National Center for Medical Legal Partnership

RAISING THE BAR FOR HEALTH

Utility Access and Health

A Medical-Legal Partnership Patients-to-Policy Case Study

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Medical Legal Partnership | Boston

RAISING THE BAR FOR HEALTH

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About this Report

Medical-legal partnerships operate at the intersection of public policy and patient care and are uniquely positioned to identify areas for institutional, regulatory and legislative change that affect patient health.

Using Medical-Legal Partnership | Boston's utility advocacy as a backdrop, this report highlights the impact medical-legal partnership can have on systems change and underscores the need for active medical-legal partnerships to expand upon their dynamic service delivery model for a broader impact on policy. To address the problem of utility access for low-income patients at Boston Medical Center (BMC), BMC health care providers and **MLP | Boston**'s legal team began by *training front line healthcare staff* and *providing direct legal assistance* to low-income families, and then created institutional solutions that led to *systemic impact* across the state.

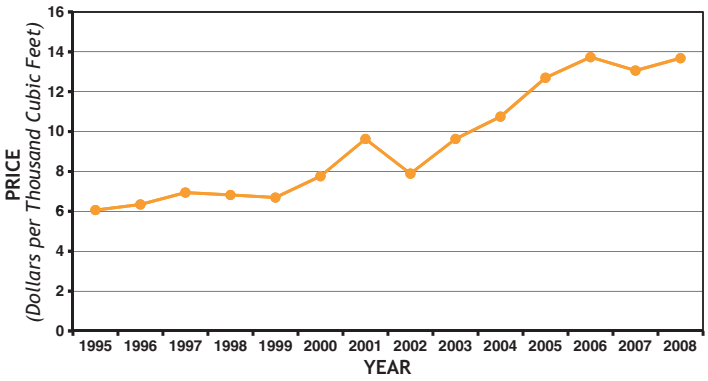
The Energy Crisis and Its Impact on Low-Income Individuals & Families

Consider a blackout on a steamy summer afternoon. In an instant, the lights go out, the air conditioner shuts off, and the milk in the refrigerator starts to spoil. It's an unpleasant surprise, but at least the utility company is working to get the power on as soon as they can.

Yet for a growing number of Americans, utility companies are actually doing the opposite — they're turning the power off. With energy prices rising amidst a deep recession, millions of people are falling behind on energy bills. When the lights go out for these families, it's not because of a downed power line; it's because they can't afford to keep them on.[1]

Figure 1 [2]

U.S. Price of Natural Gas Delivered to Residential Consumer



When a household loses utility service, the potential health consequences are severe and wide ranging. Cold weather can be a trigger to asthma, and low temperatures can cause intense pain crises for children with sickle cell disease.[3] When family members who are chronically ill or disabled rely on refrigerated medicine or electronic medical equipment in their homes, the risks during power outages are especially grave.

Even for low-income households that manage to pay their utility bills, high energy costs often force families to dig into their food budget, exposing them to other negative health outcomes.[4] Households in poverty often sacrifice rent payments, medical and dental care, and food in order to pay their energy bills, which can consume 16 to 25 percent of their annual income.[5]

"When families are forced to make this 'heat or eat' tradeoff, it's a no win situation," says Lauren Smith,

Medical Director of the Massachusetts Department of Public Health. "You can't give up a balanced diet or energy access and expect to stay healthy, but for more and more families, there's just not enough money to pay for both."

While federal and state governments provide small grants to individuals and families at or below poverty guidelines through the low-income home energy assistance program (LIHEAP), only about 7.5 million households, or one quarter of eligible households nationwide, received grants in 2009.[6]

The threat of utility shut-off confronts virtually all of the 24 million low-income households in the U.S. Forty seven states offer some form of utility *shut-off protection*[7], a guarantee of uninterrupted utility access for vulnerable individuals and families. Shut-off protection requires a doctor's letter at specified intervals and varies drastically by state based on time of year, cold weather and illness. Shut-off protection ensures continued access to heat and electricity, but does not erase utility debt or reduce cost to the consumer.

Shut-off protection programs vary greatly from state to state. Alabama and Arizona have temperature based requirements, while Massachusetts and Washington offer utilities protection only during certain months of the year.[8] Fewer than a dozen states have shut-off protections in place during the summertime. Almost all states offer shut-off protection for those with chronic serious illness, which must be verified by a letter from a medical provider, but each state has its own policy on how often letters must be recertified so that families continue receiving shut-off protection.

A Three Pronged Approach to Utility Advocacy:
How one MLP improved utility access for low-income individuals and families through training, direct service and systemic advocacy

Medical-Legal Partnership | Boston was alerted to the "heat or eat"[9] problem through years of collaboration with Children's HealthWatch (formerly C-SNAP) and the Boston Medical Center Grow Clinic and Food Pantry. Lawyers at **MLP | Boston** observed that many of their clients were struggling to pay their energy bills and could benefit from government utility programs, with help from their medical providers.

Physicians at the Boston Medical Center also recognized a staggering need for shut-off protection letters. "When you have a large urban clinic like ours that sees more than 24,000 families—most of whom will qualify for government protections for low-income families—you just have a huge volume of families who need this," explains Dr. JoseAlberto Betances, **MLP | Boston** Pediatric Medical Director.

To maximize utility access for patients while minimizing the clinical hassle, the pediatrics clinic at BMC partnered with **MLP | Boston** and homed in on the issue of shut-off protection. What began with *training* and *direct service* evolved into a campaign for *institutional and regulatory change*, which ultimately helped thousands of low-income families and individuals meet their energy needs.

"If my low-income patients with chronic disease are forced to make difficult budget choices, the last thing I want is for them to worry about whether their power is going to stay on. Shut-off protection is one way I know I can help a parent who's struggling to meet his or her families' living needs."

— Dr. Megan Sandel
Medical Director, National Center for MLP

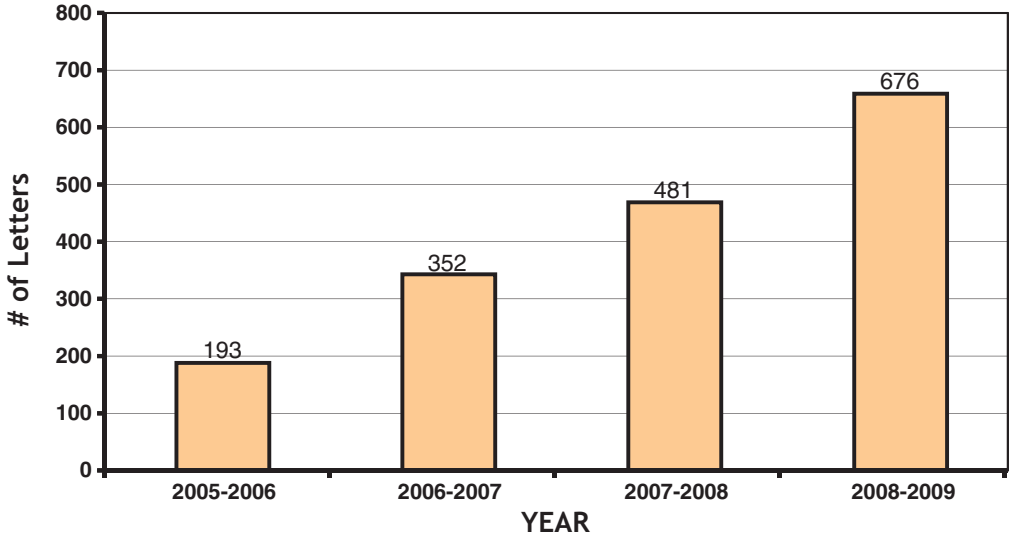
Training Health Care Providers to Recognize Links Between Utilities and Health

In 2005-2006, the BMC pediatrics clinic wrote 193 shut-off protection letters to utility companies on behalf of patients. **MLP | Boston** worked to increase this figure and the number of families receiving utilities assistance by training healthcare staff in the pediatrics department to routinely ask patients questions about their energy needs.

The lawyers employed a variety of training strategies, including poverty simulations,[10] three hour Advocacy Boot Camps and the creation of an annual Utilities Awareness Week at BMC to help providers understand the struggles of balancing different needs—for food, utilities, rent and medicine. With a better understanding of patients' daily struggles, the health care staff was able to reach out to patients and help them secure shut-off protection.

Training began in 2006. By 2007, physicians at the pediatrics clinic were producing 80 percent more letters certifying patients for utilities shut-off protection (*Figure 2*).

Figure 2
Protection Letters Written in BMC Pediatric Clinic



The Evolution of Medical-Legal Partnership Advocacy:

Initial Problem:
Many patient families are at risk of utilities shut-off due to expensive energy bills. Heat and electricity are key to health.

Training:
MLP | Boston trains health care providers to screen for energy needs and write shut-off protection letters to utilities companies.

Increased Direct Service:
MLP | Boston opens Energy Clinic to handle an increase in utility cases referred by health care providers.

Energy Clinic and Department-wide Policy Changes

With health care staff trained to screen for energy needs, physicians were making more and more referrals to **MLP | Boston** legal staff, who then met with patients to review their utility related advocacy needs.

To support and sustain this work, **MLP | Boston** implemented a weekly Energy Clinic program to consult with patient-clients about both nutrition and utility stability concerns.

MLP | Boston also worked to streamline the process for writing shut-off protection letters to help medical staff handle growing requests for letters. At the time, the BMC Department of Pediatrics did not have an explicit and consistent procedure for executing utility protection letters. The legal team helped to create templates in Logician for the certification letters so that providers could fill in relevant details, instead of having to write each letter from scratch. The templates were included in a binder called the Utility First Aid Kit, which was distributed to the health care staff. These practices are now widely used throughout the hospital and affiliated community health centers.

Following these institutional changes at BMC, the pediatrics clinic was better equipped to help patients obtain utility shut-off protection. In a one year span that ended in 2009, the clinic produced 676 shut-off protection letters for families struggling to pay their energy bills.

The Evolution of Medical-Legal Partnership Advocacy, *cont.*:

Better Screening = Clinical Burden

Health care providers are successful in screening for utilities issues, but burdened by growing requests for letters.

Institutional Systemic Advances

MLP | Boston creates a utility shut-off protection form letter in Logician for health care providers and develops a Utilities First Aid Kit.

Need for Regulatory Change

Conversations between health care and legal providers highlight a need for regulatory changes around recertification.

Problems Run Deeper: Need for Regulatory Change

Despite the success of trainings, Energy Clinic and the Utility First Aid Kit, **MLP | Boston** staff soon noticed a new problem. Through regular interaction with health care providers, **MLP | Boston** attorneys learned that patients and physicians were still being burdened by heavy paperwork related to the recertification process. Laws in Massachusetts required that families recertify their medical eligibility for shut-off protection every 30 to 90 days (depending on the illness). This meant that many families had to come back to their clinicians again and again to request new letters while dealing with illnesses. One chronically ill patient needed ten separate shut-off protection letters from his physician.

These requirements created an added stress for patients, who were faced with the constant threat of losing their utility protection and had to make more trips to the hospital to get letters. This often leads to time away from work and additional transportation expenses. At the same time, busy health care staff were burdened by administrative work related to the frequent requests for recertification letters, contributing to the sense of overwhelm that pervades healthcare providers serving low-income populations.

Nurses had to make sure each letter contained a parent's signature, a doctor's signature, and the family's utility account number. When some utility companies began to claim they weren't receiving the faxed letters, the nurses had to keep a copy of each individual fax sent out as proof.

"It's frustrating to have such a complicated system regulate such a basic need as energy," **MLP | Boston** *pro bono* director JoHanna Flacks says. "But instead of focusing that frustration on patients, it's important to use it to make the system better serve the people it's designed to protect."

With an eye towards systemic change, **MLP | Boston** lawyers set out to help their patient-clients by improving the recertification process for utilities shut-off protection. To get a sense of the political landscape surrounding energy policy, the legal team reached out to Charlie Harak, a lawyer at the National Consumer Law Center (NCLC), well-recognized as a leading expert in utility consumer protection law.[11] Harak shared Flacks' commitment to making progress at the public policy level.

"When you create systemic solutions in any state, you can protect literally thousands, if not tens of thousands, of people from losing their utility service," Harak says. "If you're changing the rules, you make sure all customers will get the benefit of what otherwise only an individual with a good advocate would get."

Flacks also reached out to Kathy Tobin, the director of energy services for Action for Boston Community Development, Inc. (ABCD).[12] Like Harak, Tobin was excited about the possibility of having doctors support ABCD's advocacy. And because of her previous advocacy experience, Tobin was able to share her knowledge of the utilities commission with Flacks as the two prepared to advocate for their low-income clients.

DPU Hearings

The Department of Public Utilities opens hearings regarding regulation changes. MLP is in a unique position to provide expert testimony.

Policy Changes

New rules extend the protection period for chronically ill patients, authorizes nurse practitioners and physician assistants to write letters and provides broader access for infants and the elderly.

Impact

Patients and providers are less burdened by the recertification process. Low-income families have greater access to shut-off protection that protects health.

NCLC and ABCD submitted their own comments, leveraging their organizations' expertise to advocate for many of the same changes **MLP | Boston** was endorsing. For each organization, the support from **MLP | Boston** — and specifically, physicians — made their case far stronger.

Charlie Harak, NCLC:

"I've always found that framing poor people's issues in a public health context gets you a lot more traction. It's the difference between begging for crumbs and letting an expert speak."

Kathy Tobin, ABCD:

"[Physicians] are very helpful in our cause because of the leverage they bring. Their expert testimony gives credence to what we're saying."

In addition to partnering with experienced advocates, health care providers can increase their familiarity with their local utilities commission by browsing its website. A list of state commissions can be found on the National Association of Regulatory Utility Commissioners' website, at: http://www.naruc.org/commissions.cfm.17

Problems Run Deeper: Need for Regulatory Change

As some of the leading utility access programs in the area, the staffs at NCLC, ABCD and **MLP | Boston** were among the first to hear in early 2008 that the Massachusetts Department of Public Utilities (DPU) was re evaluating its existing regulations. When they heard this news, each program started preparing a formal recommendation to submit during the public comment phase of the evaluation.

Because state public utility commissions operate independently, it is sometimes difficult to predict when an opportunity to affect public policy will open up in a given state, Harak says. When it comes to finding the right time to act, his best advice to health care providers is to work closely with advocates more familiar with the utility commission.

"It's often obvious to advocates when there might be a window of opportunity to score some big picture policy changes," he says. "But it would be much harder for those in the medical establishment to see when those windows open."

Tobin has similar advice for those looking to impact policy, stressing the importance of communicating with local and state commissions. "We always want to keep in touch with the Department of Public Utilities," she says. "It is the body that can ultimately have the most leverage in pushing the utility companies in the direction that is most helpful to the consumer. You have to know how they want things to be done, work around how they do things, and make yourself available according to their schedule."

Mindful of the deadline for providing public comment on the DPU investigation, the **MLP | Boston** team started preparing written testimony documenting the negative health impact of some current utility regulations. The resulting 10 page document proposed specific ways to streamline the system, such as creating a common set of forms for each utility company to use. The **MLP | Boston** testimony drew upon the clinical experience of BMC doctors to highlight the health impacts of utility practices:

"These administrative burdens result in only a fraction of eligible families getting the protections they are eligible for by law, and this results in such unnecessary health hazards as families foregoing utility service during warmer months instead of engaging in the recertification process, only to find that service cannot be restored when it gets colder because the family is no longer considered a customer… This increases homelessness risk and harms health, especially for those with medical conditions particularly dependent on safe climate control (e.g. asthma, diabetes and sickle cell disease)."

Along with submitting written testimony, Flacks attended multiple public DPU hearings on the investigation. At the hearings, she heard what the utility companies said about the proposed changes. When she submitted additional comments in the next phase of the investigation, she was able to piggyback on some of the arguments made by utility company executives:

… As Ms. Penni Connor, NSTAR's Customer Care Vice President, testified at the hearings, it is important that we conclude this investigation with a "bias for action" because we are indeed confronting a real time emergency that other commenters have documented in detail, and that the Department has already recognized by convening this investigation.

… [MLP | Boston] urges the Department to heed the well reasoned comments of panelists…[including] Ms. Amy Smith of National Grid who oppose any changes that would deliberately or inadvertently put up more barriers to accessing medical protection…

Results: Changes to Massachusetts Energy Regulations

On November 18, 2008, after **MLP | Boston**, NCLC, and ABCD spent months crafting recommendations to the DPU and attending public hearings, the commission announced that it was changing its energy regulations. Among other changes, the sweeping order:[13]

- **extended shut-off protection to households with infants, and households with children where all adult residents are over 65;**
- **relaxed the illness recertification requirements, giving families with a sick member more time before they needed another certification letter (six months for chronic and serious illnesses); and,**
- **authorized nurse practitioners and physician assistants as well as doctors to sign the certification letters.**

It was an important win for low-income families across the state. In its explanation of the changes, the DPU cited comments from **MLP | Boston**:

In D.P.U. 08 4, the Department heard testimony that loss of utility service is hazardous to the health of children. D.P.U. 08 4 (Medical-Legal Partnership | Boston Initial Comments at 1).[14]

In D.P.U. 08 4, the Department heard testimony that allowing only a registered physician or local board of health official to certify and renew the certification of a serious illness, combined with the frequency that renewals are required, has created a significant backlog in medical offices. D.P.U. 08 4 (Medical-Legal Partnership | Boston Comments at B).[15]

From the DPU's explanation, it is clear that doctors' voices carried particular weight as the department considered how to restructure its rules. After years of collaboration to keep the power on for struggling Boston families, BMC's healthcare team and the legal staff at **MLP | Boston** directly influenced policy.

Impact

As a result of **MLP | Boston**'s efforts, coordinated with those of other utility advocacy groups, time strapped health care staff at hospitals across the state no longer have to recertify the same serious health conditions every month. That means a lot less paperwork, so doctors and nurses can spend more time with their patients.

But the real winners in this story are the low-income families and individuals with serious chronic medical conditions—the people whom the rules are designed to protect. Patients who for years had to deal with a burdensome recertification process while simultaneously battling a chronic illness now have greater access to uninterrupted energy services. Instead of making frequent trips to the doctor to get their illnesses certified again and again, these patients now only need to get certification letters twice a year.

The small changes in the DPU regulations continue to have a huge impact on patients' lives. For many of Boston's most vulnerable families, having uninterrupted utilities access for a six month period contributes to peace of mind throughout the year. With the revised regulations in place, longer shut-off protection periods can carry patients through cold winter seasons and hot summers, allowing them to focus on their health and the health of their families.

Conclusion

Health care provider voices and experience carry enormous weight in public policy debates about the needs of vulnerable populations. **MLP | Boston**'s policy impact demonstrates that health care providers can improve their advocacy impact by linking with lawyers who care for their patients. Using a patients-to-policy model, medical-legal partnerships can work across disciplines to change systems, improve compliance, and increase access to basic needs which is the key to shifting the health trajectory of vulnerable individuals and families.

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[10] Poverty Simulation is a training tool developed by the Missouri Association for Community Action. For more information, visit: www.communityaction.org

[11] For more information on the National Consumer Law Center, visit: www.consumerlaw.org

[12] For more information on Action for Boston Community Development, Inc., visit: www.bostonabcd.org

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The National Center for Medical-Legal Partnership supports the expansion, advancement, and integration of the medical-legal partnership model by providing technical assistance to partnership sites, facilitating the MLP Network, promoting leadership in law and medicine and coordinating national research and policy activities related to preventive law, health disparities, and the social determinants of health.

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Medical-Legal Partnership | Boston allies health care providers with lawyers to improve the health and well being of vulnerable populations. Combining the strengths of law and medicine, **MLP | Boston** ensures that patients' basic needs for housing, food, education, health care and personal and family stability are met. **MLP | Boston** trains healthcare providers to recognize the connection between legal needs and health, provides direct legal assistance to patient-clients at Boston Medical Center and six affiliated community health centers, and engages healthcare providers in systemic advocacy projects that affect patients. **MLP | Boston** is the Founding Site of the national MLP Network.

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