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California's protection and advocacy system

**PRINCIPLES OF PUBLIC BENEFIT ASSISTANCE
FOR PEOPLE WITH DISABILITIES**

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1. Public benefit programs must be designed to provide people with disabilities with the food, clothing, shelter, medical care and social services that they need. California's current programs fall short in meeting this goal. None of California's benefits programs provide people with more than the minimum that they need.
 - Full cost of living increases in Supplemental Security Income/State Supplementary Payment (SSI/SSP) benefits must be maintained. Current benefits are barely adequate to pay for rent in urban areas.
 - There must be no reductions in Medi-Cal eligibility or services.
 - The Medi-Cal aged and disabled poverty level program must be preserved and strengthened so that eligible beneficiaries do not lose eligibility due to program cutbacks, or due to increases in the federal poverty level index.
 - Reductions in SSI and Social Security benefits to collect back child support or federal loans should be limited or eliminated.
 - Medi-Cal eligibility must be expanded to include individuals who have medically improved such that they no longer meet Social Security Disability Insurance (SSDI)/SSI disability criteria, but still have high medical costs related to their previously disabling condition, such as individuals who have had organ transplants.

- Medi-Cal must be expanded to include children with disabilities who would have qualified for SSI under the old child disability standards that were repealed in 1996.
 - The list of conditions that qualify individuals for medical care and services under the Genetically Handicapped Persons Program (GHPP) must be updated. The California Children’s Services (CCS) program should be improved as recommended in the May 2000 report by the Senate Office of Research, “California’s Ailing System of Caring for Children with Special Needs.”
 - People with acquired or traumatic brain injuries occurring after age 18 who need the type of services provided by Regional Centers for persons with developmental disabilities under Welf. & Inst. Code § 4512(a) must have access to those services.
2. Public benefit programs must be structured so that people with disabilities can live in the most integrated setting appropriate, and in the least restrictive environment.
- Programs and services must be administered consistent with the U.S. Supreme Court decision in *Olmstead v. L.C.* Consistent with *Olmstead*, programs must have realistic procedures and timelines that enable individuals to move from institutions into the community within a short period of time, and that enable individuals to remain in the community.
 - Adequate assessments must be done for individuals before admission to institutions, and periodically after admission, for the purpose of enabling individuals to remain in, or return to, the community.
 - The In-Home Supportive Services program must be protected and strengthened to provide people with the attendant care services that they need in order to safely remain at home. The federal Medicaid Community Attendant Services Act (MiCASSA) program should be enacted.
 - Medi-Cal Home and Community-Based waiver programs must be designed and implemented to enable all eligible individuals to move from an institution to the community. They must be designed and implemented so as to provide necessary care and services in the community when institutionalization is threatened because of inadequate care and support.

Arbitrary waiting lists, cost caps and service restrictions that interfere with this goal must be eliminated.

- Home and Community-Based waiver services must be expanded to the extent allowed under federal law. Waiver services must be structured to ensure availability for people with multiple disabilities.
 - Extra financial assistance and case management must be provided to assist persons transitioning from institutional care to the community to the extent necessary to enable the transition.
 - People living in institutions must have access to community services, particularly in areas relating to independent living, that will assist them in their return to the community.
 - Money management services, case management services, and independent living and habilitation services must be available to enable people to live in the community, and to reduce the need for conservatorship.
 - Appropriate discharge planning must be provided that will maximize the ability of individuals to return to their homes and community. The discharge planning responsibilities of hospitals should extend to their patients placed in nursing facilities whose stay in such nursing facility is expected to last less than 30 days.
 - If the federal government changes the federal Medicaid requirements to allow federal financial participation for individuals in Institutions for Mental Diseases (IMD), there must be mechanisms in place to insure that, as a result, there is no inappropriate institutionalization, and that all necessary provisions, including new Medicaid waivers, are in place to insure that appropriate community supports and services are provided as an alternative to institutionalization.
3. Public benefit programs must be designed to enable people with disabilities to lead productive and fulfilling lives.
- Work disincentives in the Social Security Disability, SSI, In-Home Supportive Services (IHSS), Medicare and Medi-Cal programs must continue to be reduced and eliminated.
 - IHSS benefits must be available to people at work and at school.

- Medicare home health benefits must be available to enable otherwise homebound beneficiaries to work, and to leave their homes for other purposes.
 - County mental health employment programs must be strengthened and expanded.
4. Public benefit programs must be broadly available to all similarly situated people with disabilities, so all have access to the food, clothing, shelter, medical care and social services that they need.
- The Medi-Cal monthly maintenance need income level for medically needy only beneficiaries (currently \$600) must be increased to at least the SSI/SSP income level.
 - All programs that provide case management, such as Regional Centers, County Mental Health Plans, and California Children’s Services (CCS), must assist clients to apply for and qualify for all programs for which they may be eligible such as SSI.
 - Regional Centers and other agencies must preserve records for their consumers that are necessary to enable them to qualify for Social Security Disabled Adult Child (DAC) benefits at such point as they become eligible based on the retirement, disability or death of their parent or caretaker. The records to be preserved include documentation that work in supported employment and other similar programs are not substantial gainful activity despite the amount of earnings.
 - SSI, Medi-Cal, IHSS, and other benefits must be available to all lawful permanent residents of California including people permanently residing in the United States under color of law.
5. Public benefit programs must be equitable so that people with similar needs receive similar supports and services.
- Public and private medical care programs must provide coverage parity for cognitive, mental and physical impairments.
 - Medi-Cal provider rates must be set so that there is no incentive for providers to refuse to provide medically necessary services.

- People who receive both Medicare and Medi-Cal should not receive less in services under both programs than Medi-Cal beneficiaries who do not receive Medicare. The Medi-Cal program must not discriminate against Medicare beneficiaries in the provision of such services as durable medical equipment, medical supplies, and mental health services.
 - Medi-Cal beneficiaries who have other health coverage (OHC) in addition to Medi-Cal should not be penalized as a result. For example, people with full-scope Medi-Cal should not be required to pay out-of-pocket copayments and deductibles that are not required for full-scope Medi-Cal beneficiaries without OHC.
 - The California Children’s Services program should pay premiums for OHC, where appropriate, just as the Medi-Cal program does.
 - In Medi-Cal fair hearings involving medical necessity or scope of benefits, Medi-Cal beneficiaries should have the benefit of independent second opinions.
 - Individuals in out-of-county placements should receive the same services as if they had not been placed out-of-county.
 - Unnecessary administrative barriers to the receipt of services such as overly restrictive prior authorization requirements, burdensome application or verification requirements, unworkable reporting requirements, or discriminatory licensing requirements, must be eliminated.
 - Information about public benefits programs must be provided in clear and understandable language, and must notify beneficiaries of the services available, and all due process rights. Necessary information must be given to beneficiaries at the time of application, on request, and by mail when appropriate. Information about benefit programs and due process rights must be available on the internet as well as in print. Written notice must be given of all eligibility and non-coverage determinations.
6. Public benefit programs must be accessible to people with disabilities, including people whose primary language is a language other than English, and services must be culturally competent.

- Medi-Cal provider reimbursement rates must be set at levels sufficient to attract enough qualified providers so that people with disabilities have necessary services available to them, have a choice of providers, and can receive quality services close to where they live.
 - County health departments must insure that there are sufficient facilities and services available throughout the county so that people do not need to travel long distances to access them.
 - There must be a sufficient number of Medi-Cal providers to provide services in individuals' native languages.
 - Sufficient interpreter services must be made available.
7. Public benefits must be client-centered, voluntary, and designed to provide the services that clients want.
- Representative payees for Social Security and SSI beneficiaries who are unable to manage their own funds must respect the beneficiaries' right to direct and control disbursements consistent with the representative payees' fiduciary obligations.
 - The Medi-Cal program must fulfill its obligation to assist people in identifying and accessing providers who will accept Medi-Cal.
 - Medi-Cal must continue to provide medical and non-medical transportation so that people with disabilities can obtain medically necessary services.
 - Systems must be in place to insure that health care providers are aware of requirements for honoring advance directives, and to insure that they actually follow advance directives.