Disability Rights California

California's protection and advocacy system

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Governor's 2009-2010 Budget: Proposals Impacting Persons with Disabilities

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In January 2008, the Governor proposed cuts to all state agencies for the fiscal year starting July 1, 2008. Disability Rights California opposed these cuts because they would have devastating affects on people with disabilities, especially people who use multiple state services. On May 15, 2008 with the deficit higher than in the January budget, the Governor released the May Revision of the budget, proposing even deeper cuts to programs that serve people with disabilities. Ultimately, the legislature and the Governor enacted some of these cuts making it extremely difficult for people with disabilities to make ends meet.

While people with disabilities scrambled to adjust their already stretched budgets and cope with the loss of vital services, the economy worsened. In response to the worsening economy and more budget shortfalls, the Governor proposed additional mid-year cuts were not adopted. If a budget is not passed quickly, the state predicts a budget shortfall of over $41 billion by June 2010.

At the end of December, earlier than in past years, the governor introduced a summary of his 2009-2010 budget proposals. In the 2009-2010 budget, the Governor proposed several ways to increase state income including:

Temporarily increase the sales tax by 1.5 percent
Broaden the sales and use tax to include certain services, like appliance and furniture repair, vehicle repair, and veterinary services
Tax oil producers who take oil from California's earth and waters
Increase taxes on alcoholic drinks by 5 cents a drink
Increase vehicle registration fees by $12

Reduce the personal income tax dependent exemption credit to equal the personal exemption credit
Shift Tribal Revenues from Transportation to General Funds
Transfer and borrow from special funds

As with budgets introduced earlier in the year, this budget also had several cuts to vital programs. These were many of the same cuts rejected earlier by the legislature. Low-income Californians with disabilities in these difficult economic times cannot afford to lose vital services and have programs cut. If enacted, the multiple and drastic cuts will make it more difficult, if not impossible, for people with disabilities to live independent and productive lives in their communities.

In 1999, the US Supreme Court, in the Olmstead decision, said unnecessary institutionalization of people with disabilities is illegal under the Americans with Disabilities Act. California has to follow that decision. Budget cuts that make people leave their homes and go into institutions will move California backwards in complying with the Olmstead decision.

Below are some of the most egregious budget proposals, followed by some practical recommendations to increase revenue. More proposed cuts and details will likely be available when the official Governor's budget is released for 2009-2010.

Of particular concern are:

Developmental Disability Services

The Governor wants to lower or discount payments to regional center service providers by 3 percent beginning February 1, 2009. These reductions may mean many service providers who have been subject to rate caps for a number of years may go out of business leaving regional center clients with fewer or no options for needed services.

The Governor wants to reduce some regional center reporting requirements related to staff salary schedules and contract expenditures and allow larger client to service coordinator ratios.

The Governor's budget includes a proposal for the Department of Developmental Services to work with the Legislature and stakeholders to develop proposals to maintain the funding level, achieve targeted savings

and maintain services for people with disabilities. The targeted savings amount that the state needs to reach is 334 million.

Mental Health Services

The Governor proposes to fund Mental Health Managed Care Programs with Mental Health Services Act (Proposition 63) money. California voters will need to approve this proposal because the Act prohibits this type of funding shift. This proposal may mean that some mental health community programs will be closed because money currently used to fund these programs is needed elsewhere.

The Governor proposed cuts that may affect people with a diagnosis of mental illness who are not eligible for Medi-Cal services from county mental health departments, such as eliminating Medi-Cal coverage for psychological services.

Other programs the Governor will not cut, but will change how they are funded. He wants to give some programs their own sources of income, instead of getting money from the general fund. This way they will not be affected by bad budget years. He wants to increase taxes on alcoholic drinks by 5 cents a drink. However, funding programs this way does not guarantee that the revenue will be high enough to maintain services.

- This increase will help make sure Prop 36 drug treatment services, instead of jail time, will continue for nonviolent drug offenders.
- This increase will help make sure people who are on Medi-Cal and get drug treatment services through the Drug Medi-Cal program will continue to get these services.

SSI/SSP

The Governor proposes to reduce the SSP grant (the state payment) to the federally required minimum. That would mean that an individual would receive $830 a month and a couple would receive $1407 a month after the state reduction. The current grant levels are $870 a month for an individual and $1524 a month per couple.
The Governor also proposes to suspend June 2010 state Supplemental Security Income/State Supplementary Payment (SSI/SSP) cost of living adjustment.

Medi-Cal

The governor proposes to eliminate some Medi-Cal optional services for adults, which could include dental services, acupuncture, chiropractic services, speech and audiology services, optometry services, optician/optical laboratory services, podiatry services, psychology services, incontinence creams and washes. People getting Medi-Cal do not have money to buy these services. They will go without or go to emergency rooms – at great cost to the state – when they are in a medical crisis. They may feel their only choice is to go to nursing homes, even though they do not want to and would not need to if they could get their services at home. He proposes to increase the Medi-Cal share of cost requirement to the 2001 eligibility level for the Aged, Blind, and Disabled program. This means rolling back eligibility for this specific Medi-Cal program to what it was in 2001, which would mean anyone who did not meet the 2001 eligibility standard would be required to pay a Medi-Cal higher share of cost. This program allows people with income up to 127% of the Federal Poverty Level (FPL) to qualify for Medi-Cal.

The Governor also wants to implement month-to-month eligibility requirements for Medi-Cal benefits to undocumented immigrants, unless a subsequent emergency ensues. In the budget, there are also cuts proposed to full scope Medi-Cal benefits for some categories of newly “qualified” immigrants, including immigrants who are PRUCOL (Permanently Residing in the U.S. Under Color of Law). During the first five years of being qualified, they would receive only restricted scope Medi-Cal, similar to that received by immigrants who are undocumented. Reductions are proposed to income eligibility for the "1931(b)" Medi-Cal program, the eligibility category for low-income families. The Governor proposes to modify eligibility for two parent families by redefining under-employment.

He also proposes to reduce reimbursement rates to public hospitals and instead use the federal funds for particular public health programs and delay payments to Medi-Cal fee-for-service providers for one month. This is in addition to a previously authorized two-week delay under current law. Finally, he proposes to suspend the state law that requires cost of living money for County Administration in the Medi-Cal Program.

Cash Assistance Program for Immigrants (CAPI)

The Cash Assistance Program (CAPI) for Immigrants will be cut if the governor's plan is approved. CAPI provides cash assistance to immigrant seniors and persons with disabilities who do not qualify for federal SSI. 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

IHSS

For some people, he proposes to take away IHSS domestic and related services such as meal preparation, laundry, food shopping, and cleaning.

He proposes to decrease state participation (state funding) for IHSS wages and benefits to $8.00 per hour plus up to 60 cents/hour for benefits, so fewer providers may be available to provide needed services so a person can remain safely at home.

He proposes to eliminate the IHSS state share of cost contribution (i.e. buy-out) for some people resulting in a share of cost for them of several hundred dollars.

Education

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.

You propose to give school administrators flexibility to transfer categorical funds to each LEA's general fund. Giving school administrators the ability to transfer categorical funds to general fund can have a negative affect on special education students. When school administrators are able to make the decisions as to whether there is need for supports or services, they may decide against funding special education services.

CalWORKS

He proposes to reduce by 10% the monthly assistance CalWorks payments. There are proposed changes to the the CalWorks Safety Net program to reward working families who are fully participating in federal

work requirements with continued maximum Safety Net benefits,

He proposes to impose a 60-month time limit on assistance for certain child-only cases, implementing a six-month self sufficiency review requirement to engage families who are not participating in work requirements

California Food Assistance Program

Eliminate state funded Food Stamps for legal immigrants.

PROPOSALS FOR INCREASED REVENUES:

Disability Rights California recommends that the Governor and the Legislature increase the state revenues and reduce the cuts that affect the health, safety and integration of some of California's residents with disabilities:

Recommendations regarding Developmental Disabilities System

If California reduced the size of some community care facilities for people with developmental disabilities: it would get more federal money. Currently, the federal government will not give money for facilities that serve 16 or more people. A reduction in size of some community care facilities could save the state approximately $10.7 million due to increased federal funding

If California finalized a State Medicaid Plan Amendment: it could get $44 million in federal money for the day program services used by people who live in Intermediate Care Facilities for the Developmentally Disabled.

Eliminate Multiple Licensing Requirements by the Department of Social Services and the Department of Health Services: We have recommended, since at least 2004, that the Administration consider doing away with duplicate Department of Health Services and Department of Social Services licensing of living arrangements for people with developmental disabilities and make the Department of Developmental Services and the regional centers responsible for this function (including the authority to take corrective actions against providers when necessary). This is done successfully for supported living services and family home agencies. This

will save state dollars by reducing state bureaucracy as well as improving life quality for people with disabilities.

Plan for Closure of an Additional Developmental Center: This is a fiscally sound policy that will save the state money because it costs less to provide serves and supports in the community than in an institution. It also ensures that California meets its Lanterman Act and Olmstead obligations.

Require Supported Living Services to loan individuals money to meet the costs of care during the initial period of time waiting to qualify for IHSS: IHSS will reimburse the cost of the loan once the person becomes eligible. It is estimated that there would be a $6,790 savings for each new person in supported living.

Recommendations regarding Special Education

Use More Mediation to Resolve Special Education Disputes: To settle a dispute, it is generally cheaper to use a mediator than to go through administrative hearings, which uses a judge. In addition, in special education disputes, mediation can help keep good relationships among students, families and schools. A mediator needs different skills than a judge needs, so it makes sense for the state to use mediators for mediation and judges for administrative and court cases. By using more mediators, the state could handle mediations and hearings more efficiently and save money.

Recommendations regarding In Home Supportive Services Program

Increase the Maintenance Need Income Level (MNIL) for the Aged-Blind-Disabled Medically Needy (ABD-MN) program so that it approaches SSI/SSP grant levels to draw down federal match for the state paid difference between the MNIL and SSI grant levels. Virtually all those who meet their monthly share of cost under the ABD-MN program do so through Medi-Cal personal care services.

Recommendations regarding the Medi-Cal Program

Increase waiver slots under the other Home and Community Based Waivers including the Acute Care/Nursing Facility waiver, the Multi-Senior-Services Program waiver and the supported living waiver to increase

federal participation. Alternatives to nursing homes generally save the state money, especially if they decrease nursing home capacity to match +decreased demand.

Eliminate the scheduled increases in nursing home rates. The proposed budget does NOT reflect any changes in payments to nursing homes, which are still scheduled to get an increase in fiscal year 09, as they did in 08, in contrast to the enacted or threatened cuts to home and community based services that people use instead of nursing homes, such as IHSS and MSSP.

Meet with California Federal Reimbursement and Medicaid experts regarding ways of reducing costs to the Medi-Cal program.

Explore ways to increase federal financial participation of Medi-Cal including:

Proactive changes to the health insurance payment programs to reduce state Medicaid services and administrative costs.

Provider taxes, which will become matching funds for federal money

Accessing Veterans' pharmacy benefits.

Covering adult dependent children under private health plans including Knox-Keene health plans.

Medicaid Reimbursement**:** California currently receives Medicaid reimbursement at the rate of 50%. This is lower than what some other states receive. The reimbursement rate has been adjusted in the past as part of a federal economic stimulus package. If the reimbursement rate was increased by at least 3%, California would receive an additional $1 billion dollars in federal Medicaid reimbursement each year.

Recommendations regarding the Children's Mental Health System

The Administration should apply for the **Katie Beckett Waiver**, also known as the **Deeming Waiver** or the **2176 Model Waiver**, which enables children with severe disabilities to be cared for at home and be eligible for Medi-Cal based on the individual's income and assets alone. Without the

waiver, the income of legally liable relatives is counted when the individual is cared for at home. The waiver would provide additional federal funds to provide mental health services in the community for children in or at risk of out of home placement or served entirely at state and county expense. Providing mental health services in the community in the end is more cost effective for the state than institutionally based services and complies with Olmstead.

Make the Full Array of Early and Periodic Screening, Testing, Diagnosis, and Treatment (EPSDT) Supplemental Mental Health Services available statewide. California is currently offering only one supplemental mental health service—Therapeutic Behavioral Services—statewide to eligible children under the EPSDT program. EPSDT mandates that all Medi-Cal beneficiaries up to age 21 receive all medically necessary services that will correct or improve a condition discovered through mandated screening. This means that children with psychiatric disabilities are entitled to receive whatever services are medically necessary to help them with their psychiatric disability. Several states have done a better job of identifying services such as respite, wraparound, and other services that should be provided to children and their families under EPSDT. California is not taking advantage of the additional federal match that would fund these services and instead has chosen to serve children with state and county dollars in institutions and expensive out-of-home placements rather than serve them in the community which costs significantly less, and saves state dollars.