

Disability Rights California

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California's protection and advocacy system

The Governor's Budget and an Overview of the State Budget Process September 23, 2011

Each year, by January 10th, the Governor presents his budget for the next fiscal year to the Legislature. Generally, the Legislature will hold budget hearings in late March and early April to review items in the Governor's Budget. Most decisions on budget issues are not made at these initial hearings. Rather, the Legislature will leave items "open" until the Governor's May Revision or "May Revise" is released.

The May Revise is based on a more current picture of state revenues, including income taxes collected on April 15th. It also reflects changes such as increased or decreased program caseloads, and new or withdrawn administration proposals. The Legislature holds hearings and considers the May Revise proposals mid to late May. California law gives the legislature a deadline of June 15 to submit a final budget to the governor for his signature. This deadline is almost never met.

In a typical year, the Legislature concludes the May Revise budget hearings in late May by having both the Senate and Assembly approve different budget packages. Then the Legislature convenes the Joint Budget Conference Committee to work out the differences between the Assembly and Senate versions of the State budget. The Conference Committee is traditionally made up of three members of each house. In recent years, the membership increased to address the ongoing fiscal crisis in the state.

The Conference Committee may discuss only those items, typically the most contentious in the budget, about which there are differences between the Assembly and Senate versions. The Committee hears no public testimony. Upon completion of its review, the Conference Committee votes on its items. If the Conference Committee cannot conclude its deliberations in a manner acceptable to all parties, legislative leaders may meet privately

with the Governor.

In recent years, some of the most difficult budget disagreements have been worked out in private meetings of the Governor, the Senate President pro Tempore, the Assembly Speaker, the Senate Minority Leader, and the Assembly Minority Leader (known as the legislative leadership or “Big Five”).

What’s happened with the 2011-12 fiscal year state budget¹

January 2011-March 2011

Governor Jerry Brown released his budget for the 2011-12 fiscal year on January 10, 2011. The projected budget gap was over \$25 billion dollars. This included a deficit for 2010-11 of \$8.2 billion and a deficit for July 1, 2011-June 30, 2012 of \$17.2 billion. To address the budget gap, the Governor proposed \$12.8 billion in cuts, \$12 billion in revenue extensions and changes, \$1.9 billion in other "budget solutions," and a \$1 billion reserve. His goal was to complete the budget process by March 2011.

In February 2011, the Governor cancelled the sale of some state buildings, and the budget gap grew to \$26.6 billion. In March 2011, the Legislature passed the budget and the Governor signed \$13.4 billion in budget solutions - of which \$11 billion were cuts, mostly to health and human services programs.

January Budget: Maintaining tax rates and Realignment²

In January, Governor Brown proposed a ballot initiative to maintain the state's current tax rates (the rates as of January 2011) for an additional five years and to scale back some of the corporate tax breaks.

The Governor's January budget also proposed to shift or realign certain

¹ This summary includes information taken directly from the Governor’s 2011-12 budget documents, the California Senate Budget and Fiscal Review Committee’s Quick Summary of the Governor’s May Revision, and information provided by the California Budget Project.

² "Realignment" refers to a shift of responsibility for programs between state and local governments. The idea is that the entity that is responsible for administering a program should have discretion in how to administer the program together with a dedicated revenue stream for funding the program.

programs between the state and local counties. In March, the Budget Conference Committee adopted the Governor's proposed realignment framework along with initial implementation language.

The May Revise- May 2011

The May Revise projected a budget gap of \$10.8 billion, of which \$9.6 billion was a deficit and \$1.2 billion was a desired reserve. The May Revise also updated revenue expectations with \$2.8 billion more received for 2010-11 and \$3.5 billion more for 2011-2012 than was projected. The Governor's May Revise budget continued to call for a major realignment of public safety programs to the counties. These program costs would have been funded with proceeds from extending taxes for five years.

May Revise: Tax Rates and Realignment

The May Revise also contained the proposal to extend the tax rates that were in effect from January to June, but the tax extensions were not part of the adopted budget and expired on June 30, 2011.

In January, the Governor proposed to use realignment revenues to fund AB 3632 services, which have historically been provided by counties. However, in the May Revise, Governor Brown proposed that schools be responsible for student mental health costs

The Enacted Budget, Realignment, and Trigger Cuts-June 2011

On June 15, 2011, the Legislature passed an alternative budget that did not include the Governor's tax extension plan, but instead included fees, deferrals, and borrowing to balance the budget. Governor Brown vetoed it. In late June, the Legislature produced another budget, without tax extensions and the Vehicle Licensing Fee (VLF) extension, which assumed the State's revenue will increase by \$4 billion this fiscal year. The Governor signed a budget on June 30, 2011. For more details of the enacted budget, please see our detailed budget chart:

<http://www.disabilityrightsca.org/legislature/budget/2011/BudgetChart2011-09-08.html>

The enacted budget says that if the increased revenue does not materialize, as determined by the Department of Finance on December 15th, additional "trigger" cuts will go into effect in January 2012. Trigger cuts are automatic reductions which require no further approval from either the

legislature or the governor. The trigger cuts appeared for the first time in the final budget, with no legislative hearings on the impacts or opportunity for public testimony.

The health and human services trigger cuts include \$100 million across-the-board reductions to Developmental Services, a 20% cut to In Home Supportive Services, and a 15% rate cut to some Medi-Cal managed health care plans. Additional trigger cuts could also include over \$1.54 billion to K-12 education. All indications are that the projected \$4 billion in new revenue will not be achieved.

Enacted Budget and Realignment and Ballot Measure to Raise Taxes:

The final budget contained funding for essentially all aspects of the Governor's realignment plan – both the public safety and health and human services components. The budget will dedicate 1.06% of the state sales tax to a special fund to support the transfer of services to counties. Realigned programs include EPSDT, Medi-Cal Specialty Mental Health Managed Care, and Mental Health 1991 Realignment revenue.

The realignment of the mental health, EPSDT and Managed Care Programs will occur in FY 2012-13, with the new sales tax revenue permanently dedicated to these programs. As already noted, ballot initiatives will be part of the November 2012 statewide general election since new revenues are needed to solve the ongoing budget shortfall.

The Governor also intends to move forward by petition, gathering sufficient signatures to qualify ballot initiatives on the November 2012 statewide general election to raise taxes.

ENACTED BUDGET PROVISIONS AFFECTING PEOPLE WITH DISABILITIES³

DEPARTMENT OF DEVELOPMENTAL SERVICES

DDS worked with stakeholders to identify \$174 million in state savings. The May Revision identified a one-time savings of \$28.5 million (state funds) for the current year and savings of \$55.6 million (state funds) in 2011-12 due to lower caseload and utilization for a total of \$84.1 million (General Fund) - an offset to the \$174 million for 2011-12. There are proposals to achieve savings of \$71.9 million (\$53.1 million state funds) in 2011-12 from community Purchase of Services. The total reduction is \$145.5 million General Fund for 2011-12, with projected savings of \$174 million (state funds) for 2012-13.

The proposals are in the Appendix of this document: DDS Budget Details which begin on Page 9.

DEPARTMENT OF HEALTH CARE SERVICES (DHCS)

- The enacted budget eliminated Adult Day Health Care Services (ADHC) as of September 1, 2011 and provided \$85 million (General Fund) to transition existing ADHC enrollees to other Medi-Cal services. The Governor vetoed the creation of a new, undefined program called Keeping Adults Free of Institutions (KAFI) using a federal waiver. On July 14th DHCS announced it would delay elimination of the program until Dec 1, 2011. Then DHCS announced its intention to compel around 90% of ADHC clients to join managed care (although the managed care plans do not provide ADHC). DRC is still litigating the elimination of the program and we do not believe that managed care or IHSS will provide adequate services to meet the documented needs of the approximately 35,000 Californians with disabilities who attend ADHC. Around 30 legislators have requested that the administration further delay the elimination of ADHC until March 2012.

³ The Budget chart includes details of January and May proposals and their outcome.

- Skilled nursing homes received a 10% rate cut in FY 2011-12. However, they also received an increase of 2.4%, which makes their real cut 7.6%. Part of their funding comes from a Quality Assurance Fee (QAF), which nursing homes pay and which is matched by federal funds. The industry has agreed to extend the QAF until the end of FY 2012-13, and in exchange will receive a full rebate of their 7.6% FY 2011-12 cut.

CALIFORNIA DEPARTMENT OF EDUCATION (CDE)-SPECIAL EDUCATION

Enacted:

- An increase of \$399,000 for special education caseload growth.
- A shift in mental health services from counties to schools.
- An increase of \$221.8 million in Proposition 98 General Fund to shift the responsibility for providing mental health services, including out of home residential services, from county mental health agencies and county welfare agencies to school districts.
- Permanently repealing the AB 3632 mandate which removes mental health services from the realignment proposal for counties. Since county mental health agencies will receive \$98.6 million in MHSA⁴ funds for the provision of non residential mental health services for students in FY 2011-12, school districts are encouraged to contract with county mental health agencies to provide services using MHSA funds. Schools would be responsible for any cost exceeding this amount.

DEPARTMENT OF SOCIAL SERVICES (DSS) - IN-HOME SUPPORTIVE SERVICES (IHSS)

- The enacted budget includes no cuts to IHSS, but includes a 20%

⁴ Mental Health Services Act (MSHA)

across the board trigger cut for 2012-13.

- The final budget adopted \$2.2 million restoration to the Public Authorities, which had already been cut by 68% since FY 2009-10.

DEPARTMENT OF MENTAL HEALTH (DMH)

- The Department of Mental Health (DMH) will be replaced by a Department of State Hospitals (DSH) in 2012. The Department of Alcohol and Drug Programs will also be eliminated. The Medi-Cal functions of both departments will transfer to the DHCS. The fate of other functions – such as federal block grant administration, facility licensing, and Mental Health Services Act coordination and oversight – is unknown.
- The creation of DSH, remaining DMH functions after the shift of Medi-Cal functions to DHCS, and the shift of EPSDT and community mental health to counties will be addressed in the FY 2012-13 budget. DMH has a stakeholder process to work on the reorganization issues. The final budget includes a \$9.5 million allocation to state hospitals for safety and security improvements.
- AB 3632 would be realigned to schools instead of to county mental health. See above under the Department of Education (CDE) for more details.

DEPARTMENT OF SOCIAL SERVICES (DSS)-SSI/SSP

- The final budget reduced the maximum monthly SSI/SSP grant for individuals from \$845 to \$830 – the minimum allowed by federal law – effective June 1, 2011.

DEPARTMENT OF AGING- Multipurpose Senior Services Program (MSSP)

- The Governor proposed the elimination of MSSP in January. The final budget instead includes a proposal to cut funds by \$2.5 million (or 13%).

Appendix: DDS Budget Proposals:

- Increasing Federal Funds for Regional Center Purchased Consumer Services through the use of new federal funds.
- Decreasing Department of Developmental Services Headquarters Contracts, such as holding Clients' Rights Advocacy Contract's current year funding level of \$5.295 million for a savings of \$250,000 (\$200,000 GF); reducing the Quality Assessment project to \$3.235 million for a savings of \$530,000 (\$424,000 GF); and maintaining Office of Administrative Hearings' funding of \$3.15 million.
- Reductions and Efficiency in Regional Center Operations Funding by implementing : provider electronic billing; elimination of funding for one-time costs associated with office relocations or modifications; elimination of regional center staff positions for self directed services staffing; and unallocated reduction to the operations budget.
- Reducing Community Placement Plan Funding by \$10 million.
- Rate Equity and Negotiated Rate Control: The Legislature adopted a 4.25 percent rate reduction to providers in FY 2009-10 that has been extended because of the state budget crisis. There is an exemption to this rate reduction when the service is "usual and customary" such as a taxi which has standard rates. Some providers who provide specialized services to people with developmental services were billing under this exemption. This proposal clarifies that the exemption to the 4.25 percent payment reductions does not apply to providers specializing in services to persons with developmental disabilities. A trailer bill clarifies the exemption by listing services that are not exempted from this reduction.
- Annual Family Program Fee, a program fee in the amount of \$150 or \$200, depending on family income.
- Maintaining the Consumer's Home of Choice-Mixed Payment Rates in Residential Facilities with Alternative Residential Model (ARM) Rates, which allow a lower payment rate for consumers whose needs have changed and who want to maintain their residency in the home.

- Maximize Utilization of Generic Resources-Education Services for consumers 18-22 who remain eligible for services through the public school system by requiring consumers to use the generic education resources in lieu of purchasing day program, work/employment, independent living, and associated transportation services on their behalf.
- Supported Living Services proposes two concepts: prorated payment for share tasks, and an independent needs assessment will be required for all consumers who have Supported Living Services costs that *exceed 125 percent* of their annual statewide average cost of providing supported living service.
- Individual Choice Day Services proposal, which allows for alternatives to traditional day programs, that promotes choice and flexibility in delivery.
- Maximizing Resources for Behavioral Services by allowing regional centers to contract with qualified paraprofessionals acting under the supervision of a trained professional in behavioral intervention.
- Transfer Reduced Scope Prevention Program to the Family Resource Centers. The Prevention Program was established in October 2009 after changes in eligibility to achieve savings in the Early Start Program. The Prevention Program provides intake, assessment, case management, and referral to generic agencies for infants and toddlers, 0 to 2 years of age, who are *not eligible* for Early Start services but who *are at risk* for developmental delay. This proposal would *decrease the required functions* of the Prevention Program to information, resource, outreach, and referral; it would transfer responsibility for these functions to Family Resource Centers, and reduce funding to \$4.5 million for FY 2011-12 and to only \$2 million in FY 2012-13.
- Enhancing Community Integration and Participation. To maximize consumer community integration and to address barriers to the most integrated transportation services, a Transportation Access Plan would be developed at the time of the IPP for consumers for whom

the Regional Center is purchasing specialized transportation services or vendored transportation services. The Transportation Plan would address services needed to assist the consumer in developing skills to access the most inclusive transportation option that can meet the consumer's needs.