



**LEGISLATION & PUBLIC
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California's protection and advocacy system

January 21, 2010

Senator Mark Leno, Chair
Senate Budget and Fiscal Review Subcommittee #3
California State Senate
Room 4061, State Capitol
Sacramento, CA 95814

**RE: Opposition to Using Mental Health Services Act Money to Fund
the Mental Health Managed Care Program**

Dear Senator Leno:

Disability Rights California, a non-profit advocacy agency mandated to advance the human and legal rights of persons with disabilities, strongly opposes using Mental Health Services Act Money to Fund the Mental Health Managed Care Program. The Senate Budget Subcommittee #3 is set to consider the issue on January 26, 2010.

In the budget, the Governor proposes to reduce the General Fund by \$452.3 million and shift funding for the EPSDT (see definition below) supplemental mental health services program and a portion of the Mental Health Managed Care program to the Mental Health Services Act (MHSA/Proposition 63) to make up for this reduction. This would require cuts in programs currently being funded under MHSA and would require amendment of the non supplantation and maintenance of effort provisions of Proposition 63 by the voters. A similar proposal was overwhelmingly rejected by the voters last year. This year, the Governor anticipates the initiative will be included in the June 2010 election.

Further, the Governor's proposed budget includes a federal funds "trigger"

mechanism. Unless California receives \$6.9 billion in new federal funds to offset state General Fund expenditures, \$4.6 billion in additional permanent budget cuts will go into effect. If these new federal funds are not received, the Governor proposes to further reduce mental health funding by \$847 million with the intent to replace it with MHSA money.

The Mental Health Managed Care program is operated by counties and provides specialty mental health services to people who meet certain criteria, such as medical necessity. This program is funded out of the General Fund and realignment funds. California gets federal Medicaid matching funds up to 51 percent for funds expended on mental health services.

Early and Periodic Screening, Diagnosis and Treatment (EPSDT) requires states to provide children with all services listed in the Medi-Cal schedule of benefits that are appropriate for children, as well as all other medical services that are eligible for federal matching funds. These services include Therapeutic Behavioral Services and Therapeutic Foster Care.

On the other hand, the Mental Health Services Act is a proposition that was passed by voters in 2004 authorizing a 1% income tax surcharge on incomes over \$1 million. The purpose of the Act is to provide funding for innovative community mental health programs to offer support so that people with psychiatric disabilities do not end up institutionalized, in jails or homeless. As you know, providing services to keep people out of institutions is consistent with the *Olmstead* decision, which held that institutionalizing people who can live in the community violates the Americans with Disabilities Act.

Implementation of the Governor's proposal would require passage of a voter initiative. Programs currently funded under the MHSA may have to close down; this includes prevention and early intervention programs. Closing of programs will force thousands of Californians out of treatment and shelter and onto the streets stopping short the dramatic gains California has made under the MHSA to expand mental health services to the many people in our communities who desperately need care.

The MHSA requires that funds be used to expand mental health services rather than be used to replace funding for existing programs. Changes in maintenance of effort and non-supplantation will mean MHSA money can

be used to fund existing programs, including funding state hospitals, rather than be used to expand community mental health services. This would be contrary to the intent of the MHSA, which was to provide additional community mental health services. The voters, in enacting the MHSA, recognized that the then-existing mental health programs were drastically underfunded. The voters enacted a new tax to provide for more services. The voters did not intend to enact a new tax to pay for the existing, underfunded public mental health system.

For the foregoing reasons, we oppose the proposal. Please contact me at your earliest convenience to discuss our concerns as described above.

Very truly yours,

A handwritten signature in black ink, appearing to read "Margaret Johnson". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Margaret Johnson, Esq.
Disability Rights California
Advocacy Director

CC: Honorable Members of the Senate Budget and Fiscal Review
Subcommittee #3

CC: Diane VanMaren, Consultant, Senate Budget and Fiscal Review
Subcommittee #3