



pennsylvania

DEPARTMENT OF HUMAN SERVICES

THE TOBACCO SETTLEMENT

ANNUAL REPORT TO THE GENERAL ASSEMBLY

JULY 1, 2013 – JUNE 30, 2014

Tom Corbett
Governor

Beverly D. Mackereth
Secretary of Human Services

**THE TOBACCO SETTLEMENT
ANNUAL REPORT TO THE GENERAL ASSEMBLY
JULY 1, 2013 – June 30, 2014**

	Page
Executive Summary	3
Uncompensated Care for Hospitals	4
Home and Community-Based Services to Older Pennsylvanians	6
Chart 1 - Aging Waiver Funding Direct Service Costs	7
Chart 2 - Aging Waiver Funding Administrative Costs	
Table 1 - Summary of the Aging Waiver	8
Table 2 - Number of Applicants	
Table 3 - Funded Individuals (Aging Waiver Program)	11
Table 4 - Total Expenditure by PSA	
Table 5 - Aging Waiver Costs, Number of Claims and Consumers by Service Category for Fiscal Year 2013-2014	
Table 6 - Costs, Number of Claims and Number of Unduplicated Consumers by Service Category for FY 2013-2014	
Table 7 - Average State and Federal Costs per Individual	
Medical Assistance for Workers with Disabilities (MAWD)	17

EXECUTIVE SUMMARY

The Commonwealth of Pennsylvania joined 45 other states in November 1998 in a Master Settlement Agreement (MSA) with the tobacco industry, estimated to total \$206 billion over the first 25 years. Pennsylvania's share was estimated to be about \$11 billion between the years 2000 and 2025. Act 2001-77 allocates funds from the MSA for several health-related initiatives.

This report summarizes Tobacco Settlement Fund payments for the period of July 1, 2013 to June 30, 2014 for three areas: uncompensated care for hospitals, home and community based services for older Pennsylvanians, and Medical Assistance for Workers with Disabilities (MAWD).

UNCOMPENSATED CARE FOR HOSPITALS

Purpose and Description

The Tobacco Settlement Act of 2001 (Act 77), Chapter 11, established the Hospital Uncompensated Care Program to provide funding to hospitals that serve uninsured and/or low-income Pennsylvania residents. The Hospital Uncompensated Care Program is itself divided into two components – the Uncompensated Care (UC) Payment Program (which receives 85% of the available funds) and the Extraordinary Expense (EE) Payment Program (which receives the remaining 15% of the available funds). Act 77 specifies several requirements that a hospital must meet in order to be eligible for a payment under either the UC or EE Program. The purpose of the UC Program is to annually pay hospitals for a portion of the uncompensated care provided to patients. The EE Program compensates hospitals for specific cases of uninsured patients with very high costs. According to Act 77, if qualified under both programs, a hospital may elect to receive payment under the EE Program in lieu of payment under the UC Program. Dually qualified hospitals are notified and provided the opportunity to elect payment.

Benefit to Commonwealth

This hospital funding benefits the Commonwealth by promoting access to care for uninsured patients. The direct beneficiaries are Pennsylvania hospitals that are in the top half of hospitals treating Medical Assistance, Supplemental Security Income/Disabled and uninsured patients. Hospitals that incur occasional high extraordinary expenses treating uninsured cases can also benefit from the program. As these payments will help ensure the financial stability of qualified hospitals, the program also benefits the above-referenced patient populations.

Additional Issues or Concerns

Arbitration Panel Decision

In October 2013, the Pennsylvania Attorney General's Office notified the Governor's Budget Office that the state's annual share of the Tobacco Master Settlement Agreement would be reduced by approximately 54 percent of the state's base tobacco payment (an estimated \$180 million), as a result of a decision by an arbitration panel to address claims from 2003. Arbitrators had penalized Pennsylvania, finding that in 2003 it did not "diligently enforce" certain laws that require the collection of taxes and other payments from all tobacco companies, including ones that are not part of the 1998 settlement. In November 2013, Pennsylvania Attorney General Kathleen G. Kane asked Common Pleas Court in Philadelphia to overturn that arbitration decision. Judge Patricia McInerney denied the state's motion to vacate the arbitrators' decision, however, she granted the financial relief the state had requested. Because the arbitration decision was modified, the payment was reduced by an estimated \$60 million instead of the original estimated \$180 million. Currently, the FY 2013-2014 tobacco settlement funds are in reserve until the April 2015 master settlement agreement payment is received. The result is that no tobacco settlement funds were distributed to hospitals in FY 2013-2014 for uncompensated care. When reserve funds are released they will be included in a future annual report.

Audit of Tobacco UC and EE Payments

The Department of the Auditor General (DAG) has audited FYE 01 through FYE 10 Tobacco EE payments. The Department has recouped overpayments made to twelve hospitals in FYE 09 totaling \$3,760,134.67. Once the overpayments were collected, 65 underpaid hospitals received the balance of settlement money due them totaling \$3,955,548.45.

Per their letter dated April 14, 2009, the DAG began reviewing the FYE 2010 tobacco fund payments made to hospitals based upon uncompensated care scoring methodology.

The purpose of the DAG's review of the EE payments is to determine whether proper documentation exists to support the claims submitted as extraordinary expense eligible and whether each hospital received the payment to which it was entitled. The purpose of the DAG's UC payments review is to determine whether proper documentation exists for the fifteen data elements utilized by the Department and to ensure each hospital received the payment to which it was entitled.

The Department and the hospital industry realized from the initial EE payments that there were limitations with the available Pennsylvania Health Care Cost Containment Council (PHC4) data, due to the timing of the hospital data submission. The data submission process disregards changes in claim status, i.e., going from "self-pay" to insurance coverage, which can occur long after the data is submitted to PHC4.

Due to the PHC-4 web-based claims validation process, created in 2005, which allows hospitals to review and revise their self-pay records, the number of disallowed claims in the reviews completed by the DAG has been reduced. Although the percentage of allowable claims in FYE 2010 reflected a decrease from FYE 2009, considerable improvement has been made in claims data accuracy since the implementation of the PHC-4 website.

The Summary Report of the FYE 2010 Tobacco UC and EE payments was issued by the DAG on May 23, 2014. Due to the uncertainty concerning the future of the UC and EE Programs per the arbitration panel decision noted above, the Department chose not to establish or implement the new policies, procedures and practices the DAG recommended in its report. The Department also declined to make any funding adjustments for FYE 2010 for either the UC or EE component of the program.

EXPANSION OF HOME AND COMMUNITY-BASED SERVICES TO INDIVIDUALS OVER 60 YEARS OF AGE

Note on Data

The home and community based services section of this report is based on Medical Assistance claims data available as of November 2014. Under the rules of the Medical Assistance program, providers may bill for services rendered within six months from the date of service which means that all services provided during fiscal year 2013-14 may not be captured in this report. DHS estimates that the report captures approximately 90 percent of claims for fiscal year 2013-14. The Tobacco Fund did provide approximately \$42.0 Million additional funds towards the Aging Waiver. When matched with federal funds, \$88.6 Million was directed towards this program.

The legislation defined individuals who are enrolled and receiving Aging Waiver services as “funded” because the cost of their Plan of Care is paid in full with Medical Assistance funds. For the purpose of this report, individuals enrolled in the Aging Waiver will be referenced as “funded.”

Introduction

Act 77 funding allowed for the expansion of home and community-based services to better serve consumers who want to remain in their homes instead of receiving services in an institutional setting. Today, many older persons are living independently in their homes and communities. Throughout the Commonwealth, services are offered that enable individuals to remain in their homes and communities instead of going into institutional facilities. This care allows an older individual to live independently at home for as long as possible.

Act 77 allowed for increased opportunities for community-based services by funding expansion of home and community based services for older Pennsylvanians. The Act increased the number of older Pennsylvanians that could be served in the Medical Assistance community based waiver program, commonly called the Aging Waiver. The Waiver has been in existence since 1995 and allows many older Pennsylvanians to receive services in the community. Tobacco Settlement Funding allows more individuals to receive these services.

Chart 1

**Aging Waiver Funding for Fiscal Year 2013-14
Direct Service Funding**

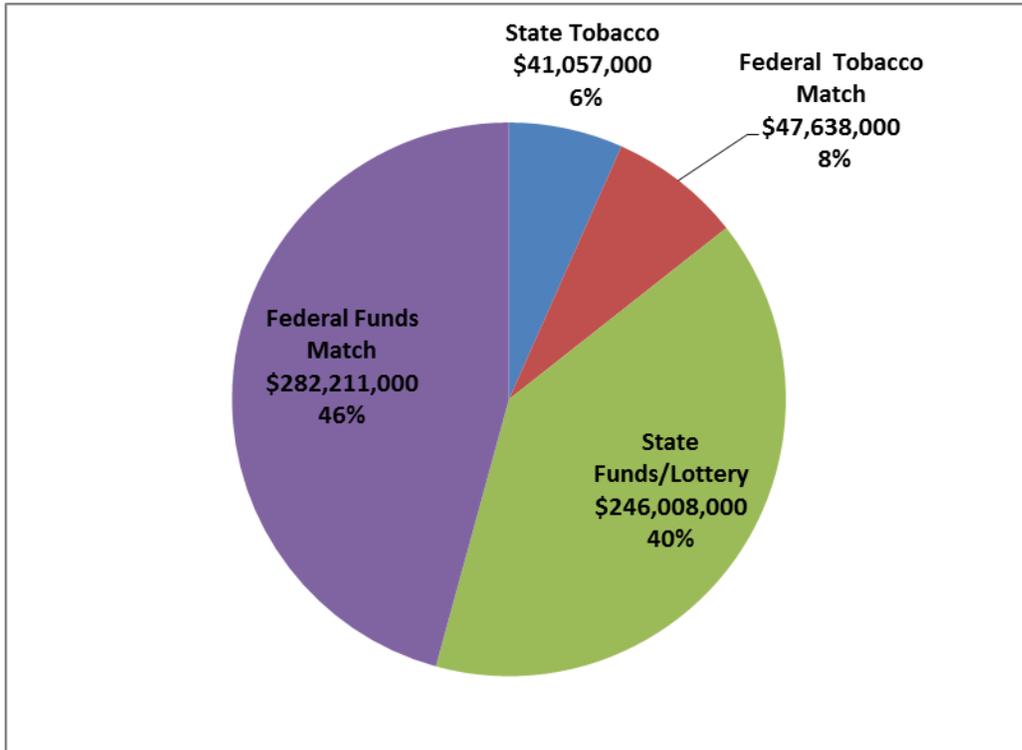


Chart 1 shows the funding sources for Aging Waiver for direct services to individuals. The total amount is \$616,914,000. Federal and State Tobacco Settlement Funds provide \$88,695,000 for direct care services in the Aging Waiver Program. No ARRA, IGT Federal or State dollars funded the Aging Waiver in FY 2013-2014.

Table 1

Summary of the Aging Waiver

Table 1 summarizes the key components and eligibility criteria for the Aging Waiver.

CHARACTERISTICS	AGING WAIVER
Level of Care	Nursing Facility Clinically Eligible
Age	60+
Monthly Income	\$2,130 or less
Resource Limits	Less than \$8,000*
Cost to Consumer	None
Waiver Service Categories	<ul style="list-style-type: none">○ Accessibility Adaptations, Equipment, Technology and Medical Supplies○ Adult Daily Living○ Community Transition Services○ Financial Management Services○ Home Delivered Meals○ Home Health○ Non-medical Transportation○ Participant Directed Community Supports○ Participant Directed Goods & Services○ Personal Assistance Services○ Personal Emergency Response System○ Respite○ Service Coordination○ TeleCare○ Therapeutic and Counseling Services

*\$2,000 with an additional \$6,000 disregard

The Tobacco Settlement funded 4,514 (31,344*14.4%) individuals in the expansion of the Aging Waiver during Fiscal Year 2013-14 and also supported Waiver Administrative and Service costs statewide.

Table 2

Number of Applicants for Fiscal Year 2013-14

An applicant is defined as a person who is 60 years of age or older and applies for services. Table 2 shows how many persons applied by Planning and Service Area (PSA) during the Period July 1, 2013 through June 30, 2014. Note: AAA is Area Agency on Aging

PLANNING AND SERVICE AREA (PSA)	APPLICANTS
Active Aging, Inc. (Crawford)	88
Adams County Office for Aging, Inc.	13
Aging Services, Inc. (Indiana)	52
Allegheny County DHS AAA	1,524
Armstrong County AAA	11
B/S/S/T AAA	153
Beaver County Office on Aging	108
Berks County Area Agency on Aging	277
Blair Senior Services, Inc.	140
Bucks County AAA	240
Butler County AAA	42
Cambria County AAA	59
Carbon County AAA	39
Centre County Office of Aging	71
Chester County Department of Aging Services	243
Clarion Area Agency on Aging	19
Clearfield County AAA, Inc	145
Columbia/Montour Aging Office, Inc.	111
Cumberland County Office on Aging	66
Dauphin County AAA	145
Delaware County AAA	451
Experience Inc. - AAA (Warren/Forest)	91
Franklin County AAA	61
Greater Erie Community Action Committee (GECAC)	470
Huntingdon/Bedford/Fulton AAA	56
Jefferson County AAA	69
Lackawanna County Area Agency on Aging	116
Lancaster County Office of Aging	150
Lawrence County AAA	12
Lebanon County AAA	77
Lehigh County Aging & Adult Services	134
Luzerne/Wyoming Counties Bureau	187
Mercer County AAA, Inc.	46
Mifflin/Juniata AAA, Inc.	35
Monroe County AAA	120

PLANNING AND SERVICE AREA (PSA)	APPLICANTS
Montgomery County Aging and Adult Services	438
Northampton County AAA	90
Northumberland County AAA	115
Office of Human Services, Inc. (Cameron/Elk/McKe)	123
OLTL - Office of Long Term Living	4
Perry County AAA	33
Philadelphia Corporation for Aging	4,699
Pike County AAA	32
Potter County AAA	30
Schuylkill County Office of Senior Svcs	158
Somerset County AAA	46
Southwestern PA AAA, Inc. (Wash/Fay/Greene)	617
STEP Office of Aging	96
Union-Snyder Agency on Aging, Inc.	78
Venango County AAA	45
Wayne County AAA	76
Westmoreland County AAA	171
York County AAA	78
TOTAL	12,550

Table 3**Funded Individuals (Aging Waiver Program) for Fiscal Year 2013-14**

Table 3 shows the number of individuals provided 100% assistance by Planning and Service Area (PSA). The second column indicates the number of individuals provided services which were paid for through the Tobacco Settlement Fund and Other State and Federal Funds.

PLANNING AND SERVICE AREA (PSA)	TOBACCO AND OTHER FUNDED INDIVIDUALS
Adams AAA	22
Allegheny AAA	2,497
Armstrong AAA	94
Beaver AAA	284
Bedford/Fulton/Huntingdon AAA	203
Berks AAA	621
Blair AAA	280
Bradford/Sullivan/Susquehanna/Tioga AAA	564
Bucks AAA	769
Butler AAA	111
Cambria AAA	120
Cameron/Elk/McKean (Off. of Human Serv) AAA	256
Carbon AAA	73
Centre AAA	149
Chester (Dept. of Aging Services) AAA	540
Clarion AAA	80
Clearfield AAA	321
Clinton/Lycoming AAA	207
Columbia/Montour AAA	200
Crawford (Active Aging, Inc.) AAA	227
Cumberland AAA	167
Dauphin AAA	414
Delaware AAA	1,360
Erie (GECAC) AAA	1,042
Fayette/Greene/Washington (Southwestern PA AAA, Inc.)	1,301
Forest/Warren (Experience, Inc.) AAA	441
Franklin AA	128
Indiana (Aging Services, Inc.) AAA	101
Jefferson AAA	176
Juniata/Mifflin AAA	130

PLANNING AND SERVICE AREA (PSA)	TOBACCO AND OTHER FUNDED INDIVIDUALS
Lackawanna AAA	303
Lancaster AAA	375
Lawrence (Catholic Charities) AAA	39
Lebanon AAA	108
Lehigh AAA	361
Luzerne/Wyoming AAA	371
Mercer AAA	88
Monroe AAA	252
Montgomery AAA	872
Northampton AAA	254
Northumberland AAA	260
Perry AAA	83
Philadelphia AAA	13,392
Pike AAA	114
Potter AAA	82
Schuylkill AAA	292
Snyder/Union AAA	213
Somerset AAA	92
Venango AAA	81
Wayne AAA	132
Westmoreland AAA	443
York AAA	259
TOTAL	31,344

* These numbers are greater than the number of applicants listed in Table 2 (12,550). They include enrollees who had enrolled prior to FY 2013-14 and continued to receive services in FY 2013-14 as well as the applicants listed in Table 2 who were enrolled. Not all applicants were determined eligible and subsequently enrolled.

Table 4
Total Expenditure by PSA for Fiscal Year 2013-14

Table 4 shows the total amount of direct service expenditures funded by the Tobacco Settlement Fund to individuals by their respective PSAs.

PLANNING AND SERVICE AREA (PSA)	TOTAL TOBACCO FUNDED DOLLARS (AGING WAIVER)
Adams AAA	\$59,642.01
Allegheny AAA	\$6,958,801.38
Armstrong AAA	\$224,457.41
Beaver AAA	\$523,348.68
Bedford/Fulton/Huntingdon AAA	\$660,468.48
Berks AAA	\$1,530,684.64
Blair AAA	\$737,856.66
Bradford/Sullivan/Susquehanna /Tioga AAA	\$1,382,064.80
Bucks AAA	\$1,901,369.09
Butler AAA	\$231,624.74
Cambria AAA	\$390,478.20
Cameron/Elk/McKean (Off. of Human Serv) AAA	\$543,371.99
Carbon AAA	\$192,044.75
Centre AAA	\$547,705.88
Chester (Dept. of Aging Services) AAA	\$1,344,512.49
Clarion AAA	\$250,068.23
Clearfield AAA	\$1,125,450.65
Clinton/Lycoming AAA	\$922,577.97
Columbia/Montour AAA	\$750,070.92
Crawford (Active Aging, Inc.) AAA	\$581,852.54
Cumberland AAA	\$447,717.33
Dauphin AAA	\$1,667,133.49
Delaware AAA	\$4,428,135.31
Erie (GECAC) AAA	\$3,464,334.96
Fayette/Greene/Washington (Southwestern PA AAA, Inc.)	\$2,755,120.84
Forest/Warren (Experience, Inc.) AAA	\$1,097,619.40
Franklin AAA	\$443,183.06
Indiana (Aging Services, Inc.) AAA	\$230,163.65

PLANNING AND SERVICE AREA (PSA)	TOTAL TOBACCO FUNDED DOLLARS (AGING WAIVER)
Jefferson AAA	\$567,471.71
Juniata/Mifflin AAA	\$637,773.79
Lackawanna AA	\$875,349.05
Lancaster AAA	\$1,419,168.14
Lawrence (Catholic Charities) AAA	\$102,848.29
Lebanon AAA	\$410,841.95
Lehigh AAA	\$968,163.48
Luzerne/Wyoming AAA	\$1,163,152.94
Mercer AAA	\$180,444.47
Monroe AAA	\$638,652.61
Montgomery AAA	\$2,844,931.55
Northampton AAA	\$783,713.17
Northumberland AAA	\$979,751.66
Perry AAA	\$323,675.43
Philadelphia AAA	\$36,725,867.63
Pike AAA	\$325,464.87
Potter AAA	\$174,921.65
Schuylkill AAA	\$817,496.60
Snyder/Union AAA	\$822,443.11
Somerset AAA	\$215,790.23
Venango AAA	\$154,787.46
Wayne AAA	\$378,650.56
Westmoreland AAA	\$792,435.49
York AAA	\$999,344.58
TOTAL	\$88,695,000

Table 4 Notes:

Numbers listed in bold type equal the total amount of funded dollars for their respective Planning and Service Area (PSA).

This number may not be a complete and accurate representation of the dollars paid to the Planning and Service Area due to the date on which the data was extracted.

Table 5**Aging Waiver Costs, Number of Claims and Consumers by Service Category for Fiscal Year 2013-14**

Table 5 provides the scope and average cost of services provided to funded individuals.

Service Category	Number of Paid Claims	Dollars Paid	Unduplicated Recipients Served	Cost per Participant
Accessibility Adaptations, Durable Medical Equipment and Supplies	42,751	\$9,230,943.51	8,347	\$1,105.90
Adult Daily Living	36,505	\$24,566,964.06	2,545	\$9,653.03
Community Transition Services	72	\$80,548.89	43	\$1,873.23
Enrollment Services	7,952	\$750,439.02	7,943	\$94.48
Financial Management Services	57,312	\$4,663,094.36	7,035	\$662.84
Home Delivered Meals	81,568	\$10,525,775.29	8,911	\$1,181.21
Home Health	16,519	\$2,757,345.18	1,794	\$1,536.98
Non-Medical Transportation	11,969	\$1,965,253.70	1,886	\$1,042.02
Participant Directed Community Supports	353	\$1,044,897.15	32	\$32,653.04
Participant Directed Goods & Services	11	\$7,165.48	8	\$895.69
Personal Assistance Services	1,013,051	\$512,555,103.37	26,958	\$19,013.10
Personal Emergency Response System	133,584	\$3,714,418.16	14,694	\$252.78
Respite	786	\$539,673.95	178	\$3,031.88
Service Coordination	227,800	\$36,047,212.09	29,868	\$1,206.88
Telecare	4,107	\$195,650.82	525	\$372.67
Therapeutic and Counseling Services	616	\$80,334.79	63	\$1,275.16
Other Procedures	936	\$1,240,212.88	476	\$2,605.49
Grand Total	1,631,637	\$609,965,032.70	32,145	\$18,975.42

The data in Table 5 does not account for the \$7.2 million spent on Nursing Home Transition Payments (NHP), and may not be a complete and accurate representation of the dollars paid, number of claims, and consumers served due to the date on which the data was extracted.

Table 6

Costs, Number of Claims and Number of Unduplicated Consumers by Service Category for FY 2013-2014

Source: DHS Paid Claims

Unduplicated Count of Recipients Served	
PDA Waiver	32,145

Table 7 shows the average expenditure per funded individual.

Table 7

Average State and Federal Costs per Individual

Source: DHS Paid Claims

	Funded (Aging Waiver)
STATEWIDE AVERAGE	\$18,975.42

The figure **\$18,975.42** is based on the average cost per *individual* with an average length of stay (enrollment period) in the Aging Waiver per individual of approximately 249 days.

PENNSYLVANIA'S MEDICAL ASSISTANCE FOR WORKERS WITH DISABILITIES (MAWD)

Background

The Ticket to Work and Work Incentives Improvement Act of 1999 (also known as the Ticket to Work) was passed by Congress with the purpose of eliminating barriers to employment faced by people with disabilities (PWDs). The Ticket to Work gives states the option to permit PWDs to work and to buy into Medical Assistance (MA). Pennsylvania exercised this option with the passage of the Tobacco Settlement Act (Act 2001-77 of June 26, 2001 (P.L. 755). On January 1, 2002, Pennsylvania utilized a portion of the funds from the Tobacco Settlement to begin operation of its Medicaid Buy-In program, known as Medical Assistance for Workers with Disabilities (MAWD). MAWD improves access to health care coverage for working PWDs. Individuals enrolled in MAWD may pay a premium for coverage, based on their countable income, and receive Categorically Needy MA coverage, which offers the full range of services provided under MA eligibility requirements.

The establishment of MAWD created two new MA eligibility groups: Worker with a Disability, and Worker with a Medically-Improved Disability.

To be eligible for MAWD as a Worker with a Disability, individuals must meet the following requirements:

- Be at least 16 years of age but less than 65;
- Be disabled according to the Social Security Administration (SSA) or Departmental Review;
- Have monthly income less than 250 percent of Federal Poverty Income Guidelines;
- Have resources less than, or equal to, \$10,000;
- Be employed and receiving compensation (no minimum monthly hours or earnings required).

To be eligible for MAWD as a Worker with a Medically-Improved Disability, individuals must meet the requirements listed above, and these additional requirements:

- Have previously had ongoing coverage under the Worker with a Disability group;
- Have a medically-improved disability that no longer meets SSA criteria;
- Be employed at least 40 hours per month and earning at least minimum wage.

All individuals enrolled in MAWD must pay a premium of 5 percent of countable (net) monthly income. The premium is waived when the monthly premium amount is under \$10.

Individuals interested in MAWD may apply through their local county assistance office (CAO) or online via COMPASS, Pennsylvania's online application for social services.

Impact

Prior to the implementation of MAWD, many PWDs would not enter the workforce because earnings from work would make them ineligible for MA. With the implementation of MAWD, PWDs on MA can now obtain a job and maintain their health care coverage. In addition, working PWDs who lack insurance, or are underinsured, can apply for MAWD and obtain necessary health care coverage.

MAWD pays for potentially expensive medical treatment and prescriptions that many individuals require in order to maintain employment. However, some of these individuals have Medicare Part A, Part B and Part D coverage. MA continues to be the payer of last resort. Retaining MA coverage allows these individuals to stay in the workforce and remain productive citizens.

As of December 2013, MAWD had 33,900 PWDs enrolled in the program.

Enrollment	Month/Year	Percent Change
1,325	December 2002	NA
2,466	December 2003	86%
4,365	December 2004	77%
6,596	December 2005	51%
9,333	December 2006	41%
8,116	December 2007	-13%
12,163	December 2008	50%
16,387	December 2009	35%
20,889	December 2010	27%
26,416	December 2011	26%
29,300	December 2012	11%
33,900	December 2013	16%

NOTE: Numbers do not include Medically Improved Category MAWD (PI). There have been fewer than five individuals enrolled per quarter.

Associated Activities

Education and Outreach

The Department of Human Services (DHS) is actively involved with carrying out outreach and education about MAWD. In addition, information about MAWD can be found on DHS's website at:

<http://www.dhs.state.pa.us/fordisabilityservices/healthcarema/medicalassistancebenefitsforworkerswithdisabilities/index.htm>. A Braille version, a version on tape, and a compact disc have been developed for persons who are blind or have visual impairments. DHS has also developed videos for outreach and education. *Dreams and Reality* discusses why individuals with disabilities should consider returning to work and *A Winning Connection* is geared to the business community and discusses the advantages of hiring individuals with disabilities.

DHS staff and CAOs continue to present information on MAWD to organizations and at health fairs. Informational packets containing Works for Me posters, brochures, and DVDs were sent to human service providers, local government agencies, Career Links, legislative district offices, chambers of commerce, the Office of Vocational Rehabilitation offices, educators, and other stakeholders. Live trainings, as well as webcasts posted on the WFM website have been completed on Work Incentives and the TTW Program for human service professionals, educators, and people with disabilities and their families. The WFM website and helpline continue to provide information and resources to people with disabilities seeking employment. The result has been a continual increase in enrollment of MAWD-eligible individuals.