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NOTE TO READERS

ON-LINE DELIVERY

This document presents the bi-monthly electronic newsletter of Fisher, Sheehan & Colton: *FSC's Law and Economics Insights*. Previous issues of the newsletter can be obtained at FSC's World Wide Web site:

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Fisher, Sheehan & Colton
Public Finance and General Economics
34 Warwick Road, Belmont, MA 02478
(voice) 617-484-0597 *** (fax) 617-484-0594
(e-mail) roger@fsconline.com

UTILITIES OFFER MEDICAL CERTIFICATES BUT MAY UNREASONABLY RESTRICT THEIR TERM.

One consumer protection commonly inserted into state public utility commission regulations restricting the disconnection of service involves the protection of customers facing serious medical conditions. Under state utility commission rules, these customers may, upon a certification of a medical professional, gain a delay in any disconnection of service for nonpayment that may otherwise be warranted by the circumstances.

In recent comments to the New Mexico Public Regulation Commission, Fisher, Sheehan & Colton (FSC) recommended that language be adopted to extend the minimum period for which a medical certificate is effective from 30 to 90 days.

The purpose of the change, FSC said, is to more accurately respond to the ability of low-income customers to access health care. In addition, the proposed modification minimizes the financial tension between accessing a health care provider and paying utility bills.

THE ABILITY TO ACCESS HEALTH CARE PROVIDERS

Extending the certification period for medical certificates, FSC said, more accurately responds to the ability of low-income customers to access the health care system.

It is unreasonable to require low-income customers to renew their medical certificates every 30 days when consumers have difficulty even scheduling medical appointments that frequently. One study of health care access in Northern California, for example, found that the

average wait time for an appointment was 55 days, and even then, patients had less than a 50-50 chance of seeing their own primary care physician.

The Northern California experience is neither localized nor unique. In Massachusetts, the average wait for a person to get an appointment with their primary care doctor is seven weeks, according to the Massachusetts Medical Society.

Low-income uninsured residents have even longer waits than others according to one health care research organization, the Boston-based Center for Community Health, Education, Research and Service. One problem with gaining such access is that weekend and evening appointment times are scarce. According to researchers at the University of Florida, more than two-thirds of the doctor's offices studied would not schedule appointments outside typical work week hours.

This situation is likely to continue to deteriorate. According to the American College of Physicians-American Society of Internal Medicine (ACP—ASIM), as cuts in Medicare reimbursement rates continue, cost-cutting measures in physician offices will even further limit service availability. The *Physician Workforce Study* (2008) by the Massachusetts Medical Society confirms this. The average wait time in days for an internal medicine appointment had nearly doubled from 2005 to 2008 (from 17.1 to 30.9 days) for new patients. The average wait time in days for an internal medicine appointment had increased by more than 25% for existing patients during that same time span.

In sum, the timeliness of medical care not only cannot be assumed for purposes of achieving the periodic recertification of medical certificates for continuing utility service, but such timeliness is unlikely. As recently as March 2007, the chief medical officer of Aetna, one of the nation's biggest insurers, told the Aetna Investor Conference that "the (U.S.) health care system is not timely." He cited "recent statistics from the Institution of Healthcare Improvement. . .that people are waiting an average of about 70 days to try to see a provider."[1]

In its New Mexico comments, FSC said that it was not its objective to document the exact wait time (in days) for a medical appointment. Instead, FSC said, whether the wait time is 55 days, seven weeks, 31 days, or 70 days, not one of these estimates supports the ability of a customer needing a medical certificate to gain a medical certification once every thirty days.

FSC recommended that the requirement for recertification be expanded to no more than once every 90-days.

THE INHERENT CONFLICT BETWEEN UTILITY BILL PAYMENT AND MEDICAL CARE

Expanding the certification period for medical certificates also helps to mitigate the inherent financial conflict between requiring low-income households to make continuing utility bill payments while at the same time requiring those households to seek continuing medical care. As low-income households devote their limited resources to medical care expenses, less money will be available to pay ongoing utility bills. If utility bills are paid, the customer has a lessened ability to seek medical care.

The conflict is not theoretical. The data cited above regarding the average wait time (in days) for a doctor's appointment understate the waiting time for uninsured persons, according to Physicians for a National Health Program (PNHP). Moreover, PNHP notes that these statistics do not capture the delays caused by people who put off needed medical care due to high co-pays or deductibles.

Moreover, the 2005 Congressionally-funded study of energy assistance recipients by the National Energy Assistance Directors Association (NEADA) confirms the conflict. The NEADA study found that 37% of LIHEAP households with a member who had a serious medical con-

[1] Medical News Today, July 10, 2007.

dition went without medical or dental care because of their home energy bills.

Indeed, nearly half (47%) of households with a member that relied on medically necessary equipment using electricity went without medical or dental care due to their home energy bills.

In contrast, households could pay their medical bills, thus leaving too little in their household budget to pay their home energy bills. The 2005 NEADA survey reports that nearly one-in-five (18%) LIHEAP recipients were unable to pay their home energy bills due to medical or prescription drug expenses.

The problem is more acute for households with uninsured members. Nearly twice as many households with no insurance or with some uninsured members were unable to pay their home energy bill due to medical or prescription drug expenses in the past year. The strain placed on the ability-to-pay home energy bills by medical or prescription drug expenses was particularly great for households with a member who relied on necessary medical equipment using electricity.

SUMMARY AND CONCLUSION

In sum, FSC found that its recommended extension of the protections of a medical certificate from 30-days to 90 days was needed to conform the availability of the protections for households needing continuing home energy service as a medical necessity with the realistic opportunity of low-income households to gain the necessary medical certification.

For help in assessing the adequacy of consumer shutoff protections in a particular state, or for a particular utility, contact:

roger[at]fsconline.com

Fisher, Sheehan and Colton, Public Finance and General Economics (FSC) provides economic, financial and regulatory consulting. The areas in which *FSC* has worked include energy law and economics, fair housing, affordable housing development, local planning and zoning, energy efficiency planning, community economic development, poverty and telecommunications policy, regulatory economics, and public welfare policy.