



Disability  
Rights  
California

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May 27, 2009

Honorable Karen Bass, Assembly Speaker  
Capitol Building, Room 219  
Sacramento, CA 95814

Honorable Darrell Steinberg, Senate President pro tempore  
Capitol Building, Room 205  
Sacramento, CA 95814

**RE: Opposition to May Revision Proposals to Cut Medi-Cal**

Dear Members of the Legislature:

Disability Rights California, a non-profit advocacy organization mandated to advance the human and legal rights of people with disabilities, opposes the proposals in the Governor's May Revision to make further drastic cuts to vital safety net programs including the Medi-Cal program.

Medi-Cal pays for a variety of medical services for certain children and adults with limited income and resources, including people with disabilities. Most Medi-Cal beneficiaries cannot afford to pay for any of their medical care.

The Governor and the Legislature have already made hundreds of millions of dollars of drastic and harmful cuts to the Medi-Cal program in the current fiscal year and the upcoming fiscal year. These cuts, some of which have yet to take effect, will put many people with disabilities in great peril. A number of people with disabilities will be forced into nursing homes against their wishes, solely out of need for basic services, which will now only be available in nursing homes. Below are a few of the most egregious Medi-

Cal cuts that have already been taken:

The 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.

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.

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.

The 2009-10 budget cuts \$34 million (\$17 million general fund) in the Adult Day Health Care (ADHC) program through a variety of reforms, tightening of medical necessity criteria, and changing reimbursement methodology.

The Governor’s May Revision proposes deeper and more harmful cuts to services and supports that low-income Californian’s with disabilities depend on. These proposals come at a time when the federal government is giving tens of billions of dollars to the state to help improve access to healthcare. People who receive Medi-Cal cannot afford reductions to programs and services. If enacted, the cuts will make it more difficult, if not impossible, for people with disabilities to live independent and productive lives in their communities. Disability Rights California opposes these 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 negative impacts on seniors and people with disabilities.

His plan proposes \$20 million in additional Medi-Cal cuts by reducing General Fund support for private hospitals by 10%, a reduction commensurate with that received by public hospitals in the enacted 2009 Budget. This proposal is likely to create a lack of access to care, as hospitals may be reluctant to renew Medi-Cal contracts or provide services to Medi-Cal beneficiaries. This is especially impactful on rural communities, which already have few options for hospital services. Hospitals, themselves, will feel pressure on two fronts if this proposal is enacted. With people losing eligibility for Medi-Cal, and people losing private health coverage through job loss, there will be more people lining up for help at hospital emergency rooms. The brunt of this economic squeeze will fall on chronically underfunded county hospitals and county services, negatively impacting the availability of services to the people who need them.

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).<sup>1</sup> Effective October 1, 2009, this proposal would limit benefits for newly qualified immigrants (over the age of 20 and excluding pregnant women) and PRUCOL immigrants to emergency services only. This proposal will take benefits away from legal resident immigrants, who, without preventative care, will end up going to emergency rooms when medical issues get to the level of a crisis. If this proposal is enacted, counties will pick up this cost through increased emergency room visits and increased demand for county residual services.

The plan 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. We agree lowering the cost of drugs is an important goal. However, we are

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<sup>1</sup> 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.

concerned that tightening of the formulary would create difficulty for people with disabilities to get the specialty drugs they need.

The Governor proposes to save \$47.9 million through a Medi-Cal anti-fraud initiative by more aggressively targeting 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 are estimated to increase significantly after startup in 2009-10 and rise from \$47.9 million to approximately \$87.0 million in the out years. Reducing fraud is a valid endeavor, as long as procedures are designed to legitimately target fraud, and make no assumptions that fraud is occurring. Procedures should not place undue burdens on Medi-Cal recipients, and should not create hurdles for people with legitimate need. For some people with disabilities, it is difficult to find accessible transportation or to find assistance to fill out paperwork. These and other considerations should be addressed when creating any additional requirements for eligibility.

He proposes 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. This drastically underfunded program cannot afford to take a cut. There is already more demand than there are services available.

The May Revise proposes 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. This undercuts the purpose of the program, which is to provide a place for people with severe disabilities to go when caretakers are unavailable. Reducing the number of days for this program could be expected to result in nursing home placement for many individuals. This goes against the *Olmstead v. L.C.* decision, in which the court ruled that the Americans with Disabilities Act requires community-based services for people with disabilities who can be served in the community.

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. While we approve of expanding the revenue base, we stand opposed to cuts to **community-based** long term care programs, including IHSS and Adult Day Health Care. The Governor is not proposing to cut nursing home reimbursement.

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. These programs are already gravely underfunded. This proposal, combined with the proposal for hospital funding cuts, places counties in a precarious position, and seriously erodes their ability to provide health services to the people in their communities.

Medi-Cal services are not a luxury. They are not to be taken out of the budget as a way to “tighten our belts”, as if they were an individual’s entertainment expenses. For many people with disabilities, these services are all there is between living safely in the community and life threatening crisis. We strongly urge you to reject these proposals, and instead find additional sources of revenue to balance the budget.

Please feel free to contact me if you have any questions about our position on the Governor’s proposal.

Cordially,

A handwritten signature in black ink, appearing to read "Brandon Tartaglia". The signature is fluid and cursive, with a long horizontal stroke at the end.

Brandon Tartaglia  
Disability Rights California  
Legislative Advocate