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California's protection and advocacy system

**Disability Rights California Opposes Proposition 1E
April 2009**

Background:

In 2004 voters approved Proposition 63 otherwise known as the Mental Health Services Act (MHSA). The MHSA provides state funding for certain new or expanded mental health programs through a personal income tax surcharge of 1 percent on the portion of a taxpayer's taxable income in excess of \$1 million. Revenues generated are dedicated to the support of the certain mental health programs and are generally not appropriated by the Legislature through the annual budget act.

The Early and Periodic Screening, Diagnosis and Treatment (EPSDT) program is a federally mandated program that requires states to provide a broad range of screening, diagnosis and medically necessary treatment services – including mental health services – to Medi-Cal beneficiaries under age 21. Total expenditures for EPSDT specialty mental health services now exceed \$1 billion annually. The federal government provides about one-half of the funding with most of the remaining cost covered by the state and a small portion by the counties. California is required to provide EPSDT specialty mental health services as a result of the court orders in the *Katie A v. Bonta* case. We and other legal services programs are counsel in that case.

This Proposition:

Proposition 1E, if approved by voters, will temporarily allow for the redirection of some MHSA reserve funds to support the EPSDT Program. The redirection of MSHA funds would be for two years. This fund transfer would mean a change to the MHSA and requires voter approval in the May 19, 2009 statewide special election. The MHSA funds would replace an

equal amount of state general fund money that normally funds the EPSDT program.

Proposition 1E proposes to:

- Transfer \$226.7 million from MHSA to the EPSDT program for the 2009 -2010 state fiscal year (this is approximately 10% of MHSA reserves)
- Transfer an additional \$226.7 to \$334 million of MHSA funds to the EPSDT program for the 2010-2011 state fiscal year

Analysis:

If passed, Proposition 1E would divert more than 400 millions of dollars over the next two fiscal years from county mental health programs for adults and children. The California's Legislative Analyst's Office (LAO) recently concluded that "[T]he proposed temporary reduction in Proposition 63 funds would make less money available for mental health services." (http://www.lao.ca.gov/ballot/2009/1E_05_2009.aspx)

The California Mental Health Directors Association, which represents the county agencies charged with administering both Proposition 63 and EPSDT mental health programs states:

A \$460 million diversion of funding will severely impact counties' ability to serve the people in our communities with serious mental illnesses who turn to county mental health programs when no other assistance is available to them. There is no question that a funding diversion of this magnitude will result in significantly fewer people being served by our state's public mental health system. If approved, Proposition 1E would set back the progress we have made under Proposition 63 in reaching more people in need and shifting away from a more costly "institution-only" system in favor of community care.

http://www.californiaprogressreport.com/2009/03/prop_1e_threate.html

Similarly, the LAO states that reduction of MHSA funds could result in other fiscal costs, such as increased county and state costs related to homeless shelters, hospitalizations, social services programs, and criminal detention

costs, as well as the potential loss of federal funds due to reduction of MHPSA programs that draw down matching federal funds. The full extent of these potential costs is unknown because the ballot measure is silent as to which programs currently funded by MHPSA dollars would be terminated or reduced.

On the other hand, Senator Steinberg reports that because of delays in starting new programs with MHPSA funds, nearly \$2.5 billion in MHPSA funds is sitting in a state reserve fund. This is more than is needed to fund current MHPSA services. While this shift may reduce the availability of MHPSA services in the future because it may delay the start-up of new programs, we need to shift the funding to avoid even deeper cuts in other vital state services. Children served under the EPSDT program will continue to receive specialty care for their complex mental health needs. Senator Steinberg notes that Proposition 1E is a one time funding shift and will not be a precedent for diverting MHPSA funds in the future.

What the Defeat of Proposition 1E Will Mean:

If Proposition 1E does not pass, the state is still obligated to fund the EPSDT program using state general funds because it is a federally mandated program. However, in the past the state has tightened the eligibility and other program requirements making it more difficult for children and youth to receive these services. The state Department of Mental Health (DMH) budget assumes the passage of Proposition 1E and if it does not pass, DMH will likely have to identify other budget savings.

Further predictions about the impact of the defeat of Proposition 1E are difficult to determine since the Legislature has not enacted alternative ways of balancing the budget. Without the general funds savings proposed in Proposition 1E, additional extraordinary legislative sessions will need to be held and additional reductions to the general fund and/or additional revenue increases will need to be made. It is unlikely that the state will increase revenues given the difficulty in securing sufficient votes to meet the 2/3 requirement for revenue increases. Other mental health and social service programs may well be cut if Proposition 63 funds are not diverted, but the type and amount of these cuts is unknown.

Position of Others:

Oppose:

California Network of Mental Health Clients
Mental Health Association in California
League of Women Voters
NAMI California
National Association of Social Workers of California
California Council of Community Mental Health Agencies

Support:

Governor Schwarzenegger
Senator Darrell Steinberg, the author of the Mental Health Services Act
The legislators who passed the trailer bill

Neutral:

California Mental Health Directors Association