2014-2015 Proposed Budget: Impact on California's Seniors and People with Disabilities

On January 9, 2014, California Governor Edmund G. Brown, Jr. released his proposed budget, outlining his spending plan for the fiscal year beginning on July 1, 2014 and ending June 30, 2015. The proposed budget includes initiatives and program adjustments that would impact California's seniors and people with disabilities.

Overview

Showing signs of economic recovery, California is experiencing higher revenues than projected in the 2013-14 budget, with an additional $6.3 billion in unanticipated revenue from 2012-2013 budget through 2014-2015 budget. The Governor's proposed budget projects revenue of about $108.7 billion in 2014-15, with total expenditures increasing to $106.8 billion.[1] This budget growth is attributed to taxes approved by voters in 2012, reductions in spending in previous years, and the improving economy.[2] The governor's budget priorities include investing in K-12 and higher education, debt repayment, and building up of a Rainy Day Fund (the Budget Stabilization Account).[1] This fact sheet addresses budget proposals impacting seniors and people with disabilities.

Long-Term Services and Supports

Coordinated Care Initiative

Background: The Coordinated Care Initiative (CCI) outlines changes to the medical care and long-term services and supports (LTSS) systems serving low-income older adults and people with disabilities, and specifies various requirements related to the Dual Eligible Integration Demonstration (renamed "Cal MediConnect").[3,4] The main components of the CCI include: 1) provisions of Cal MediConnect; 2) mandatory enrollment of dual eligible beneficiaries (individuals eligible for both Medicare and Medi-Cal, California's Medicaid program) into Medi-Cal managed care; and 3) integration of Medi-Cal-funded LTSS into managed care.[5] The CCI is slated for implementation in eight counties (Alameda, Los Angeles, Orange, Riverside, San Bernardino, San Diego, San Mateo, and Santa Clara). The first 90-day notices to impacted dual eligible individuals were sent out at the beginning of January 2014.

The Centers for Medicare and Medicaid Services (CMS) provided approval for Cal MediConnect through a Memorandum of Understanding on March 27, 2013.[6] California continues to await federal approval of the CCI provisions calling for mandatory enrollment of dual eligible individuals into Medi-Cal managed care and inclusion of LTSS as a Medi-Cal managed care benefit. These requests for approval were included in an amendment to the "Bridge to Reform Demonstration" Section 1115 waiver submitted to CMS in June 2013.[7]

Revised Enrollment Timeline: The governor's budget includes a revised enrollment timeline for CCI. The Department of Health Care Services (DHCS) later released information that further modifies the timeline[8], as follows:

- **Cal MediConnect:** Beginning April 1, 2014, dual eligible individuals with fee-for-service Medicare in Riverside, San Bernardino, San Diego, and San Mateo Counties will be automatically enrolled in Cal MediConnect, a process referred to as "passive enrollment," unless s/he chooses to opt-out. Enrollment in Orange County has been put on hold. An audit conducted by CMS of Cal Optima (the County Organized Health System serving Orange County) revealed issues that require immediate attention; the plan can not participate in Cal MediConnect until all issues have been addressed.[9] Dual eligible individuals in Los Angeles County can begin to voluntarily enroll in April 2014, with passive enrollment starting July 2014. Passive enrollment for Alameda County will begin no earlier than July 2014. Passive enrollment for Santa Clara County will begin no earlier than January 2015.[8] Dual-eligibles currently enrolled in a Medicare Advantage plan who do not opt-out of Cal MediConnect will be enrolled in the demonstration beginning January 2015.[1]

- **Mandatory Medi-Cal managed care for dual eligible individuals:** Dual eligible individuals opting-out of Cal MediConnect and those enrolled in Medicare Advantage plans will be enrolled in Medi-Cal managed care for their Medi-Cal benefits beginning April 1, 2014. Enrollment dates vary by county and population.[8]

- **Managed long-term services and supports (MLTSS):** MLTSS will be included as a Medi-Cal managed care benefit for dual eligible individuals and Medi-Cal-only seniors and people with disabilities beginning in April 2014. Enrollment dates vary by county and population.[8] The inclusion of LTSS as a Medi-Cal managed care benefit applies to the eight CCI counties only.[1]

Budget Projections: The governor's proposed budget projects $159.4 million in General Fund (GF) savings for the CCI in 2014-15. The savings are attributed to the sales tax revenue generated from the Managed Care Organization (MCO) Tax.* Without the tax revenue, the governor estimates that the CCI would have a cost of $172.9 million.[1]

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. The average monthly caseload for IHSS is estimated to be 453,000 recipients in 2014-15, a 1.2 percent increase from 2013 projected levels.[1]

New Federal Regulations: In September 2013, the United States Department of Labor announced new regulations, effective January 1, 2015, that require overtime pay for domestic workers. In addition, other new requirements call for compensating providers who travel between multiple recipients, for wait time associated with medical accompaniment, and for time spent in mandatory provider training. The Governor

*In 2013, the MCO Tax was reauthorized through 2015-16. From 2013-14 through 2015-16, the rate will be equal to the state sales and use tax rate (3.9375 percent). Half of these total funds will draw down federal matching funds and reimburse Medi-Cal managed care plans for the incurred taxes. The other half of the funds will offset GF expenditures for Medi-Cal managed care rates for children, seniors and persons with disabilities, and dual eligible individuals.[10]

estimates that, in total, these regulations have the potential to increase IHSS program costs by over $600 million by fiscal year 2015-16.[1]

Overtime Prohibition for IHSS Providers: The governor proposes to prohibit IHSS providers from working overtime as the primary mechanism to control spending. Under this proposal, a 40-hour work week limitation will be implemented for IHSS providers.[11] As a result of these restrictions, affected IHSS recipients will need to hire and train additional attendants to provide their authorized services that exceed the 40-hour work week. Attendants working beyond work week limitations will be subject to disciplinary action. Specifically, attendants with four hours of unauthorized overtime on a second offense will be terminated by IHSS.[11]

- **Provider Backup System:** The governor's proposal notes that this change in policy will require an increase in the number of attendants in the IHSS workforce. It will be the responsibility of the IHSS recipient to hire and train additional staff. The administration proposes to establish a Provider Backup System to assist recipients in obtaining an attendant for continued care when their regular IHSS provider would exceed the limitations on hours worked. In these circumstances, a recipient could contact the Provider Backup System for assistance in obtaining a backup attendant who would be available in a short amount of time. This system is intended for emergency use only when the consumer cannot otherwise access their additional staff. Services provided by the backup attendant will be deducted from the recipient's authorized hours.

Budget Projections: The governor indicates that this proposal will cost $99 million GF in 2014-15 and $153.1 million GF thereafter.[1] Additionally, the 2013-14 enacted budget implemented an eight percent across-the-board reduction effective July 1, 2013 through June 30, 2014, and a seven percent across-the-board reduction annually thereafter.[12] The Governor's proposed 2014-15 budget maintains the seven percent across-the-board reduction.

Other Medi-Cal Proposals

Medi-Cal Provider Payment Issues

Background: 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. These reductions were subject to federal approval, which was granted in October 2011. Meanwhile, advocates brought forth a lawsuit challenging the reductions in *California Medical Association, et. al., v. Toby Douglas, et. al*. In January 2012, the U.S. District Court tentatively blocked the cuts, saying they could cause irreparable harm to beneficiaries.[13] However, in December 2012, a three-judge 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.[14] This paved the way for California to proceed with the rate reductions beginning in October 2013 and January 2014 for specified provider groups.[15] The 2013-14 enacted budget maintained the 10 percent reduction. The state exempted specified provider categories from the AB 97 provider reductions to maintain access to services (non-profit dental pediatric surgery centers, rural district part nursing facilities Level B, and certain prescription drugs).[15,16]

- **Medi-Cal Provider Rate Reductions:** The governor maintains the Medi-Cal provider rate reductions in the proposed 2014-2015 budget.

- **Forgive Retroactive Recoupments:** Previously, the state indicated that it would recoup on a retroactive basis the rate reductions that had not been assessed on specified providers due to the previously-pending lawsuit. In the proposed 2014-15 budget, the governor seeks to forgive these retroactive recoupments for specified Medi-Cal providers and services (physicians/clinics, certain drugs that are typically high cost and used to treat serious conditions, dental, intermediate care facilities for the developmentally disabled, and medical transportation). Retroactive obligations are not proposed to be forgiven for non-specialty drugs, distinct-part nursing facilities, and durable medical equipment/medical supplies.[2] CMS must approve the retroactive forgiveness before the state can proceed.

Budget Projections: Maintaining the provider rate reductions will result in GF savings of $282.8 million in 2014-15. The forgiveness of retroactive recoupments will result in an increase of $5.8 million GF in 2013-14 and $36.3 million GF in 2014-15, with a total cost of $217.7 million GF over the next several years.[1]

Other Program Changes

Supplemental Security Income/State Supplementary Payment

Background: 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 federal Social Security Administration (SSA) administers the SSI/SSP program, making eligibility determinations and grant computations, and issuing combined monthly checks to recipients. Approximately 27 percent of the SSI/SSP caseload are aged, two percent are blind, and 71 percent are disabled persons.[1] The 2011-12 enacted budget reduced the SSI/SSP benefit to the federal minimum required.[17]

- **SSI/SSP Increase:** SSA applies an annual cost of living adjustment to the SSI portion of the grant equivalent to the year over year increase in the Consumer Price Index (CPI). Previously, maximum SSI/SSP grant levels were $866 per month for individuals and $1,462 per month for couples. Maximum SSI/SSP monthly grant levels are increasing by $11 and $16 for individuals and couples, respectively, effective January 2014. The average monthly caseload in this program is estimated to be 1.3 million recipients in 2014-15, a slight increase over the 2013-14 projections.[1]

Budget Projections: The proposed 2014-15 Budget includes $2.8 billion GF for the SSI/SSP program, representing a 1.2 percent increase ($34 million) from the 2013-14 budget.[1] This budget item is automatically passed-through in payments to SSI/SSP recipients and does not require specific approval in the budget process.

Department of Developmental Services

Background: The Department of Developmental Services (DDS) serves approximately 273,000 individuals with developmental disabilities in the community and 1,110 individuals in state-operated developmental centers.[1]

- **Future of Developmental Centers Task Force:** The enacted 2013-14 budget required the Secretary of the California Health and Human Services Agency to submit to the Legislature a master plan for the future of Developmental Centers by November 15, 2013 and to submit to the

Legislature, by January 10, 2014, the Administration's resulting plans to meet the needs of all current residents in Developmental Centers. The plan for the future of Developmental Centers was released on January 13, 2014.[18] The Task Force recommends that the role of state operated facilities should be to provide secure treatment services; smaller, safety net crisis and residential services; and specialized health care resource centers.[18]

Budget Projections: Specific budget implications have not yet been outlined in the proposed 2014-15 budget.

Mental Health and Substance Use Disorder Services

Background: Public funding for mental health and substance use disorder (SUD) traditionally covered services to low-income individuals with severe mental illness and SUD who met specified eligibility criteria.[19] Beginning January 1, 2014, California expanded Medi-Cal coverage of mental health services to all individuals eligible for Medi-Cal.[20] Additional funding for community mental health comes from 2011 realignment funds generated from a state special fund sales tax and vehicle license fees.[19] In July 2013, DHCS temporarily suspended the certification of 177 drug treatment facilities and submitted 68 providers to the Department of Justice after reports of fraud and abuse. DHCS conducted a review of internal operations to improve oversight of drug treatment programs and coordination with county programs.[1]

Expanded Services and Program Integrity: The Governor's budget includes funding for 21 positions and $1.1 million GF to continue the state's work recertifying all drug treatment providers in the state in an effort to improve program integrity and expand drug treatment services. DHCS will seek a waiver from CMS to allow the state and counties more authority over selection of SUD providers.[1]

Realignment Funds: The 2011 Realignment Behavioral Health Services Growth Special Account has $27.9 million from 2012-13 revenue. Funding priority goes to Medi-Cal Specialty Mental Health Services and Drug Medi-Cal.[1]

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 proposals 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) and submits a report to the full budget committee for a vote. From the floor, each house's budget bill is referred to a joint 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 lowered 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.[21] Finally, the governor has the authority to "blue pencil" (reduce or eliminate) any appropriation contained in the budget.[22]

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