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*California's protection and advocacy system*

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June 22, 2009

Honorable Darrell Steinberg  
California State Senate  
Capitol Building, Room 205  
Sacramento, CA 95814

The Honorable Karen Bass  
California State Assembly  
Capitol Building, Room 219  
Sacramento, CA 95814

**RE: Budget Conference Committee Report**

Dear President pro tem Steinberg and Speaker Bass,

Disability Rights California, a non-profit advocacy organization mandated to advance the human and legal rights of people with disabilities, recognizes the hard work and difficult choices made by the Budget Conference Committee. We are mindful of the unprecedented fiscal crisis and political realities and the pressure they are exerting on legislators.

We appreciate that the Conference Committee package is substantially less harsh and harmful than the Governor's May proposals and does preserve some important services and benefits which would have been eliminated by the Governor.

Disability Rights California is pleased with the Administration and Legislative efforts to secure additional federal financial assistance and promote good policy decisions to increase opportunities for integration for persons with disabilities. Additionally, we agree with the Conference Committee's recommendations to increase revenue, such as increasing the

tax base for the AB 1629 provider tax on nursing homes. We are pleased to see efforts to reduce institutional expenditures, such as the closure of smaller institutions that serve persons with developmental disabilities and suspension of nursing home rate increases

However, we cannot support the cuts in the Conference Committee report because they will substantially harm people with disabilities.

While we accept that the budget must be balanced through a combination of revenues and reductions, we also know that low-income Californians who rely on state services and benefits will be making painful sacrifices which are disproportionate to their incomes and resources. For low-income Californians with disabilities, many of the budget decisions will result in a loss of several needed services because of multiple proposed and enacted cuts. For example:

- Somewhere around 35,000 people that depend on In Home Supportive Services (IHSS) to stay home safely will lose those services completely.
- Around 80,000 of the people who depend on IHSS, and who have been assessed as not being able to take care of themselves without human assistance, will lose some or all of their domestic and related services. This means that if they are unable to take out the garbage or change the bed linens, the garbage will pile up and the bed linens will stay dirty.
- SSI/SSP, the only income for hundreds of thousands of Californians, will be cut three times in one year, leaving recipients unable to pay rent in most areas of California, much less buy food and pay utility bills.
- Those same poor Californians will have already lost Medi-Cal coverage for dental care, podiatry, incontinence creams and washes – and they will not be able to afford to pay for those necessities themselves.
- The medically fragile adults who depend on Adult Day Health Care will lose two days a week of care.

We fear these cuts will jeopardize the health and safety of the poorest people with disabilities, including seniors. We believe that some people will be forced to go into nursing homes and other institutions—at a higher cost to the state.

Today is the 10<sup>th</sup> anniversary of the landmark US Supreme Court decision In *Olmstead*, which affirmed that unnecessarily institutionalizing people with disabilities is illegal discrimination. With the cuts in home and community based services, the state will take a giant step backwards away from its legal responsibilities to follow the mandate in *Olmstead*.

There are opportunities in this crisis; below are positive public policy changes which would achieve state savings and also promote the values of inclusion and integration for Californians with disabilities:

- 1) **Abolish the Labor Driven Operating Allocation (LDOA) to nursing homes.** This guaranteed profit is given regardless of the quality of care in the facility and can be used for any purpose the nursing home owners choose. The LDOA is even more inappropriate in this dire financial crisis, when alternatives to nursing homes are being eliminated. This money should be redirected to direct care staff and to transition assistance to move people out of nursing homes when they prefer to live in the community.
- 2) **Consolidate long term care funding in one unified budget, with a statutory goal of reducing institutional spending and supporting home and community based services.** Further, consolidate long term care services to reduce duplication in administration. These consolidations will enable the legislature to set goals for how the money is spent and remove incentives for institutionalization and substitute incentives for home and community based care- which is what people want. Avoiding unnecessary institutionalization is also the law. Consolidation will save taxpayer money while improving the long term care system. For example, between 1995 and 2005, Washington State increased its caseload for all long term care by 30.7% but reduced its spending by 7.4%. Washington increased its spending on home and community services by 229%, but covered that increase by reducing nursing home caseload and spending by about 43%.
- 3) **Unify the Community Services/Regional Center Budget and the**

**Developmental Center (DC) Budget.** A unified budget would remove the artificial distinction between DCs and the remainder of the DD system in keeping with the philosophy of the Lanterman Act and *Olmstead*. Changing the current bifurcated budget process will facilitate a more efficient and equitable allocation of resources between the DCs and services in the community and enable State administrators to more equitably spread the impact of budget cut-backs across the system. Additionally, unifying the budget will encourage and support regional centers in moving people out of developmental centers to quality community homes.

**4) Consolidate Licensing Functions; Regional Center consumers live in a variety of residential facilities.** Some of these facilities such as skilled nursing facilities and Intermediate Care Facilities for the Developmentally Disabled (ICF-DDs) are licensed by the Department of Health, other facilities such as Community Care Facilities are licensed by the Department of Social Services. In addition, each regional center is obligated to review the quality of services provided by the provider and ensure the health and safety of the residents. We believe that the current licensing requirements are inefficient and in some cases duplicative. One way to increase efficiency would be to assign DDS responsibility for the licensing and quality assurance of all facilities in which people with developmental disabilities live.

Disability Rights California acknowledges that the task of addressing the state's fiscal crisis is difficult. We remain willing to work with you to ensure that California honors its commitment to all individuals with disabilities.

Very truly yours,



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