

HealthLawAdvocates

News & Notes
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In This Issue

[Brown Bag Luncheon Series](#)

[BBA Panel: Health Reform & Tax Penalties](#)

[HLA's Consumer Tips](#)

[Grant News](#)

[Oral Health Update](#)

[Message from HLA's Executive Director](#)

[HLA News](#)

[HLA in the News!](#)

[Meet the Board](#)

Georgia Maheras Drives HLA's Oral Health Initiative

Everyday HLA's Dental Access attorney **Georgia Maheras** champions the cause of oral health for the children of Massachusetts. Ms. Maheras and her co-counsel, **Clare McGorrian**, former senior counsel at HLA and now an attorney in private practice, and Sarah Anderson, Manager of the Health Unit at Greater Boston Legal Services, drive HLA's efforts in the remediation phase of the *HCFA v. Romney* lawsuit which found the state was liable for not providing access to dental care to Medicaid-eligible children. The litigation team is also assisted by Steve Rosenfeld, HLA's Volunteer Legal Director, and Barbara Anthony, HLA's Executive Director.



Georgia Maheras



Clare McGorrian

As part of the *HCFA v. Romney* remediation plan, Doral Dental became the third party administrator (TPA) of MassHealth dental benefits in April and began processing all dental claims and provider credentialing for MassHealth. HLA had advocated for many

HLA's Brown Bag Luncheon Series

On February 13, 2008, **Supreme Court Justice Margot Botsford** spoke at HLA's monthly Health Law and Policy Forum. Justice Botsford discussed the recent Supreme Court opinion *In the Matter of Hilary* which held that parents of children involved in Child In Need of Services (CHINS) petitions have a statutory right to counsel and provided some insight into her reasoning behind the decision. She also talked about the differences between being a judge on the trial court and sitting on the SJC, and gave some advice concerning appearing before judges. Justice Botsford indicated that everything a lawyer does before the court, from written work to oral advocacy before the bench or jury, creates an impression for the court about that particular lawyer. She said judges observe the way counsel treat one another on papers and before the court and take note of the tone conveyed in pleadings and through personal interactions. With her easy humor, Justice Botsford observed that in litigation, "less is more." All of this, the Justice said, is observed by judges and goes into a court's view of the credibility of counsel.



Justice Margot Botsford

years about the need for a TPA to administer the MassHealth dental program, and the hiring of Doral Dental is a significant victory for HLA. Once Doral began processing claims, HLA successfully argued for the use of the standard MassHealth "Permission to Share Information" form when advocates want to contact the TPA about a member. Prior to this, advocates were required to complete a separate form, which was both cumbersome and redundant. This change allows advocates to more easily assist their clients and reduces confusion.

We were successful in our efforts to have Doral Dental and MassHealth streamline and accelerate the process for credentialing providers. As a result of our advocacy, providers now get credentialed in 21 days, as opposed to 4-6 months, thus expediting the delivery of care to children. We were also instrumental in bringing about a substantial increase in the rates the Division of Health Care Finance and Policy and MassHealth pay dental providers for children's dental procedures. As a result of our advocacy, the state agencies raised the rates on the 20 most common children's procedures by 5.85%, instead of the originally recommended 1.02%.

In terms of the new health care reform legislation, HLA worked closely with the Oral Health Advocacy Task Force to expand dental coverage to those on Commonwealth Care who earn above 100% of the federal poverty level. At present, the Connector Board is still procuring Commonwealth Care health plan bids from insurers, but it has asked the insurers to provide information on the inclusion of dental benefits, which in and of itself is a tremendous victory.

The legal team continues to work to ensure implementation of the Court's judgment in *HCFA v. Romney*. This includes: removal of prior authorizations for many services and introducing creative delivery models to the MassHealth program. Georgia Maheras has testified and commented on

Upcoming Luncheons:

March 13th:

Nick Littlefield

Partner, Foley Hoag LLP

April 23rd:

Patricia McGovern

Senior Vice President, Beth Israel
Deaconess Medical Center

May 15th:

James Roosevelt, Jr.

President and CEO, Tufts Health
Plan

For more information, please [click here](#). To RSVP for upcoming events, email [Laura Healey](#)

ANTHONY SPEAKS ON HEALTH REFORM TAX PENALTIES AT BOSTON BAR PANEL



Anthony addresses the BBA panel.

On February 5, 2008, the Boston Bar Association sponsored a panel discussion on implementing health reform and the unpopular issue of tax penalties for residents not in compliance with the personal mandate to purchase health insurance. HLA's **Barbara Anthony**, representing consumers, spoke on a panel that included officials from the Commonwealth Connector and

numerous bills and regulations in the past year to promote oral health in Massachusetts.

There is a status hearing at the Federal Court on February 27th! When the lawsuit was decided in 2005, the state was providing dental care to about 33% of children on Medicaid. In 2008, there is evidence that more than 40% of children are now seeing a dentist. While this is an improvement over the past, it is important to note that about 75% of children who are privately insured receive dental care and we continue to work towards this goal.

From HLA's Executive Director...



Donating Stock Can Help HLA

HLA is blessed with the generous support of many donors. However, many supporters may not realize that donating appreciated securities instead of cash may result in greater tax savings for the donor. For example: a donor wants to donate \$5,000. Even if the donor could simply write a check, he or she might be better off scouring taxable investments for securities that have gone up in value.

A donor may find stocks or fund shares that were bought for \$2,500 that are now worth \$5,000. By donating these securities, the donor gets the same tax deduction for gifts to charity as he or she would by writing a check. And, the donor avoids having to pay capital gains tax on the price appreciation. On the example above, assuming a 15% tax rate on long-term gains, the donor could save almost \$400.

If you are interested in making a stock

the Massachusetts Department of Revenue. Anthony advocated strongly that before the state could penalize a taxpayer by taking away his or her property in the form of the tax penalty, currently at \$219 for 2007 but scheduled to increase to as much as \$900 for many in 2008, due process considerations had to be scrupulously followed. In addition, Anthony emphasized that more than money is at stake for residents who are found liable for not purchasing insurance and have to pay the tax penalty. Anthony reminded everyone that such consumers, assuming they were otherwise income eligible, would no longer qualify for either partial or full healthcare under the state's free care pool. She indicated that HLA has seen cases where although the state says health insurance is affordable, some consumers say they cannot afford to purchase it. These residents will have the chance to demonstrate a financial hardship when they file their income tax returns for 2007. Anthony urged that the Connector Authority grant hearings to all consumers whose appeals for a hardship waiver are not granted on the basis of papers submitted. She also encouraged much more transparency by the Connector in terms of its written opinion throughout this process. Anthony said that it is very hard for lawyers to know how to counsel clients because there are no written opinions available to show how the Connector is interpreting the various grounds for a hardship waiver and exemption from the tax penalty.

donation to HLA, please feel free to email lhealey@hla-inc.org, and HLA will be in contact with you.

Sincerely,



HLA NEWS

Case News

Rebecca Brink closed the GAL case of M.J., a 10-year-old who has Attention Deficit Hyperactivity Disorder (ADHD) and depression. M.J., who was hospitalized last year after he started a fire in his family's home, was "stuck" in an inpatient facility for over three months. Rebecca worked with his mother, insurer and DSS to get M.J. returned to his mother's custody. Once M.J. returned home, Rebecca ensured he had appropriate outpatient mental health providers and that his school was providing him with appropriate services.

Georgia Maheras arranged for a reduction in medical debt and a payment plan for E.F. He can now continue his ongoing treatment without this debt weighing upon him and can enjoy peace of mind knowing he has adequate health insurance.

M.S., a 38-year-old Provincetown man who is HIV positive requires medication to maintain his weight. His Medicare Part D insurer had been covering this medication, but then denied coverage saying he had to go through a trial period without medication.

Matt Selig and legal intern **Mike**

Greenberg assisted M.S. in the Medicare Part D appeal process. The insurer's denial was overturned and M.S. was granted coverage for the medication through November 28, 2008.

Rebecca Brink continues to represent the family of J.C., a 17-year-old with severe autism. Over the summer, Rebecca worked

HLA's Consumer Tips: Individual Mandate Questions - Answered!

(The following is an abbreviated list of HLA's "Individual Mandate FAQs". For the full list, [click here](#))

What counts as insurance for the Individual Mandate?

- a. Insurance purchased through your employer.
- b. MassHealth and Commonwealth Care plans.
- c. Medicare A or B
- d. Tricare
- e. VA health benefits
- f. Private coverage you bought from licensed insurance.
- g. COBRA insurance.

What if I can't afford insurance?

You may be exempt from the individual mandate if you cannot find affordable insurance. The Connector has established affordability tools (available at www.mahealthconnector.org) which allow a person to calculate how much insurance the state says they should be able to afford.

What is the name of the tax form? Where do I find it?

The tax form is Schedule HC. The Appeals form is Schedule HC-A. Both forms are included in your Massachusetts Resident Form 1 tax forms. These forms are also available online at www.mass.gov/dor website.

How do I prove that I have insurance on my Schedule HC?

Your insurance company will send

with his health insurer and DMR to get J.C. admitted to an appropriate inpatient facility for an evaluation. Since October, J.C. has been "stuck" at this hospital while state agencies and J.C.'s school system dispute who is responsible for paying for a residential placement. Rebecca has been working continuously with the family, DMR, DSS, the insurer and the school system to find an appropriate placement for J.C.

Georgia Maheras assisted K.K. in her CommCare Plan. MassHealth was not determining K.K.'s finances appropriately. Georgia worked with the client to explain the complicated financial and immigration matter to MassHealth. K.K. is now on the correct CommCare Plan.

C.C., a 55-year-old Watertown woman with cancer, was enrolled in MassHealth and received a notice that her coverage would end in November 2007. **Matt Selig** advocated with C.C.'s health care providers and MassHealth and made sure that all her medical bills would be covered by MassHealth or the Health Safety Net until January 1, 2008. Matt then worked with C.C. and MassHealth to successfully enroll C.C. in Commonwealth Care effective January 1, 2008.

Rebecca Brink continues to represent the mother of G.K., and eight-year-old who was abused as a toddler and has Post Traumatic Stress Disorder (PTSD) with psychotic features. G.K. was first hospitalized at age two and has been hospitalized 10 times over the past six years. During her most recent hospitalization, Rebecca worked with the hospital social worker and insurer to get G.K. transferred to an Acute Residential Treatment program that can better meet her needs.

N.M. moved to Massachusetts from out of state with orthodontia (braces). MassHealth denied removal of N.M.'s orthodontia for the past two years, and so even though N.M. needed the braces removed, she could not afford the procedure. After N.M. contacted HLA, **Georgia Maheras** worked with the

you a 1099-HC. If your insurance company does not send this to you, then fill in you subscriber number and health insurance carrier on page 1 of the Schedule HC.

Meet the Board



Each month, HLA turns the spotlight on a member of our fabulous Board of Directors. This month, we proudly feature HLA Immediate Past President **Ellen Bruce**.

Who is Ellen Bruce?

I am an attorney who worked 13 years in legal services for the poor and now teaches at the University of Massachusetts Boston in the Gerontology Department of the McCormack Graduate School of Policy Studies. I have spent most of my professional life working to improve the lives of people who, for one reason or another, don't have enough money to pay for their basic needs.

When and why did you become involved with HLA?

Being deprived of health care services because of lack of money or discrimination seems cruel and heartless. I believe that lack of health care is fundamentally a problem of our society and as such can only be addressed by

MassHealth dental administrator, Doral Dental, to get this service approved and find a provider to perform the services right away.

Testimony

On February 4, **Georgia Maheras** testified before the Commonwealth Health Insurance Connector Authority Board regarding emergency regulations 956 CMR 3.00 and 956 CMR 6.00. Maheras testified that serious deficiencies in the state's Commonwealth Care Program caused needless pain and suffering for Massachusetts consumers. Speaking for HLA, Maheras told the panel that Commonwealth Care coverage had to be extended back to cover services received when the state erroneously terminated coverage for innocent consumers. Maheras told the story of an HLA client who updated her income information with MassHealth and was incorrectly terminated from the Commonwealth Care program. As a result of this action, HLA's client incurred thousands of dollars of medical debt.

[Click here to read HLA's testimony.](#)

Other News

Rebecca Brink and **Steve Rosenfeld** continue to work with the Children's Mental Health Campaign to advance its legislative agenda. On February 13, the bill was favorably reported out by the Joint Committee on Health Care Financing. The bill was reported to the Senate; the Campaign is hopeful the Senate will vote on the bill in the upcoming months. Rebecca continues to analyze redrafted versions of the bill, draft fact sheets, attend meetings with key State House staff and elected officials as well as attend the Children's Mental Health Executive and Steering Committee meetings.

Suffolk University Law School Dean Alfred C. Aman, Jr. invited HLA's **Barbara Anthony**

fundamentally changing the way we have structured the payment of care. I became involved with Health Care for All in the mid 1980s and was on the board of Health Care for All when Rob Restuccia and Steve Rosenfeld started discussing forming a public interest law firm that could advise HCFA and represent groups on health care matters. The idea was to expand the tools HCFA was using to improve access to care in Massachusetts. I was one of the founding members of the board and served as the board president from 2002 to 2005.

What are your primary duties as a board member?

As board members we are responsible for the financial well-being of the organization and for setting the priorities and direction of the organization. The HLA board is a delight to serve on because of the dedication and active involvement of so many of its members. It has been a pleasure to work with the staff and the board over the years.

How has HLA changed over the years?

HLA has grown substantially over the 12 years I have served on the board. We do both individual work as well as impact litigation and reform work such as in comments on proposed regulatory changes or legislation. I hope we continue to use individual cases to inform our impact work and to work closely with HCFA to support their policy work.

to serve on the Dean's Advisory Committee. The Committee's purpose is to advise and counsel the Dean on a range of issues affecting the School's mission, including promoting its programs and its state and national leadership. Anthony is an alumna of Suffolk University Law School and a member of the Adjunct Faculty, where she teaches Consumer Law and Business Regulation.

Rebecca Brink was asked to serve on The Boston Foundation's Youth Policy Initiative's Advisory Committee and attended its first meeting on January 22nd.

On January 31, 2008, the New York State Bar Association, Antritrust Law Section, presented its Annual William T. Lifland Community Service Award to HLA's Executive Director **Barbara Anthony** for her many years of service to the legal profession and dedication to enhancing consumer welfare. The Award was given at the Bar Association's annual dinner meeting held at the University Club in Manhattan. Microsoft prosecutor and now New York City schools Chancellor Joel Klein was also honored, and the Chair of the Federal Trade Commission, Deborah Platt Majoras was the keynote speaker.

Health Care For All and Health Law Advocates Win Hospital Accountability Grant from Community Catalyst.

Health Care For All (HCFA) and Health Law Advocates (HLA) applied to Community Catalyst (CC) for a grant that is part of CC's Hospital Accountability Project (HAP). That project received *cy pres* funds awarded out of a lawsuit against the Tenet Hospital System for unfair consumer practices. The funds are to be distributed to 15 states where Tenet hospitals are or were located. In Massachusetts, Vangaurd Health Systems owns the former Tenet hospitals in Worcester and the Metro West region. The grant awarded to HCFA and HLA is for measuring the impact of medical debt on access to care among vulnerable

HLA In the News!

[Click here](#) to read **Barbara Anthony's** Letter to the Globe, published in the Jan. 29th issue of *The Boston Globe*. Anthony's letter, written in response to a Jan. 26th editorial about children's dental care, urged the Commonwealth to take more proactive steps towards improving oral healthcare access for low-income Massachusetts children.

Anthony was also quoted in Jeffrey Krasner's *Globe* article "State says insurers must list executives' pay," which was published on 2/1/08. [Click here](#) to read the full story.

populations and the development of provider guidelines for fair debt collection and debt amelioration practices in Worcester and Metro West. It is planned that the project, which is supported by Vanguard Health Systems, will result in guidelines that can be adopted statewide. In addition to HCFA and HLA, other project partners are the Massachusetts Alliance of Portuguese Speakers, People Advancing Congressional Transformation (P.A.C.T) for Social Justice of Worcester, and the Artists Working Group. The grant award is for over \$80,000 over a two-year period.

HLA Wins Nord Family Foundation Challenge Grant

The Nord Family Foundation awarded HLA a \$20,000 challenge grant to establish a children's mental health Guardian ad Litem (GAL) project in Suffolk County. The GAL project involves the appointment of HLA attorneys by judges to serve as Guardians ad Litem for children in the juvenile court system with serious mental health issues. HLA has an ongoing child mental health GAL project in Dudley and Fitchburg. The Nord challenge grant will help establish a similar pilot program in Suffolk County. Under the challenge grant, HLA has to raise another \$20,000 for the project.

A huge thank you to Community Catalyst for awarding the Massachusetts Hospital Accountability Project grant to HCFA and HLA, and to the Nord Family Foundation for its \$20,000 children's mental health challenge grant to HLA.