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Summary of the California 2011-12 Enacted Budget: Impact on Older Adults and People with Disabilities

On June 30, 2011, California Governor Jerry Brown signed the 2011-12 budget. The enacted budget includes significant cuts and prepares the framework for additional cuts in the following 2012-13 budget year that negatively impact health and human services programs serving older adults and people with disabilities.

Budget Timeline and Recent Budget Actions

January: When Governor Brown released the 2011-12 proposed budget in January, the Department of Finance projected a General Fund (GF) shortfall of $25.4 billion for 2011-2012. At that time, the governor proposed $12.5 billion in spending reductions as well as taxes and other budget solutions to close the budget gap, which included significant cuts to programs that serve older adults and people with disabilities.

February: The Department of Finance indicated that the 2011-12 budget deficit had grown to $26.6 billion.

March: The Legislature approved, and Governor Brown signed into law, a series of budget-related measures (referred to as "trailer bills") that reduced the budget deficit by $11 billion through spending reductions and other modifications. However, the main budget bill (SB 69) was not sent to the governor, as Democrats and Republicans could not agree on how to close the remaining deficit (e.g., additional reductions, tax extensions, other revenue enhancements, further program changes).

May: The May Revision of the 2011-12 budget, reflecting updated estimates for state revenue and spending, projected higher-than-anticipated revenues of $6.6 billion. Governor Brown called for $10.8 billion in spending reductions, revenues and other modifications. All the while, the governor maintained that spending reductions as well as tax extensions or other revenue enhancements would be needed to avoid an "all cuts" budget.

June: On June 15, 2011, the Legislature passed a budget through a majority party-line vote, which the governor vetoed the next day on the basis that it was not "financeable" and did not present a "balanced solution."[1] Soon thereafter, State Controller John Chiang indicated that the 2011-12 budget, as passed by the Legislature, was "incomplete

and unbalanced."[2] His analysis focused on whether the budget met the requirements of Proposition 58, requiring the state to enact a balanced budget. Finding that the budget was not balanced, the controller determined that legislators must forfeit their legislative pay per Proposition 25, as they had missed the June 15th deadline for a balanced budget. The governor worked with Democrats to develop a final budget package passed by majority party-line vote on June 28, 2011, and enacted into law on June 30, 2011.

Program Cuts

The following items of importance to older adults and persons with disabilities reflect items that the governor signed into law as part of the final budget actions.

Adult Day Health Care (ADHC)

ADHC is a community-based day care program that provides health, therapeutic, and social services to persons at-risk of nursing home placement. Prior to its elimination as a Medi-Cal optional state plan benefit, ADHC served approximately 35,000 individuals in approximately 309 centers across California.[*] [3]

Previous Budget Actions

In March, ADHC was eliminated as a Medi-Cal optional State Plan Benefit for $170 million GF savings in 2011-12.[4] The Legislature intended to create a new, more narrowly-defined Medi-Cal program called "Keeping Adults Free from Institutions" (KAFI) with $85 million GF. In June, the Legislature passed AB 96 (Blumenfield), which authorizes the creation of the KAFI program, and directs the state to submit an application to the federal Centers for Medicare and Medicaid Services (CMS) to implement the KAFI program.

Enacted Budget and Current Status

The enacted budget includes $85 million GF for individuals served in ADHC. However, the Legislature has not transmitted AB 96 (Blumenfield) to the governor, meaning that it is not current law. Further, while the $85 million GF is retained in the budget, the governor vetoed a provision that would have directed the use of the funds for transition to other Medi-Cal services and facilitated the transition to federal waiver services under KAFI. Instead, the governor indicated in his veto message that the funds should be used "to transition current (ADHC) beneficiaries to other appropriate services. This may include seeking federal waiver services and developing alternative funding arrangements to preserve services at existing centers."[5] The governor's message did not specify as to what the $85 million GF could be used for aside from "transition" services. Below are additional actions that have occurred associated with this budget action:

- **CMS Approval of Elimination:** In a letter dated July 1, 2011, CMS approved California's State Plan Amendment to eliminate ADHC as a Medi-Cal Benefit, effective September 1, 2011.[6]

[*] At press time, 11 ADHC centers had closed since March when the legislature approved the elimination of the ADHC Medi-Cal benefit. Further closures are anticipated.

• **DHCS Transition Plan Issued:** Following CMS' approval of the elimination of ADHC as an optional Medi-Cal state plan benefit, DHCS issued a three-page transition plan that provides a rough outline for how the department will proceed with transitioning approximately 35,000 ADHC participants into other programs and services.[7]

• **Lawsuit filed:** On June 9, 2011, seven plaintiffs filed a motion for a preliminary injunction of the state's elimination of ADHC as a Medi-Cal benefit in a class action lawsuit on behalf of 35,000 low-income people with disabilities, including older adults enrolled in ADHC. Filed in federal court, the case is called *Darling et al. v Douglas, et al.* Plaintiffs are seeking to stop the state from eliminating Adult Day Health Care (ADHC) as a Medi-Cal benefit as of September 1 without ensuring that affected people are not harmed, including by being hospitalized or placed in nursing homes.[8] The court has not yet issued a ruling on this case.

In-Home Supportive Services (IHSS)

IHSS provides in-home assistance to low-income adults who are over 65 years of age, blind, or disabled, and to children who are blind or disabled. County social workers assess individuals using a standardized assessment to determine need and then authorize service hours per month based on functional scores (1=lowest need; 5=highest need). For 2011-12, it is projected that IHSS will serve 438,000 individuals on average each month.

Previous Budget Actions

In March, the following IHSS proposals were adopted:[9]

- **Eliminate IHSS Hours for Recipients without Physician Certification:** The provision of IHSS services will be conditioned upon a physician's written certification that personal care services are necessary to prevent out-of-home care, providing GF savings of $67.4 million in 2011-12.

- **Eliminate State Funding for IHSS Advisory Committees:** IHSS Advisory Committees maintain responsibility for submitting program recommendations to county boards of supervisors. Counties are no longer mandated to establish these committees, providing a savings of $1.5 million GF in 2011-12. Counties will have the option of continuing advisory committees, with $3,000 provided for each advisory committee.

- **Caseload Savings:** It is assumed that, on average, fewer individuals per month will enroll in IHSS than had originally been projected for both the remainder of 2010-11 as well as for 2011-12, for a combined savings of $83.2 million GF.

- **Community First Choice Option:** The legislature scored a savings for IHSS under the assumption that the state will apply for and receive the new federal Community First Choice State Plan Option. This new Medi-Cal State Plan Option would provide community-based attendant services and supports to IHSS consumers who meet nursing facility eligibility criteria. This program would also include a six percent increase in California's Federal Medical Assistance Percentage (FMAP), the amount that the state is reimbursed for the costs of services as part of its participation in the Medicaid program, for an anticipated savings of $128 million GF in 2011-12.

- **Pilot Project for Medication Management:** A new pilot project will utilize automated medication dispensing machines to monitor and assist Medi-Cal recipients with taking prescribed medications. It is assumed that this pilot project will lead to $140 million GF in savings for 2011-12 by preventing unnecessary hospital and nursing home admissions that result from individuals not taking medications as prescribed. To the extent that the pilot project and/or other savings proposals enacted by the Legislature do not achieve a combined savings of $140 million, enacted legislation requires an across-the-board reduction in authorized hours for IHSS recipients beginning October 1, 2012 to account for the shortfall.

- **IHSS Public Authority Reduction:** IHSS Public Authorities are established in statute to perform a number of functions for the IHSS program including acting as an employer of record for IHSS workers, maintaining provider registries, providing training for consumers and providers, and other functions. Due to slower estimated caseload growth, lower projected service hours, and the 3.6 percent across-the-board reduction in hours assessed for IHSS recipients,[*] Public Authority administration funding was decreased by $0.889 million GF. The governor's May Revision proposed further reductions to the Public Authorities of $2.2 million GF. The Legislature rejected this May Revision proposal.

Enacted Budget and Current Status

The enacted budget contains no new cuts or program modifications to IHSS beyond what was approved as part of March budget actions.

Multipurpose Senior Services Program (MSSP):

MSSP provides case management services for seniors age 65 and older who are Medi-Cal eligible and who qualify for placement in a nursing facility but who wish to remain in the community. In addition to case management services, MSSP funds can purchase adult day care, housing assistance, chore and personal care assistance, protective supervision, respite, transportation, meal services, social services, and communications services. In 2008-09, MSSP served approximately 13,600 individuals.[10]

Previous Budget Actions

In March, the Legislature reduced MSSP funding by $2.5 million GF, and directed the administration to consult with the federal government about how to achieve the savings operationally and minimize any impacts on the number of individuals served.

Enacted Budget and Current Status

The enacted budget contains no new cuts or program modifications to MSSP beyond what was approved as part of March budget actions.

[*] The 3.6 percent reduction was included in the 2010-11 enacted budget.

Medi-Cal Reductions

Previous Budget Actions

- **Utilization Controls:** There will be a maximum annual benefit dollar cap for hearing aids of $1,510, for a savings of $229,000 in 2011-12. In addition, the number of doctor visits will be limited to seven per year, for a savings of approximately $41 million in 2011-12. The utilization controls are scheduled to take effect October 1, 2011. This proposal is subject to federal approval, which has not yet been secured.

- **Other Benefit Changes:** Restrictions will be placed on the use of supplemental nutrition products ($13.8 m GF savings), and coverage will end for over-the-counter cough and cold medications ($2.1m GF savings).

- **Co-Payments:** There will be a $5 co-payment for physician, clinic, and dental services, for a $157.3 million GF savings in 2011-12. There will be a $50 co-payment for emergency room services, for a $96.8 million GF savings in 2011-12. There will be a $100/day and $200 maximum co-payment for inpatient stays, for a $128.7 million GF savings in 2011-12. There will be a $3 or $5 co-payment for pharmacy (based on drug status), for a $128.4 million GF savings in 2011-12. These new co-payments are scheduled to take effect on November 1, 2011. This proposal is subject to federal approval, which has not yet been secured.

- **Provider Rate Reductions:** Provider payments will be reduced by 10 percent for physicians, pharmacy, clinics, medical transportation, home health, family health programs, certain hospitals, and skilled nursing facilities, for a $423 million GF savings in 2011-12. These rate reductions are scheduled to take effect on June 1, 2011. This proposal is subject to federal approval, which has not yet been secured.

- **Skilled Nursing Facility Rate Adjustment:** The 10 percent provider rate reduction that was recently adopted will be terminated effective August 1, 2012 for AB 1629 skilled nursing facilities.[†] The sunset date for the Quality Assurance Fee will be extended by one additional year to July 31, 2013. In addition, a one-time supplemental payment in 2012-13 will be provided to nursing facilities that is equivalent to the 10 percent reduction applied from June 1, 2011 to July 31, 2012.[11,12]

- **Medi-Cal Managed Care Plan Enrollment:** Medi-Cal beneficiaries, including seniors and persons with disabilities, would have been prohibited from switching managed care plans more than once annually ($1.7m GF savings). The legislature rejected this May Revision proposal.

Enacted Budget and Current Status

The enacted budget includes no additional funding reductions to Medi-Cal beyond what was approved as part of March budget actions.

[†] AB 1629 Facilities are those that participate in the “Quality Assurance Fee” rate-setting methodology.

Supplemental Security Income/State Supplementary Payment

Supplemental Security Income/State Supplementary Payment (SSI/SSP) is a federal/state income program that provides a monthly cash benefit to low-income aged, blind, disabled individuals or couples. In California, the SSI payment is augmented with a State Supplementary Payment (SSP) grant. These cash grants assist recipients with basic needs and living expenses.

Previous Budget Actions

SSP grants for individuals have been reduced to the federally required minimum payment standard. Specifically, the maximum monthly SSI/SSP cash grant for individuals has been reduced by $15 per month (from $845 to $830), for $178.4 million GF savings in 2011-12.[9]

Enacted Budget and Current Status

The enacted budget includes no additional funding reductions to SSI/SSP beyond what was approved as part of March budget actions.

The “Trigger” for the 2011-12 Enacted Budget

The enacted budget closes the $26.6 billion budget deficit through expenditure-related actions ($11.1 billion GF), revenue actions ($13.2 billion GF), and borrowing and transfers ($2.9 billion), leaving a reserve of $543 million.[13]

The State’s Revenue Outlook and the “Trigger”

As noted earlier, the May Revision projected $6.6 billion in higher tax receipts (sales tax, personal income tax, and corporate tax) compared to the January Budget. An additional $1.2 billion in tax receipts were received in May and June above May projections. The 2011-12 enacted budget anticipates that GF tax receipt revenues will continue to be higher than forecasted, projecting an additional $4 billion in estimated 2011-12 GF revenues. However, if the $4 billion in revenues do not materialize, one or two “triggers” would be activated. The “Trigger” is structured as follows:

Tier 0: If tax receipts are projected to fall below budget estimates by less than $1 billion, then no cuts will be triggered.

Tier 1: If tax receipts are projected to fall below budget estimates by more than $1 billion, an additional $601 million GF in cuts would be implemented, including health and human services programs beginning in January 2012, as follows:

- IHSS reduction in service hours by 20% ($100 million GF savings);
- Elimination of IHSS local anti-fraud efforts ($10 million GF savings);
- Extension of Medi-Cal co-payments and provider cuts to all Medi-Cal managed care plans ($15 million GF savings); and
- Department of Developmental Service reductions ($100 million GF savings).

Additional cuts to higher education and public safety would also be implemented to reach $601 million GF savings.

Tier 2: If tax receipts are projected to fall below budget estimates by more than $2 billion GF, then the above Tier 1 cuts would be implemented along with Tier 2 education cuts totaling $1.86 billion.

Department Reorganization in the 2011-12 Enacted Budget

State-Level Consolidation

The enacted budget includes elimination of the Department of Alcohol and Drug Programs (DADP) and the Department of Mental Health (DMH) in 2012-13. The state-level Medi-Cal responsibilities and functions of these departments will be transferred to the Department of Health Care Services (DHCS) during 2011-12. This will consolidate the DADP and DMH Medi-Cal services under DHCS. The second step of the reorganization includes the elimination of DADP and DMH in 2012-13. The Administration reports that the governor's proposed 2012-13 budget will contain a detailed proposal on the transfer of these functions and the elimination of DADP and DMH.[14]

Realignment

As part of the proposed 2011-12 budget, the governor proposed to move or "realign" a range of government services to local jurisdictions. The enacted budget includes realigning to counties a range of programs including Adult Protective Services and mental health services.

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