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California's protection and advocacy system

Quick Overview of Governor's California Budget May Revision May 15, 2009

Governor Schwarzenegger released his fiscal year 2009-10 Budget Revision, known as the May Revise, on May 14, 2009, to close the budget gap that has widened since the fiscal year 2009-2010 budget agreement was signed in February. According to the Governor's projections, that 2009-10 Budget is out of balance by \$15 billion assuming Propositions 1A, 1B, 1C, 1D and 1E pass and an additional \$5.8 billion if they do not.

The Governor's May Revise proposes cuts in addition to those made during the current fiscal year and those approved in the February version of the 09-10 Budget. The May Revise contains two scenarios, one based on the passage of the Propositions and the other based on rejection of the Propositions. Some proposed reductions were previously proposed by the Governor and rejected by the Legislature; others are new. The Governor will provide more detail about the May Revise after the May 19 election; then the Legislature will begin hearings. None of these proposals will become law without the approval of the Legislature.

While any May Revise proposal affecting Californians has the potential to affect Californians with disabilities, this summary focuses on proposals that have a particularly powerful impact people with disabilities. It shows already enacted cuts, to emphasize the continued and cumulative harm to people with disabilities, including children and seniors. A note of caution: as the Legislature considers these proposals, it is possible new or different cuts may be implemented depending on the outcome of the negotiations between the Governor and the Legislature.

For more information about the May revise we suggest you look at the May Revise as proposed by the Governor:

http://www.dof.ca.gov/budget/historical/2009-10/may_revision/documents/May_Revision_2009-10_General_Fund_Proposals.pdf

and information developed by the California Budget Project:

http://www.cbp.org/pdfs/2009/090514_May_Proposals.pdf.

MEDI-CAL CUTS

Medi-Cal is California's Medicaid health care program. This program pays for a variety of medical services for children and adults with limited income and resources, including people with disabilities. For many this is the only health care program they can afford.

Previous Cuts in the 2009-10 Budget Package

The 2009-10 Budget, which was passed by the Legislature and approved by the Governor on February 19, 2009, provides for the following cuts effective July 1:

Optional Benefits: This cut was approved by the Legislature, to go into effect only if the state did not receive a certain amount in federal stimulus money. Because the Department of Finance and the State Treasurer have determined that that “trigger” amount of federal money was not reached, this cut will go into effect on July 1. The enacted 2009-10 Budget deleted \$258.8 million (\$129.4 million General Fund) in funding for certain Medi-Cal “optional” benefits. This eliminates adult dental services, acupuncture, chiropractic services, speech and audiology services, optometry services, optician/optical laboratory services, podiatry services, psychology services, incontinence creams and washes.

Hospital Reductions: This cut was approved by the Legislature, to go into effect only if the state did not receive a certain amount in federal stimulus money. Because the Department of Finance and the State Treasurer have determined that that “trigger” amount of federal money was not reached, this cut will go into effect on July 1. The enacted 2009-10 Budget deleted \$54.2 million (federal funds), or 10 percent, from certain public hospitals and safety net care hospitals and uses these funds to backfill for General Fund expenditures in the California Children’s Services Program, the Medically Indigent Adult-Long Term Care Program, and the Genetically

Handicapped Persons Program.

Provider Rates: Medi-Cal provider rates were reduced effective March 1, 2009, reflecting an overall one percent reduction to Fee-For-Service Medi-Cal rates and a five percent reduction for pharmacy providers and certain long-term care providers.

Adult Day Health Care Program: Provides for savings of \$34 million (\$17 million General Fund) in the Adult Day Health Care (ADHC) program. Assumes reforms will be enacted as proposed by the Governor including unbundling the rate into its component services, tightening medical necessity criteria, performing post-payment reviews of participant charts, and changing reimbursement to a prospective cost-based methodology.

Proposed Cuts if the Ballot Propositions Pass

Unspecified Cuts: The Governor proposes unspecified additional cuts in Medi-Cal spending of \$750 million. To achieve the \$750 million in reductions, the Governor proposes petitioning the Obama Administration for additional federal waivers to secure "program flexibility" to slow the rate of program growth, and allow the state to determine its own eligibility criteria. If approved, his requests will certainly result in Californians losing Medi-Cal coverage, as well as other impacts not yet identified.

Private Hospitals: The Governor proposes \$20 million in additional Medi-Cal cuts by reducing General Fund support for private hospitals by 10%, a commensurate reduction as public hospitals received in the enacted 2009 Budget.

Immigrant Benefits: The Governor proposes to save an additional \$125 million by reducing Medi-Cal services for newly qualified legal immigrants and for those Permanently Residing in the United States under Color of Law (PRUCOL).¹ Effective October 1, 2009, this proposal would limit

¹ Some eligible immigrants are "permanently residing in the U.S. under color of law" (PRUCOL). PRUCOL is not an immigration status, but a benefits eligibility category, which generally means that the immigration authorities are aware of an individual's presence and have no plans to deport or remove him or her from the country.

benefits for newly qualified immigrants (over the age of 20 and excluding pregnant women) and PRUCOL immigrants to emergency services only.

Pharmacy Reform: The Governor proposes to save \$75 million through implementing Medi-Cal pharmacy reforms with new federal and state drug pricing policies aimed at lowering costs and retaining quality care. Effective October 1, 2009, these reforms would require federal Drug Pricing providers to dispense only drugs purchased through the program, would require manufacturers of HIV/AIDS/cancer drugs to pay particular rebates subject to a penalty of non-compliance, establish upper billing limits for drugs, and would require the state to perform therapeutic category review of antipsychotic drugs.

Anti-Fraud Initiative: The Governor proposes to save \$47.9 million through a Medi-Cal anti-fraud initiative. The plan proposes to more aggressively target fraud in adult day health care centers, pharmacy, physicians, durable medical equipment, and transportation. These efforts would require 62 new positions and \$3.4 million General Fund in 2009-10. Savings would increase significantly after startup in 2009-10 and rise from \$47.9 million to approximately \$87.0 million in the out years.

Additional Proposed Cuts if Propositions Fail

Substance Abuse Treatment Program: The Governor plans to save \$8.8 million by reducing the payment rate for Drug Medi-Cal by 10 percent. This program funds substance abuse treatment services for Medi-Cal eligible individuals.

Adult Day Health Care Program: The Governor plans to save \$25.5 million by reducing the Medi-Cal Adult Day Health Care Program, an optional benefit, by limiting benefits to three days per week.

Skilled Nursing Home Rates: The Governor proposes to raise \$18.3 million by expanding the revenue base for Skilled Nursing Facility Rates. He proposes to expand the amount of revenue on which the AB 1629 fee is assessed to include Medicare revenues. Under current law, skilled nursing facilities pay a fee to the state based on their revenues. The state uses the fee to draw down a like amount of federal funds, a portion of which is provided to nursing homes through Medi-Cal rate payments. The balance remains with the state. **Note:** While cutting community-based long term

care programs, including IHSS and Adult Day Health Center, the Governor is not proposing to cut nursing home reimbursement.

Funds Shifts from Tobacco Tax and Health Protection Act: The Governor plans to raise \$60 million by shifting proceeds from the Tobacco Tax and Health Protection Act (Proposition 99, 1988) to the Medi-Cal program. These funds will come from County Health, Clinic, Breast Cancer Early Detection, Asthma, Major Risk Medical Insurance, and Access for Infants and Mothers programs, and rural health demonstration project and a consumer assessment project to offset costs in the Medi-Cal Program.

Developmental Services

The Department of Developmental Services is the agency through which the State of California provides services and supports to individuals with developmental disabilities. These disabilities include mental retardation, cerebral palsy, epilepsy, autism and related conditions. Services are provided through state-operated developmental centers and community facilities, and contracts with 21 nonprofit regional centers. The regional centers serve as a local resource to help find and access the services and supports available to individuals with developmental disabilities and their families.

Previous Cuts in the 2009-10 Budget Package

Regional Centers were required to identify program changes to achieve \$100 million in General Fund savings and there was a 3% cut in payments to some regional center providers. The program changes needed to achieve the savings were the result of discussions between stakeholders and the Department of Developmental Services.

Proposed Cuts if the Ballot Propositions Pass

The proposal requires that the Department of Developmental Services target an additional \$234 million in savings by continuing to work with stakeholders to identify cuts.

Additional Cuts if Propositions Fail

The Governor did not propose any additional reductions if the propositions fail.

In Home Supportive Services (IHSS) Cuts

IHSS is a statewide public program providing personal care and domestic services to approximately 430,000 aged, blind or disabled Californians who are unable to remain safely in their own homes without such assistance. The IHSS program is successful at keeping people out of more costly and less desirable out-of-home placement in nursing homes or other institutions. IHSS services include personal services such as bathing, dressing and assistance with walking and transferring from bed to chair; domestic assistance such as meal preparation, shopping, heavy house cleaning; and protective supervision. A combination of state, county and federal funds through Medicaid support IHSS.

Previous Cuts in the 2009-10 Budget Package

These two cuts were approved by the Legislature, to go into effect only if the state did not receive a certain amount in federal stimulus money. Because the Department of Finance and the State Treasurer have determined that that “trigger” amount of federal money was not reached, these cuts are to go into effect on July 1.

State Share of Cost: Eliminates the state’s share of cost contribution to new IHSS consumers who come on the program after July 1, 2009 and who have income greater than SSI. While most IHSS consumers receive Medi-Cal services at no personal cost because of their low income, some IHSS recipients with higher family income may also become eligible by paying a share of cost for the services. They spend down to the SSI level, currently \$870/month for an individual. The state “buys out” the difference between that SSI level and the Medi-Cal income eligibility level of \$600 per month. The original share of cost (SOC) buyout was enacted in 1998 and was designed to allow people with very low incomes to receive IHSS without any out-of-pocket expense for the program. This would be eliminated for new IHSS consumers; they would be required to pay a share of cost of up to several hundred dollars to become eligible for IHSS.

Example: Mr. Jones, a retired janitor, is 81 and survives on Social Security and a small pension, which total \$1,350 per month. He does not have any housing subsidy and pays \$750 per month for a small apartment. Under this cut, he will have to pay \$480 out of his pocket for the help he needs. He uses that money now for food, utilities and transportation to medical appointments. If he cannot pay that share of cost because he cannot afford

it, Mr. Jones will lose his eligibility for IHSS.

IHSS Worker Wages: Limits state participation in the wages of IHSS workers to up to \$9.50 per hour plus up to \$0.60 per hour for individual health benefits. IHSS wages and benefits are split among the federal government, the state and the counties. Currently the state pays its share of those costs up to a wage of \$12.10 per hour. If, as expected, counties do not make up for the decreased state share, most IHSS workers would see a pay cut, which could lead to people leaving that job for other better-paying work, decreasing the availability of workers for IHSS consumers. It could also lead to more workers going on public benefits and some IHSS consumers being unnecessarily institutionalized.

NOTE: The cut to state share of IHSS wages is being challenged by SEIU, as violating the requirements which the federal government put on states as a condition of receiving federal stimulus money. The federal government has not issued a final ruling on the challenge.

Proposed Cuts if the Ballot Propositions Pass

The Governor is proposing the following cuts, in addition to the ones already approved by the legislature, listed above. These cuts have all been proposed before and been rejected by the legislature.

Permanent Elimination of IHSS Domestic and Related Services for Consumers with Functional Index Ranks Below 4: The first part of the cut that the Governor proposes would provide “non-medical services to only the neediest IHSS recipients.” This would be done by eliminating domestic and related services for all IHSS recipients with a functional index score below Rank 4.

But what does this mean? It means that individuals who have difficulty performing a task, or who cannot perform the task without assistance, would no longer receive assistance **with that task**. The county social workers who do assessment of IHSS consumers assign a Functional Index rank, which can range from Rank 1 to Rank 5. People with a Rank 1 do not get IHSS services currently.

These are the definitions of Ranks 2 and 3:

Rank 2: Able to perform a function but needs verbal assistance such as

reminding, guidance, or encouragement.

Rank 3: Can perform the function with some human assistance, including, but not limited to, direct physical assistance from a provider.

Example: Mrs. Smith, an 86 year old widow, has been approved by the social worker to receive 21.6 hours per month for help with meal preparation and clean-up, housekeeping, grocery shopping, laundry, and errands. She has a Functional Index Rank of 3 for these activities (meaning the social worker has said she cannot do them without human assistance) but she will no longer receive any help with those services.

“Domestic and related services” include preparing food, doing laundry, cleaning, dusting, changing linens, taking out garbage, grocery shopping, planning menus, setting a table and washing and putting dishes away. One of the great ironies of this proposal is that it completely undermines the recent IHSS Quality Assurance program, on which the state has spent millions of dollars. Having assured the quality of the IHSS assessments by training and retraining social workers, and having developed Hourly Task Guidelines for awarding hours for each IHSS task, the state proposes to disregard its own work and eliminate domestic and related hours which those social workers have determined are needed “ensure the health, safety, and independence of the/recipient.”

Permanent increase in the Share of Cost for Consumers with Functional Index Scores below 4: See the description of Share of Cost above; this proposal would extend that share of cost cut to people with certain functional index scores, even though there is no relationship between those two concepts.

Example: Mr. Jones, a retired janitor, is 81 and survives on Social Security and a small pension, which total \$1,350 per month. He does not have any housing subsidy and pays \$750 per month for a small apartment. Although social workers have said that Mr. Jones needs 100 hours per month of help with meal preparation, grocery shopping, meal clean-up, bathing, dressing and bowel/balder care, Mr. Jones has a Functional Index of 3.8, Under the May Revision proposal, he will have to pay \$480 out of his pocket for the help he needs. He uses that money now for food, utilities and transportation to medical appointments. If he cannot pay that share of cost because he cannot afford it, Mr. Jones will lose his eligibility for IHSS.

Limit State Participation in IHSS Wages: This proposal which would become effective October 1, 2009 would reduce state participation in the wages of IHSS workers to the state minimum wage of \$8 per hour, plus \$.60 per hour for health benefits. This proposal would have even more devastating effects than the already-approved wage cut, described above, throwing more workers into poverty, decreasing the availability of home care workers for consumers, and increasing the drain on public benefits as workers qualify for various types of public assistance and consumers are forced into institutions.

\$15.8 Million IHSS Anti-Fraud Initiative: The administration proposes to save 15.8 million dollars through an anti-fraud initiative, but has supplied no details about how it would go about doing this, or what kind of legislative action will be required, or how they reached their conclusion about the amount of money which could be saved through this initiative.

Additional Cuts if Propositions Fail

The two proposed cuts would:

- eliminate **all** domestic and related services for IHSS consumers with a functional index score below 4; this differs from the previous proposal in that it is based on an average – known as functional index score- rather than on functional rankings for particular tasks. This means that if a consumer has an average functional index score of 3.99 or below for the range of domestic and related services, he or she would get no domestic or related services.
- eliminate ALL IHSS services for IHSS consumers with a functional index score below 3. This means that people who have the physical ability to take care of themselves, but lack the mental capacity to do so without “verbal assistance, such as reminding, guidance, or encouragement” would get no IHSS at all. People with Traumatic Brain Injury (TBI), Alzheimer’s, dementia or some developmental disabilities may be especially hard hit by this IHSS cut.

SSI

SSI makes monthly payments to people with limited incomes and few resources and are age 65 or older; blind; or disabled. Disabled or blind children also can receive SSI. The basic SSI amount is the same

nationwide. However, many states, including California, add money to the basic benefit.

Previous Cuts in the 2009-10 Budget Package

The 2009-10 budget reduced the maximum SSI/SSP grant for an aged/disabled individual from \$907 to \$870 per month and the maximum grant for aged/disabled couples from \$1,579 to \$1,524 per month, effective May 1. The budget also requires an additional reduction in the maximum grant for an aged/disabled individual from \$870 to \$850 per month and the maximum grant for aged/disabled couples from \$1,524 to \$1,489 per month effective July 1.

Proposed Cuts if the Ballot Propositions Pass

The Governor's proposal would further reduce SSI/SSP grants to the maximum extent permitted under federal law effective September 1, 2009. This means reducing the maximum grant for an aged/disabled individual from \$850 to \$830 per month and the maximum grant for aged/disabled couples from \$1,489 to \$1,407 per month .

Additional Proposed Cuts if Propositions Fail

The Governor did not propose any additional reductions if the propositions fail.

Cash Assistance Program for Immigrants (CAPI) and California Food Assistance Program (CFAP)

CAPI provides cash assistance to immigrant seniors and persons with disabilities who do not qualify for federal SSI. CFAP provides food stamps to immigrants who do not qualify for federal SSI or food stamps. CAPI serves as a lifeline for people who rely on the grant to secure housing, food and other basic needs. CAPI serves almost 10,000 lawfully residing immigrant seniors and immigrants with disabilities in California.

Previous Cuts in the 2009-10 Budget Package

There were no cuts made to these programs.

Proposed Cuts if the Ballot Propositions Pass

Eliminate effective October 1, 2009 the CAPI and the CFAP for immigrants if the Governor's May Revise is approved.

Education

Previous Cuts in the 2009-10 Budget Package

The total funding provided for 2009-2010 is 55.3 billion, 400 million less than the amount provided in 2008-2009. The enacted Budget allows for some flexibility with categorical funding which will give education agencies the ability to take money specified for one program and use it for another education program and temporarily waives some requirements such as class-size reduction.

Proposed Cuts if the Ballot Propositions Pass

No specific cuts are being made to special education. However, the cuts to general education are large and will have an impact on general education teachers and services that students with disabilities who are not in special education need. In addition, many special education students need access to regular education programs.

Additional Proposed Cuts if Propositions Fail

No specific cuts are proposed to special education if the Propositions fail.

Mental Health

Previous Cuts in the 2009-10 Budget Package

The enacted 2009-10 Budget reduces by \$17 million in General Funds the amount provided for capital outlay projects for the State Hospitals.

Proposed Cuts if the Ballot Propositions Pass

The Governor did not propose any additional reductions if the Propositions pass.

Additional Proposed Cuts if Propositions Fail

The Governor did not propose any additional reductions if the Propositions fail.