hospitals charge the uninsured 2.5 times more than what health insurers pay and more than three times more than Medicare’s allowable costs.⁵

The recently enacted bill that received unanimous support from both the Illinois House and Senate prevents hospitals from charging qualifying patients any more than 135 percent of the cost of treatment in excess of \$300.⁶ Under the legislation, hospital costs will be determined from a hospital’s most recently filed Medicare cost report.⁷ HUPDA also capitates the amount a qualifying uninsured patient must pay a hospital in any single year at 25 percent of a family’s gross annual income.⁸ Hospital obligations under HUPDA began December 22, 2008, and as Illinois Attorney General Lisa Madigan described, “This is going to mean that people who need medical treatment are going to be able to get it and that they’re not going to go bankrupt doing it.”⁹

In order to qualify for the benefits of the new legislation, Illinois residents must be uninsured, receive sufficiently low annual levels of income, and be unable to qualify for Medicare, Medicaid, AllKids, SCHIP, or other public programs.¹⁰ Because of the differences in costs of living between rural and urban areas, the statute sets different income thresholds for urban and rural hospitals.

Therefore, for families receiving treatment in an urban hospital, HUPDA requires beneficiaries of the act to earn less than 600 percent of the federal poverty level (FPL).¹¹ This means that in 2009, an urban family of four must earn less than \$132,300 in order to qualify for the hospital charge and annual spending caps.¹² Individuals receiving medically necessary treatment in a “rural hospital,” however, must make less than 300 percent of the FPL, or \$66,150 in 2009 for a family of four to reap the same benefits.¹³

HUPDA defines rural hospitals as hospitals located outside a “metropolitan statistical area.”¹⁴ As of 2007, Illinois had eleven primary metropolitan statistical areas including: Bloomington, Champaign-Urbana, Chicago-Naperville-Joliet, Danville, Rock Island, Decatur, Kankakee-Bradley, Peoria, Rockford-Moline, East St. Louis, and Springfield.¹⁵

Members of Family	2009 Federal Poverty Level (FPL)	300% of FPL	600% of FPL	800% of FPL
1	\$10,830	\$32,490	\$64,980	\$86,640
2	\$14,570	\$43,710	\$87,420	\$116,560
3	\$18,310	\$54,930	\$109,860	\$146,480
4	\$22,050	\$66,150	\$132,300	\$176,400
5	\$25,790	\$77,370	\$154,740	\$206,320
6	\$29,530	\$88,590	\$177,180	\$236,240
7	\$33,270	\$99,810	\$199,620	\$266,160
8	\$37,010	\$111,030	\$222,060	\$296,080

URBAN SUBSIDY: “RURAL” V. “URBAN”

Although generally higher urban incomes and costs of living justify *some* disparity in HUPDA’s means testing, analysis of the percent of individuals qualifying for the program in Illinois’ rural and urban communities suggests that Illinois’ legislature may have missed the mark.

To illustrate using one of the most extreme examples, consider Illinois’ “poorest” metropolitan communities of Rock Island and Moline in comparison to Mt. Zion and Edwardsville, two of Illinois’ most “wealthy” non-metropolitan communities.¹⁶ Because Rock Island and Moline are “metropolitan” communities, citizens receiving treatment in these communities benefit from the more liberal 600 percent poverty threshold. The expanded 600 percent poverty threshold allows nearly 86 percent of Rock Island and Moline’s three member families, if uninsured and unable to qualify for other public assistance, to benefit from HUPDA.¹⁷ On the other hand, residents of Mt. Zion and Edwardsville, assuming they do not travel to avoid treatment in a “rural hospital,” face the narrower 300 percent poverty threshold to receive HUPDA’s benefits.¹⁸ Assuming limited mobility when seeking medically necessary treatment, approximately 31 percent of Mt. Zion and Edwardsville families of three, if uninsured, are eligible to benefit from HUPDA.¹⁹ Therefore, in the

most extreme case, 45 percent more “urban” families of three are eligible to benefit from HUPDA even though roughly the same percentage of all of these communities are uninsured.²⁰

While comparing Rock Island and Edwardsville admittedly highlights one of the most extreme effects of the HUPDA’s existing means testing, the average and median percentages of citizens qualifying are also telling. On average, 81 percent of urban families of three, assuming uninsured status, are eligible to benefit from HUPDA.²¹ In contrast, slightly more than 48 percent of rural families of the same size stand to benefit under the new legislation.²² Median levels of qualification are similarly skewed with nearly 82 percent of urban uninsured families of three eligible for HUPDA’s benefits as compared to 50 percent of rural families of three.²³

BLAGOJEVICH’S AMENDATORY VETO

On August 26, 2008, then Governor Blagojevich signed an amendatory veto altering the terms of HUPDA.²⁴ Although the ex-governor’s veto was overridden less than a month later, Blagojevich’s changes made qualifying for hospital discounts easier by increasing the income eligibility threshold to 800 percent of FPL for urban residents and 600 percent of FPL for rural residents.²⁵ Under the Blagojevich standards, an urban family of four with an annual income of \$176,400 or under, and a rural family of four with an annual income of \$132,300 or less would be eligible for the same discounts as families of four earning significantly less. Danny Chun of the Illinois Hospital Association criticized the liberalized thresholds because they would allow most all Illinois’ uninsured to qualify under HUPDA.²⁶ Chun also expressed concern that such liberal coverage might force some of the state’s financially strained hospitals to close, especially when Illinois hospitals are already absorbing nearly \$2 billion a year in underpayments from Medicare and Medicaid and more than \$1 billion a year in uncompensated care.²⁷ Although the governor’s veto was short-lived, it did increase parity in the percentages of rural and urban percentages qualifying for the legislation’s benefits.²⁸

REACTIONARY OR RESPONSIVE?

HUPDA is a progressive move towards aiding Illinois' uninsured. The Illinois legislature should be commended for its unanimous support of the bill and appreciation that the federal poverty level, left unadjusted, is too under inclusive to accurately capture a majority of those in need of HUPDA's benefits. The General Assembly should also be lauded for recognizing a difference in income levels between the urban and rural poor. However, despite the valiant effort, the significantly lower percentage of rural poor able to gain protection under HUPDA is problematic. Although precision tailoring of HUPDA's means testing based upon each community's level of income and uninsured population would be cost prohibitive, liberalizing rural income thresholds to allow rural families to more easily qualify, would restore parity between rural and urban citizens qualifying for HUPDA benefits. Even though Governor Blagojevich's veto may have missed the mark, the legislature's override may have thrown the baby out with the bathwater.

NOTES

1 Larry King Live: Governor Rod Blagojevich (CNN television broadcast Jan. 26, 2009) (transcript available at 2009 WLNR 1519972); See also, James Janega, *Governor's mansion no place like home. It may have 35 rooms, Baccarat chandeliers and a full-time chef, but the official Springfield residence has been passed up by the Blagojevich family—much to the disappointment of Downstaters*, CHI. TRIB., July 24, 2003, at 1.

2 210 ILCS 89/1 et seq.

3 *Dr. Blago's Botched Surgery*, CHI. TRIB., Sept. 21, 2008, at 6.

4 Judith Graham, *Lawmaker's bill would limit medical costs for Uninsured*, CHI. TRIB., May 2, 2008, at 1.

5 *Id.*

6 210 ILCS 89/5. See also, <http://www.ilga.gov/legislation/votehistory.asp?GA=95&DocNum=2380&DocTypeID=SB&GAID=9&LegID=36352&SessionID=51>.

7 210 ILCS 89/5.

8 210 ILCS 89/10.

9 *Id.*

10 210 ILCS 89/15.

11 210 ILCS 89/10(a)(1).

12 Department of Health and Human Services, *Annual Update of the HHS Poverty Guidelines*, available at <http://aspe.hhs.gov/poverty/09fedreg.shtml>.

13 210 ILCS 89/5. "Metropolitan statistical areas" and "rural hospitals" are the only terms used within HUPDA. However, within this article, "metropolitan" is used interchangeably with "urban."

14 210 ILCS 89/10.

15 Bureau of Economic Analysis, *Statistical Areas- Metropolitan Statistical Areas (MSAs), Micropolitan Statistical Areas, Metropolitan Divisions, Combined Statistical Areas (CSAs)*, April 24, 2008, available at <http://www.bea.gov/regional/docs/msalist.cfm?mlist=45#defs>

16 "Poorest" determined as result of greatest percentage of residents of an Illinois metropolitan community with under \$100,000 of income, \$9,860 less than the threshold amount of income for an urban family of three to qualify for benefits of HUPDA. "Wealthiest" determined as result of greatest percentage of citizens in non-metropolitan communities reporting more than \$50,000 in annual income, \$4,930 less than the threshold amount of income for a rural family of three to qualify for HUPDA. Comparison also selected due to the parity in percentages of uninsured between the communities. See, Department of Health and Human Services, *Annual Update of the HHS Poverty Guidelines*, available at <http://aspe.hhs.gov/poverty/09fedreg.shtml>. See also, http://www.commerce.state.il.us/dceo/Bureaus/Facts_Figures/Illinois_Census_Data/2000_Census_Data.htm (follow "All Geographical Locations" hyperlink listed under "Selected Economic Characteristics.")

17 Estimate based on 2009 Federal Poverty Level and data for the percentage of residents in Illinois' "Metropolitan Statistical Areas" making more than \$100,000 in 2000. See Illinois Department of Commerce and Economic Opportunity. http://www.commerce.state.il.us/dceo/Bureaus/Facts_Figures/Illinois_Census_Data/2000_Census_Data.htm (follow "All Geographical Locations" hyperlink listed under "Selected Economic Characteristics.")

18 210 ILCS 89/10(a)(2). See also, Bureau of Economic Analysis, *Statistical Areas- Metropolitan Statistical Areas (MSAs), Micropolitan Statistical Areas, Metropolitan Divisions, Combined Statistical Areas (CSAs)*, April 24, 2008, <http://www.bea.gov/regional/docs/msalist.cfm?mlist=45#defs>.

19 Estimation based upon 2009 Federal Poverty Level and data for the percentage of Mt. Zion and Edwardsville residents making less than \$50,000 in 2000 provided by the Illinois Department of Commerce and Economic Opportunity, available at http://www.commerce.state.il.us/dceo/Bureaus/Facts_Figures/Illinois_Census_Data/2000_Census_Data.htm (follow "All Geographical Locations" hyperlink listed under "Selected Economic Characteristics.") 210 ILCS 89/10(a)(2). See also, Bureau of Economic Analysis, *Statistical Areas- Metropolitan*

20 Based on 2000 census data, 10.90% of Madison County (Edwardsville), 10.60% of Macon County (Mt. Zion), and 12.90% of Rock Island County were uninsured. See, U.S Census Bureau, "Health Insurance Coverage for Illinois Counties, 2000: Experimental Estimates", available at <http://www.census.gov/cgi-bin/hhes/sahie/sahie.cgi>.

21 Estimate based upon 2009 Federal Poverty Levels and percentage of residents in Illinois "Metropolitan Statistical Areas" with more than \$100,000 of income in 2000. See http://www.commerce.state.il.us/dceo/Bureaus/Facts_Figures/Illinois_Census_Data/2000_Census_Data.htm (follow "All Geographical Locations" hyperlink listed under "Selected Economic Characteristics.")

22 Estimate based upon 2009 Federal Poverty Levels and percentage of residents from non-metropolitan areas making less than \$50,000 in 2000. See *Id.*

23 *Id.*

24 S.B. 2380, 8/26/08 (P.A. 095-0965), available at <http://www.ilga.gov/legislation/fulltext.asp?DocName=09500SB2380&GA=95&LegID=36352&SessionId=51&SpecSess=0&DocTypeId=SB&DocNum=2380&GAID=9&Session>.

25 *Id.*

26 Cynthia Wilson, *Illinois Effort to Limit Uninsured Health Care Expenses Halted by Governor's Amendment*, INSIDEARM, Sept. 9, 2008, available at <http://www.insidearm.com/go/arm-news/illinois-effort-to-limit-uninsured-health-care-expenses-halted-by-governor-s-amendments>.

27 *Id.*

28 While the current version of the law allows urban families to make twice as much as a rural family and still qualify for the HUPDA (600% v. 300%). See 210 ILCS 89/10(a). Blagojevich's amendment would have allowed urban citizens to make only 25% more than their rural neighbors (800% v. 600%). See also, S.B. 2380 8/26/08 (P.A. 095-0965), available at <http://www.ilga.gov/legislation/fulltext.asp?DocName=09500SB2380gms&GA=95&LegID=36352&SessionId=51&SpecSess=0&DocTypeId=SB&DocNum=2380&GAID=9&Session>.