



**LEGISLATION & PUBLIC
INFORMATION UNIT**

1831 K Street
Sacramento, CA 95811-4114
Tel: (916) 504-5800
TTY: (800) 719-5798
Intake Line: (800) 776-5746
Fax: (916) 504-5807
www.disabilityrightsca.org

2017-18 Budget Summary

by Disability Rights California, June 16, 2017

On June 15, the Legislature passed the 2017-18 budget for California along with 14 budget “trailer” bills that implement the policies and direct the spending adopted in the budget. The budget is a \$183.2 billion spending plan and as with every budget it is a package of compromises between the Assembly, the Senate and the Governor that sometimes reflects differing priorities. This final budget is a culmination of nearly six months of work by the Legislature, the Governor and advocates since the Governor introduced his proposed budget in January. The Governor now has until June 30 to sign the budget and “blue pencil” or strike out any funding items he does not support. However, the Governor and legislative leaders announced on Tuesday that they had reached an agreement on the budget and it is not expected that the Governor will wield his blue pencil very broadly just as with past budgets.

Reflecting higher revenues the budget on the whole does not make major reductions to programs yet it remains somewhat conservative due to uncertainties in the national economy and the new Administration in Washington. The Governor and legislative leaders are praising the budget as making significant progress by increasing tax credits for working families, education, transportation and utilizing the new revenue from Proposition 56 tobacco tax for health care expansions.

Programs serving persons with disabilities either stayed flat or made some limited progress. Various new programs or expansions were not funded, including a Supplemental Security Income/State Supplemental Payments (SSI/SSP) cost-of-living adjustment (COLA). However, this budget also

represents progress in restoring the cuts made to disability services during the great recession such as the restoration of adult dental and optical benefits in the Medi-Cal program. Other improvements include repealing caps on respite services for regional center consumers and clarifying that there cannot be gaps in services for consumers. Proposition 56 has also afforded opportunities for provider rate increases that will improve Medi-Cal access to health and dental services. A summary of the key actions included in the budget and trailer bills follow and will be updated once the Governor signs the budget and the various trailer bills.

In Home Supportive Services (IHSS)

Coordinated Care Initiative (CCI)/Maintenance-of-Effort (MOE)

The Governor's proposed budget in January ended the CCI funding structure, which in turn, automatically ended the IHSS Maintenance-of-Effort (MOE), returned to the prior state-county cost-sharing ratio, and shifted collective bargaining responsibility back to demonstration counties. The result was a shift of \$623 million to counties beginning July 1. The budget makes statutory changes to mitigate the effects of the end of the CCI on counties by appropriating General Fund (GF) and using realigned revenue to offset their IHSS county GF costs. IHSS benefits remain unaffected. The budget also returns collective bargaining to the counties and keeps the 35 percent county share of negotiated increases.

IHSS and WPCS Workweek Limit Exemptions

The budget includes a DRC and an IHSS Coalition sponsored provision to codify existing administrative exemptions to the workweek limits for in-home care providers. In response to the Fair Labor Standards Act overtime requirements for in-home care providers, the state imposed workweek limits for IHSS and Waiver Personal Care Services providers, with limited exemptions. The budget codifies exemptions for certain family member caregivers and cases of extraordinary circumstances that include complex medical or behavioral needs, remote location or language barriers. Counties must inform recipients whose providers may be eligible for an exemption at their reassessments. The Department of Social Services (DSS) and the Department of Health Care Services (DHCS) also must provide a one-time special notice of the exemptions and provide written notification to the provider and recipients of its approval or denial of an exemption. Additionally, the county must provide a decision on an

exemption request and the DSS must provide opportunity for a state review of the county decision. Both the DSS and the DHCS must maintain and post data on the review process.

Medi-Cal

Proposition 56 (Tobacco Tax Revenue)

A major issue of disagreement between the Legislature and the Governor was how the state will spend the estimated \$1.3 billion generated by the Prop. 56 tobacco tax revenue. The Governor wanted to use the majority of the revenue to fund existing Medi-Cal program growth. The Legislature wanted to use the funds for provider rate increases. A last minute compromise was reached that provides up to \$546 million for provider rate increases. Under the terms of the agreement the budget funds \$50 million rate increases for women's health, \$27 million to intermediate care facilities for people with developmental disabilities, \$4 million for HIV/AIDS waiver providers, \$325 million for supplemental payments for physicians, and \$140 million for supplemental payments on dental services. The remainder will fund existing health care programs. The Department of Finance can increase or decrease the appropriations based on revised revenue estimates.

Adult Dental

The budget appropriates, effective January 1, 2018, \$34.8 million in GF for 2017-18 and \$73 million ongoing for the full restoration of Medi-Cal Adult Dental Benefits.

Optical Benefits

Effective January 1, 2020, the budget appropriates \$12.5 million GF for the 2019 fiscal year and \$26.3 million ongoing to restore Medi-Cal optical benefits.

Nursing Home Staffing Ratios

The Budget includes \$10 million GF to fund Medi-Cal local assistance payments to skilled nursing facilities to support a phased increase in nurse staffing ratios.

Children's Mental Health Crisis Services

The budget restores full funding for children's health crisis services by transferring \$16.7 million from the Mental Health Services Act fund. This funding will further the development of the continuum of care for children's mental health services.

Home Upkeep Allowance

The Assembly Budget Committee proposed a pilot project in one county to test the outcomes of increasing the Home Upkeep Allowance from the current \$209 per month to the current Federal Poverty Level of \$1,005 to assist nursing home residents who receive Medi-Cal benefits with a share of cost transfer from a facility to their homes. The Conference Committee rejected the proposal and it was not included in the budget. AB 286 (Gipson) which would have expanded the Home Upkeep Allowance to the Federal Poverty Level statewide was held in the Assembly Appropriations Committee.

Aged and Disabled Medi-Cal Program Eligibility

The Assembly Budget Committee approved \$30 million GF to expand eligibility for the Aged and Disabled Program from approximately 123 percent to 138 percent of the Federal Poverty Level. The proposed expansion would bring income eligibility requirements into alignment with the state's optional expansion of Medi-Cal. The Conference Committee rejected the action and it was not included in the budget.

Developmental Disabilities

The budget trailer bill for developmental services includes language for improving services in several significant areas, including:

- Ensuring infants and toddlers receive the services they need and prevent gaps in service by allowing an individualized family service planning team to determine that a medical service is not available through the families' private health insurance or health care services plan and requiring funding by the regional center.
- Expanding the community safety net by creating state-operated acute crisis units and requiring transition services and supports so individuals can successfully move from restrictive living arrangements to the

community so the services will be available for the individual at the time they move. The department is also required to convene a working group to consider simplified processes for health and safety rate adjustments.

- Supporting efforts to increase Competitive Integrated Employment by requiring regional centers to: include performance objectives in their contracts to measure progress; report outcomes in implementing the Employment First Policy; and create an exemption so consumers between the ages of 18 and 22 can participate in the paid internship program even if they not receive work and other services if the consumer has not completed high school.
- Expanding efforts to promote equity and reduce disparities in the purchase of regional center services by lifting the cap on the number of hours per quarter on respite services; allowing community-based organizations, in addition to regional centers, to submit a request for grant funding for activities to reduce disparities; and requiring the department to post information about the disparity grants including a structure for the grant program and evaluation results.

Supplemental Security Income/State Supplemental Payments (SSI/SSP)

COLAs

The budget did not include any cost-of-living increases for SSP benefits. In the 2016 Budget Act there was the first SSP COLA since the 2007 Budget Act which was only a \$4 increase on the SSP. This will remain a priority for future budget advocacy.

Housing and Disability Advocacy Program

The budget retains the \$43.4 million GF that was appropriated in the 2016 Budget Act but unspent for the Housing and Disability Advocacy Program, which incentivizes local governments to boost outreach efforts and advocacy to get more persons enrolled in the SSI/SSP program. The January budget had proposed to eliminate the program.

Earned Income Tax Credit

The budget provides for taxable years beginning on or after January 1, 2017, an expanded earned income tax credit that conforms with federal income tax law to include net earnings from self-employment in earned

income and revises the calculation factors to expand the credit amount up to \$22,300, which would be adjusted annually. It also makes changes to provisions relating to interest payable on refunds and overpayments of tax with regard to earned income tax credit claims that include net earnings from self-employment. This will allow more than 1 million households to claim the credit, more than double the nearly 400,000 households that claimed the credit in 2015. This is expected to cost \$140 million in the budget year.

Mental Health

IHSS/CCI/MOE Funding

As noted above, the budget solution for the Governor's termination of the Coordinated Care Initiative and the shift of the Maintenance-of-Effort obligations to the counties has resulted in a corresponding shift of the mental health share of vehicle license fee growth funding used for the county share of IHSS estimated at \$36 million in 2017-18 and \$30 million for the following two years and half of that amount for the two years after that. The California Council of Community Behavioral Health Agencies has estimated the five-year losses for mental health funding at \$126 million and nearly double that because these funds are used for federal Medi-Cal funds.

Incompetent to Stand Trial

The Public Safety trailer bill authorizes the Department of State Hospitals to establish an Admission, Evaluation and Stabilization (AES) Center in the Kern County Jail to provide mental health competency services and treatment to people who have been deemed incompetent to stand trial. The AES Center would be used to screen jail inmates in Kern County, as well as some other Southern California counties, found to be incompetent to stand trial and determine whether they require the intensive inpatient treatment offered at state hospitals. If a patient does not require state hospital treatment, they would be treated at the AES Center. DSH would contract with Kern County to provide custody and treatment services to patients in the center. The bill also gives the Department of State Hospitals (DSH) authority over future jail-based AES competency restoration programs.

Enhanced Treatment Program

The DSH enhanced treatment programs were approved for funding of patients' rights advocates in each of the programs. For the upcoming fiscal year, DSH expects to open two units, both at Atascadero State Hospital. DRC has the contract for the patients' rights advocates.

Transfer of Intermediate and Acute Levels of Care

The budget includes the Governor's proposal to shift responsibility for the three inpatient, psychiatric programs that DSH operates in state prisons to the California Department of Corrections and Rehabilitation (CDCR) beginning in 2017-18 along with a transfer of \$254 million GF and 1,978 positions from DSH and the CDCR. Budget bill language requires the CDCR engage stakeholders throughout the implementation of the transfer of the psychiatric programs from the State Department of State Hospitals, and report to the appropriate legislative budget committees on the progress during the budget hearings in the spring of 2018. The stakeholder engagement shall include, but not be limited to, discussions regarding existing DSH reporting requirements.

Accessibility

Judicial Branch Electronic Filing and Service of Documents

The Superior Courts are in the process of rolling out electronic filing and service of documents to each court that mandates by local rule electronic filing of court documents. The public safety trailer bill requires systems for the electronic filing and service of documents be accessible to individuals with disabilities. Any trial court that contracts with an entity for the provision of a system for the electronic filing and service of documents must include in its contracts a requirement that the entity test and verify that the its system is accessible. The systems must comply with national website accessibility requirements and guidelines. Any electronic filing provider that is not immediately compliant must make an accommodation to any person with a disability to ensure electronic filing. The bill also requires the Judicial Council to adopt uniform rules to implement these requirements and to submit four reports to the Legislature on the status of access compliance.

Equal Access Fund

The budget includes an increase of \$10 million GF in 2017-18 and \$10 million in 2018-19 for the Equal Access Fund that will allow DRC and over 100 legal aid programs to expand their services to low income Californians including persons with disabilities. Additionally, the public safety trailer bill includes a requirement that whenever a judgment has been approved by a court in a class action it must provide that at least 25 percent of any unpaid cash residue or unclaimed or abandoned class member funds be placed in the Equal Access Fund of the Judicial Branch. Another 25 percent must go to the courts to fund collaborative courts or indigent legal services under the Shriver Civil Counsel program.