California's Proposed 2013-14 Budget: Impact on California's Seniors and People with Disabilities

On January 10, 2013, California Governor Edmund G. Brown, Jr. released his proposed budget, outlining his spending plan for the fiscal year beginning on July 1, 2013 and ending June 30, 2014. The proposed budget includes initiatives and program adjustments that would impact California's seniors and people with disabilities.

Overview

Two years ago, the governor's budget projected a deficit of over $25 million.[1] In comparison, for 2013-14, Governor Brown reports that California's budget deficit has been eliminated, and noted that the state's budget is "projected to remain balanced for the foreseeable future" (p. 1).[2] The elimination of the budget deficit is due in part to passage of Proposition 30, the Schools and Local Public Safety Protection Act of 2012.[3] This new law increases personal income tax for seven years on California taxpayers earning more than $250,000, and increases the sales and use tax by one-quarter of one percent for four years. While the 2013-14 proposed budget does not include any *new* spending reductions to programs serving seniors and people with disabilities, it *maintains* a number of prior-year reductions that impact the service delivery system. Finally, while the budget seeks to expand Medi-Cal coverage to individuals with incomes under 138% of Federal Poverty Level, it would exclude benefits for Medi-Cal long-term services and supports (LTSS) for these individuals.

Budget Items Impacting Seniors and Persons with Disabilities

Extended Timeline for Implementation of the Coordinated Care Initiative

Background: Last year's state budget established the Coordinated Care Initiative (CCI) with the goal of "transforming California's Medi-Cal care delivery system to better serve the state's low-income older adults and persons with disabilities" (p. 4).[4] The CCI outlines changes to the medical care and LTSS systems serving these individuals and specifies various requirements related to the Dual Eligible Integration Demonstration (from here on referred to as the "Demonstration").[5,6] The main components of the CCI include: 1) provisions of the Demonstration; 2) mandatory enrollment of dual eligible individuals (individuals eligible for both Medicare and Medi-Cal) into Medi-Cal managed care,* and 3) integration of Medi-Cal LTSS into Medi-Cal managed care.[7]

*Previous state law (Steinberg, SB 208, Chapter 714, Statutes of 2010) required that Medi-Cal-only seniors and persons with disabilities be enrolled into managed care health plans. While the CCI provides dual eligibles who reside in the eight Demonstration counties with the ability to opt out of the Demonstration for purposes of Medicare coverage, these individuals will be mandated to enroll in a Medi-Cal managed care plan for coverage of Medi-Cal benefits. Therefore, in order to access any Medi-Cal covered service, such as LTSS, dual eligibles residing in the eight counties will need to enroll in a Medi-Cal managed care health plan.

As defined in statute, the Demonstration seeks to enable dually-eligible individuals to receive a continuum of services that maximizes access to, and coordination of, benefits between Medicare and Medi-Cal. The Demonstration is slated for implementation in eight counties (Alameda, Los Angeles, Orange, Riverside, San Bernardino, San Diego, San Mateo, and Santa Clara). It will provide medical care and LTSS through a single health plan, with behavioral health services provided both directly and coordinated with county mental health and substance use disorder programs. At the time of publication, the federal government, through the Centers for Medicare and Medicaid Services (CMS), remains in negotiations with California state officials regarding the specific elements of the Demonstration. These negotiations will form the final Memorandum of Understanding (MOU) between CMS and the state. When finalized, the MOU will serve as the binding document outlining the provisions and requirements of the Demonstration. The other two components of the CCI – the inclusion of LTSS as a Medi-Cal benefit, and the mandatory enrollment of dual eligible individuals into Medi-Cal managed care – will need to be authorized through another vehicle, most likely the state's 1115 Medi-Cal waiver. The details remain forthcoming on these CCI components.

Revised Timeline for the CCI: The proposed budget outlines a revised timeline for implementation of the CCI, delaying the beginning of enrollment in the Demonstration from March 2013 to September 2013. This revised date also applies to the inclusion of LTSS as a Medi-Cal benefit for beneficiaries residing in the eight counties, as well as the mandatory enrollment of dual eligible individuals.

County Phase-in Schedule: The schedule for enrollment was further delineated in the proposed budget. Demonstration enrollment in Los Angeles County will be phased-in over an 18-month period, beginning no sooner than September 2013. However, Demonstration enrollment in San Mateo County will occur all at once in September 2013. Finally, in the remaining six counties (Alameda, Orange, Riverside, San Bernardino, San Diego, and Santa Clara), enrollment will occur over a twelve-month period, beginning no sooner than September 2013.

Projected Savings: The proposed budget assumes that 560,000 individuals will enroll in the Demonstration and adjusts the savings originally projected for implementing the CCI. The new projection of General Fund (GF) savings is $171.1 million in 2013-14, and projected savings of $523.3 million annually thereafter.

Other Medi-Cal Proposals

Extension of Provider Fees

A "provider tax," sometimes termed a "fee" or "assessment," authorizes the collection of revenue from specified categories of providers. In most states, it is used as a mechanism to generate new in-state funds and match them with federal funds so that the state gets additional federal Medicaid dollars.[8] The budget proposes the following extensions to existing provider fees that are assessed on hospitals and managed care plans. The fees not only bring in additional federal resources for these entities but also support other aspects of the service delivery system.

- **Hospital Quality Assurance Fee Extension:** Extends the hospital quality assurance fee, which is currently scheduled to sunset on December 31, 2013. The budget indicates that this fee provides

funds for supplemental payments to hospitals and offsets the costs of health care coverage for children. Extending the hospital quality assurance fee would result in GF revenue of $310 million.

- **Permanently Reauthorize Gross Premiums Tax on Medi-Cal Managed Care Plans:** The Gross Premium Tax (GPT) on Medi-Cal managed care plans provides a funding source for the Healthy Families Program. The GPT was originally extended by ABX1 21 (Statutes of 2011) with a sunset date to July 1, 2012.[9] The governor proposes to permanently reauthorize the Gross Premiums Tax on Medi-Cal Managed Care plans. This proposal would provide GF revenue of $85.9 million in 2012-13, and $217.3 million in 2013-14.

Annual Medi-Cal Managed Care Open Enrollment:

Under current law, Medi-Cal beneficiaries may change health plans once per month or up to 12 times per year. The budget proposes to mandate that Medi-Cal beneficiaries may only change plans one time per year during an annual open enrollment period, for a GF savings of $1 million in 2013-14, and $3.6 million annually thereafter.[10]

Managed Care Efficiencies

The proposed budget indicates that the Department of Health Care Services (DHCS) will seek to identify new ways to improve the quality and efficiency of the health care delivery system and develop payment systems that "promote quality, not quantity, of care and improve health outcomes" (p. 61).[2] The proposed budget assumes GF savings of $135 million related to these measures in 2013-14. The DHCS indicates that details of this proposal will be forthcoming as the budget discussion continues.

Implementation of Medi-Cal Provider Rate Cuts

The 2011-12 enacted budget (AB 97, Chapter 3, Statutes of 2011) reduced provider payments for physicians, pharmacy, clinics, medical transportation, home health, family health programs, certain hospitals, and skilled nursing facilities by 10 percent.[11] These reductions were subject to federal approval, which occurred in October 2011. Meanwhile, advocates brought forth a lawsuit challenging the reductions, in *California Medical Association, et. al., vs. Toby Douglas, et. al.* In January 2012, the U.S. District Court tentatively blocked the cut, saying it could cause irreparable harm to beneficiaries.[12] However, in December 2012, a three-judge appeals court panel of the 9th Circuit Court of Appeals ruled that the federal government has authority to decide whether California and other states can reduce Medicaid rates while still adhering to program regulations.[13] The proposed budget assumes that the state will proceed with the previously-authorized Medi-Cal provider reductions, effective March 2013 for a GF savings of $261 million in 2012-13 and savings of $431 million in 2013-14.[10]

In-Home Supportive Services (IHSS)

Background: The IHSS program provides in-home personal care assistance to low-income adults who are over 65 years of age, blind, or disabled, and to children who are blind or disabled. Services

include assistance with bathing, feeding, dressing, and/or domestic services such as shopping, cooking, and housework so that individuals can remain safely in their own homes. 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). The average monthly caseload for IHSS is estimated to be 419,000 recipients in 2013-14, down 1 percent from 2012-13 projected levels.[2]

- **Implementation of 20 Percent Reduction in IHSS Service Hours:** The proposed budget assumes implementation of a 20 percent reduction in authorized service hours for specified IHSS recipients. This reduction was originally triggered by lower than expected 2011-12 revenues, pursuant to the enacted 2011-12 budget (Chapter 41, Statutes of 2011). To date, this "trigger cut" has been halted by a federal court in response to litigation filed against the state. As a result, the state currently is prevented from implementing this reduction. However, the proposed budget assumes success in litigation such that the reduction can take effect in November 2013, following resolution of *Oster v. Lightbourne* in the U.S. District Court, California Northern District.[14] The proposed budget assumes GF savings of $113.2 million in 2013-14. This reduction would not impact individuals categorized as "severely impaired" and who would otherwise be placed in a nursing home.

- **Restoration of the 3.6 Percent Reduction in IHSS Service Hours:** The current 3.6 percent across-the-board reduction in IHSS hours is scheduled to sunset on June 30, 2013. The proposed budget restores the 3.6 percent across-the-board reduction to IHSS service hours for all IHSS recipients, for a GF increase of $59.1 million.

- **Implementation of Health Care Certification Requirement:** The 2011-12 enacted budget required that the provision of IHSS services be conditioned upon a physician's written certification that personal care services are necessary to prevent out-of-home care.[15] The proposed 2013-14 budget assumes GF savings of $30.2 million associated with the health care certification requirement originally enacted in 2011-12.

Other Proposed Program Changes

Supplemental Security Income/State Supplementary Payment

The federal Supplemental Security Income (SSI) program provides a monthly cash benefit to eligible aged, blind, and disabled persons who meet the program's income and resource requirements. In California, the SSI payment is augmented with a State Supplementary Payment (SSP) grant. The proposed budget estimates approximately 1.3 million SSI/SSP recipients in 2013-14. For the SSI portion of the grants, the proposed budget includes an estimated cost-of-living increase of 1.7 percent in 2013 and an increase of 1.1 percent in 2014. In total, the proposed budget includes $2.8 billion GF for the SSI/SSP program.

Department of Developmental Services: Sunset of Provider Payment Reductions

The Department of Developmental Services (DDS) serves approximately 260,000 individuals with developmental disabilities in the community and 1,550 individuals in state-operated facilities. The

proposed budget includes a GF increase of $32 million in 2013-14 to restore previously implemented cuts of 1.25 percent to regional center operations and provider payment reductions.[16]

State-Level Administration Changes: Department of Alcohol and Drug Programs

Background: Last year's budget required a plan for reorganizing and transferring administrative and programmatic functions performed by the Department of Alcohol and Drug Programs (DADP). DADP's functions are scheduled to transfer to other state departments effective July 1, 2013.[17]

The proposed budget transfers all substance use disorder programs from DADP to DHCS in an effort "to better coordinate the licensing, certification, and program management of substance use disorders services statewide" (p. 57).[2] DADP's Office of Problem Gambling is proposed to be transferred to the Department of Public Health. The budget also proposes to transfer mental health licensing and quality improvement functions from the Department of Social Services to DHCS, further consolidating and streamlining the licensing and certification functions for these programs within a single department.

Implementation of Health Care Reform: Medicaid Expansion

Background: The Affordable Care Act (ACA) increases access to private and public health care coverage through various programmatic, regulatory, and tax incentive mechanisms. Included in the ACA is the optional expansion of Medicaid coverage at the state level (Medi-Cal in California).

Current Medi-Cal Eligibility: Medi-Cal currently provides health care services at no or low cost to approximately eight million low-income individuals including families with children, seniors, persons with disabilities, children in foster care, and pregnant women. Eligibility for Medi-Cal varies depending on the coverage group. Single, childless adults currently are not eligible for Medi-Cal unless they meet qualifications for eligibility under the aged/blind/disabled category. Adults not eligible for Medi-Cal can receive services through county indigent health services programs, although these services are limited.

Medi-Cal Expansion - State vs. County Approach: Among other provisions related to implementation of the ACA, the budget proposes to expand coverage to all legally residing Californians with incomes under 138% of FPL, or around $15,000 in annual income for an individual. The proposed budget outlines two options for implementing this expansion: a state-based expansion or a county-based expansion.

A state-based expansion approach would build upon the existing state-administered Medi-Cal program and managed care delivery system. The state would offer a standardized, statewide benefit package. A county-based approach would also offer a standardized benefit package and would build upon the existing Low-Income Health Program and/or county indigent health care services program as the basis for operating the Medicaid expansion. Under a county-operated Medicaid expansion, the counties would act as the fiscal and operational entity responsible for the expansion. Finally, the county-based option would require separate federal approval.

At this time, the governor, legislature and stakeholders will discuss the merits of both approaches as part of the ongoing policy deliberation process.

Budget Excludes LTSS Coverage in Medicaid Expansion: The budget indicates that either the state-based expansion or the county-based expansion benefit package would offer a health benefit package similar to what is offered today in Medi-Cal. However, the governor's proposed budget expressly notes that this coverage would not include Medi-Cal coverage for LTSS. Therefore, an individual covered under the Medi-Cal expansion population will *not* be able to access Medi-Cal LTSS services. The only way to access Medi-Cal LTSS would be by spending down resources and qualifying under a traditional Medi-Cal category of coverage (i.e., aged, blind, or disabled).

What's Next In the Budget Process

The governor's proposed budget requires approval by the Senate and the Assembly. The Legislature will deliberate the governor's proposed budget through a series of budget subcommittee hearings in each house, from March through May.

In May, the governor will release an updated revenue forecast, referred to as the "May Revision," which accounts for changes in revenues and proposed changes to the January budget. Each subcommittee votes on its respective issue area(s) in the budget and submits a report to the full budget committee for a vote. Next, the budget bill is sent to the full membership of the Senate and Assembly for vote. From the floor, each house's budget bill is referred to a joint budget conference committee where differences between the houses can be resolved. The conference committee votes on a compromise version, which, if passed, is sent to the floor of each house simultaneously.

By law, the Legislature must approve the budget by June 15 in time for the governor to sign it by July 1. The provisions of California's Proposition 25 lower the vote requirement for approving the budget from two–thirds to a majority (50 percent plus one) of each house of the Legislature, and require a forfeit in pay to Legislators if the budget is not enacted by the June 15 deadline.[18] Finally, the governor has the authority to "blue pencil" (reduce or eliminate) any appropriation contained in the budget.[19]

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