



**BAY AREA REGIONAL OFFICE**  
1330 Broadway, Suite 500  
Oakland, CA 94612  
Tel: (510) 267-1200  
TTY: (800) 719-5798  
Toll Free: (800) 776-5746  
Fax: (510) 267-1201  
[www.disabilityrightsca.org](http://www.disabilityrightsca.org)

*California's protection and advocacy system*

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## **MEMORANDUM**

TO: Interested persons

FROM: Daniel Brzovic  
Associate Managing Attorney

RE: Proposed state budget cuts to the SSP, CAPI and CFAP programs

DATE: February 6, 2009

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California is considering making drastic cuts to its State Supplementary Payment (SSP) program. This is the program that supplements federal Supplemental Security Income (SSI) payments. California is also considering elimination of the California (CAPI) and the California Food Assistance Program (CFAP).

SSI, SSP and CAPI provide seniors over age 65 and persons with disabilities with means-tested payments to provide for basic needs for food, clothing and shelter.<sup>1</sup> CFAP provides state-funded food stamps to certain immigrants who are ineligible for federally-funded food stamps. Individuals eligible for CAPI and CFAP would have been eligible in the past for federally-funded/federally-administered SSI/SSP or food stamps, respectively, but are now ineligible due to changes in federal law.

The proposed cutbacks would have a devastating effect on the ability of many seniors and persons with disabilities to avoid institutionalization or homelessness. In addition, the state's current cash flow crisis is raising questions about whether SSP benefits will be paid to recipients on time.

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<sup>1</sup> CAPI provides state-funded payments to certain immigrants who are ineligible for SSI or federally-administered SSP.

This memo discusses the following issues relating to the California SSP, CAPI and CFAP programs:

- The basic structure of the federal SSI program and the California SSP program.
- California SSP budget issues, including maintenance of effort requirements, cost of living adjustment issues, and payment rate issues.
- Problems with administration of the SSP program, including late payments to SSA by the state.
- The effect of nonpayment of SSP on residents of non-medical out-of-home care facilities.
- The basic structure of the CAPI and CFAP program.
- The basic structure of other SSP programs, namely, the California Veterans Cash Benefit (CVCB) program, the Special Circumstances program (SCP), the Assistance Dog Special Allowance (ADSA) program, and the In-Home Supportive Services residual (IHSS-R) program.

### **Supplemental Security Income (SSI) program**

The SSI program is a federal means-tested public assistance program for seniors (over age 65) and persons with disabilities. It is operated nationwide by the Social Security Administration (SSA). The payment levels for various categories of recipients are the same throughout the 50 states and the District of Columbia. Income is taken into account in determining the amount of the SSI payment. Payment is made monthly on the first of the month.

The federal SSI program basically provides one benefit rate for eligible individuals and one benefit rate for eligible married couples. The benefit rate for a couple is 150% of the benefit rate for an individual. The rates are lower for individuals in a Medicaid (Medi-Cal in California) funded medical care facility.

An individual or couple's countable income is deducted dollar for dollar from the SSI benefit rate in order to determine the SSI payment amount. In other words, each dollar of countable income means one dollar is subtracted from the SSI benefit. Each dollar of additional countable income means one dollar less of SSI for an eligible individual or married couple.

The following are the full federal SSI benefit payment rates effective January 1, 2009:

|   | Individual | Married Couple |
|---|------------|----------------|
| Standard benefit <sup>2</sup>                         | \$674      | \$1,011        |
| Medicaid-funded medical facility benefit <sup>3</sup> | \$30       | \$60           |

### **State Supplementary Payment (SSP) program**

The California SSP program provides a cash supplement to the federal SSI benefit.<sup>4</sup> The SSP program is administered for the State of California by the Social Security Administration. The SSI payment and the federally-administered SSP payment are provided to SSI/SSP recipients monthly in one payment on the first of each month. The payment is made by check or direct deposit from the U.S. Treasury.

California has elected to provide different SSP amounts to various categories of individuals and married couples. California provides for more variations in SSP payments than the federal government provides for SSI payments. The applicable SSI payment rate is deducted from the SSP rate to determine the actual amount of SSP that is payable by the state.<sup>5</sup>

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<sup>2</sup> There is a one-third reduction in the federal SSI benefit rate for individuals living in the household of another and receiving both food and shelter in kind. This rate is omitted from this chart.

<sup>3</sup> Includes Medicaid-funded nursing facilities (nursing homes) and hospitals if the recipient is a resident.

<sup>4</sup> The SSP payment is means-tested in the same way as the SSI payment. Countable income is first deducted dollar for dollar from the SSI payment. Any countable income that remains after reducing the SSI payment to zero is deducted dollar for dollar from the SSP payment.

<sup>5</sup> The one-third reduction in the federal SSI benefit rate for individuals living in the household of another and receiving both food and shelter in kind also applies to the SSP program. The combined SSI/SSP benefit rate is reduced by one-third of the *federal* SSI benefit rate. This means that for an individual who receives both SSI and SSP the individual will receive a federal SSI payment that is reduced by one third and a full state SSP payment. This rate is omitted from this chart.

The following table compares the *combined* SSI/SSP benefit payment rates to the federal SSI benefit payment rates:

| Living Arrangement/<br>Category                                 | Individual |          | Married Couple |          |
|---|------------|----------|----------------|----------|
|   | SSI/SSP    | SSI only | SSI/SSP        | SSI only |
| Independent Living/<br>Aged or disabled                         | \$907      | \$674    | \$1,579        | \$1,011  |
| Independent Living/<br>Blind <sup>6</sup>                       | \$972      | \$674    | \$1,806        | \$1,011  |
| Independent Living/<br>Aged or disabled/blind <sup>7</sup>      |            |          | \$1,721        | \$1,011  |
| Independent Living/<br>Child under age 18 <sup>8</sup>          | \$793      | \$674    |                |          |
| Independent Living/<br>W/out cooking<br>facilities <sup>9</sup> | \$991      | \$674    | \$1,747        | \$1,011  |
| Non-medical out-of-<br>home care facility <sup>10</sup>         | \$1,086    | \$674    | \$2,172        | \$1,011  |
| Medicaid-funded<br>medical facility                             | \$50       | \$30     | \$100          | \$60     |

<sup>6</sup> Includes children under age 18 who are blind.

<sup>7</sup> One member of the married couple is aged or disabled, the other member is blind.

<sup>8</sup> Disabled minor under 18 living with a parent or guardian or relative by blood or marriage. Does not include children who are blind. The SSP payment level for children who are blind is the same as for adults who are blind.

<sup>9</sup> Based on aged/disabled SSP rate plus Restaurant Meals Allowance (RMA) of \$84 for an individual and \$168 for a couple.

<sup>10</sup> I.e., residential care facility (board and care), community care facility, foster family home, or certified family home. The SSP payment rate includes Room and Board payment of \$466, Care and Supervision payment of \$495 max. to \$400 min., and Personal and Incidental Needs allowance (P&I) of \$125 min. to \$220 max. (The P&I amount for the recipient is always the minimum amount because the Care and Supervision payment for the facility is always the maximum amount.)

The following is a description of the various state basic-need SSP categories that are administered by the SSA:

**Recipients who are blind.**

- There is a higher SSP benefit payment rate for recipients in an independent living arrangement who are blind than for other categories of recipients.
- Recipients who are blind cannot receive both the higher SSP benefit based on blindness and the Restaurant Meals Allowance.

**Children under age 18 with disabilities living with a parent, guardian or relative.**

- The SSP payment rate is lower for children with disabilities under age 18 (other than children who are blind) living with a parent or guardian, or relative, than it is for other categories of recipients. This is in contrast to the federal SSI payment rate which is the same for children and adults.
- The lower SSP rate applies to children living with a parent, and to children living with a guardian or relative if the children also receive in-kind support and maintenance.
- Children in this category cannot receive the Restaurant Meals Allowance.

**Nonmedical out-of-home care facility.**

- The SSP rate for nonmedical out-of-home care is available for individuals living in a licensed facility or in the unlicensed home of a guardian or relative. It is available in an unlicensed home only if the individual is not receiving in-kind support and maintenance.
- The rate is higher than the SSP rate for independent living. This is in contrast to the federal SSI rate, which is the same for all recipients who are not residents of a Medicaid-funded medical facility.
- There is one SSP nonmedical out-of-home care rate for all categories of recipients. The rate for married couples is twice the rate for two individuals. The rate is not higher for recipients who are blind, or lower for minor children who are disabled and who qualify for this rate.
- The restaurant meals allowance is not available for this category of recipients because the nonmedical out-of-home care rate rate includes payment for both room and board.

### **Married couples.**

- California SSP benefit rates contain less of a marriage penalty than federal SSI rates. While the federal SSI benefit for married couples is only 150% of the benefit for individuals, the combined SSI/SSP benefit for married couples is almost twice the amount as for individuals.
- The SSP Restaurant Meals Allowance is twice the amount for married couples as for individuals.
- The combined SSI/SSP payment level for married couples who live in a non-medical out-of-home care facility is also twice the amount as for individuals.

### **SSP state budget issues.**

**Federal maintenance-of-effort and federal COLA “pass-along” requirements.** In California, the SSI program replaced three welfare programs for adults.<sup>11</sup> The new SSI payment rates were less than the payment rates under the former welfare programs. Therefore, California was required to provide recipients who converted to the SSI program with mandatory minimum SSP payments that were at least equal to the payment levels under the former programs.<sup>12</sup> In addition, the federal government initially required a full “pass along” of SSI cost of living increases to all SSP recipients, whether they were receiving mandatory minimum SSP payments or optional SSP payments. However, these pass-along requirements were changed over time to require states to maintain SSP payment rates only if state aggregate expenditures for SSP did not increase as a result. Currently, states must either maintain their aggregate expenditures for SSP *or* maintain the individual SSP payments at the March 1983 levels. This formula applies to recipients of both mandatory

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<sup>11</sup> Old Age Security (OAS), Aid to the Blind (AB), and Aid to the Disabled (ATD). Federal matching funds were provided pursuant to the Social Security Act, Title I, Old Age Assistance (OAA); Title X, Aid to the Blind (AB); and Title IV, Aid to the Permanently and Totally Disabled (APTD), respectively. Former Title XVI provided for a combined program of aid for the aged, blind or disabled. It was not implemented in California. The SSI program, new Title XVI, replaced all of these programs for the 50 states and the District of Columbia.

<sup>12</sup> Some federal funds were also provided for mandatory minimum SSP payments to prevent an increase in aggregate state expenditures.

and optional SSP benefits.<sup>13</sup> Using this formula, California calculates that, for 2009, it could reduce its combined SSI/SSP payment level for an aged/disabled individual from \$907 to \$830, and for an aged/disabled couple from \$1,579 to \$1,407.

**Full pass-along of federal SSI COLA.** The federal government adjusts SSI benefit payment rates on January 1 of each year based on increases in the cost of living as measured by the consumer price index (CPI).<sup>14</sup> This means that if California makes no adjustment to the SSP rate, the combined SSI/SSP rate will go up on January 1 in an amount equal to the federal SSI COLA. This is called “pass-along” of the federal SSI COLA. For example, on January 1, 2009, the combined SSI/SSP rate for an aged/disabled individual increased from \$870 to \$907—a \$37 increase. This is because the SSI benefit rate increased on January 1 from \$637 to \$674—a \$37 increase—while the separate SSP benefit rate remained the same. In the absence of state legislation to reduce the state SSP payment rates, there will always be a pass-along of the federal SSI COLA, as there was on January 1, 2009.

**Reduced pass-along of federal SSI COLA.** Sometimes California has kept the combined SSI/SSP rate from increasing by *reducing* the separate state supplementary amount by the amount of the SSI COLA. That way California has reduced SSP spending (assuming no caseload growth) while keeping the total SSI/SSP benefit rate the same. At other times, California has allowed the combined SSI/SSP rate to increase, but by less than the full amount of the SSI COLA. In that case, California also reduced SSP spending but not by as much as if the supplementary amount were reduced by the full amount of the SSI COLA. There are some limits on California’s ability to reduce supplementary payments on account of the SSI COLA. Any failure to pass-along the full SSI COLA must comply with the maintenance-of-effort and pass-along requirements discussed above. It is important

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<sup>13</sup> To ensure compliance, Congress required states to meet these maintenance-of-effort and pass-along requirements or lose federal financial participation for their Medicaid program.

<sup>14</sup> The SSI benefit COLA (cost of living amount or adjustment) is equal to the Social Security benefit COLA. There is no SSI COLA for residents of Medicaid-funded medical care facilities, i.e., nursing homes and hospitals.

to note that in years past, even when SSP rates were reduced, the SSP rate for nonmedical-out-of-home care was not rolled back.

**California SSP COLA reductions.** In the recent past, California adjusted SSP benefit rates on January 1 of each year.<sup>15</sup> More recently, the Legislature postponed the SSP COLA adjustment from January 1, 2009, to July 1, 2010, and provided that the COLA adjustment will take place on each July 1, thereafter. The COLA is based on changes in the California necessities index (CNI). California does not base COLAs on the CPI. It used to, but changed the formula during a recession in the early 1980's in an effort to reduce cost of living increases. At that time, the CNI had historically gone up less than the CPI. However, since that time, the reverse has often been true. Therefore, during difficult budget periods, the Legislature has tended to make ad hoc reductions in SSP benefits while leaving the CPI COLA requirements on the books. The Legislature has sometimes reduced SSP benefits by:

- postponing the state SSP COLA (e.g., from January 1 to July 1 in a given year, or from January 1 in one year to July 1 in the following year);
- reducing the SSP benefit rate by the amount of the SSI COLA (thereby keeping the combined SSI/SSP benefit rate at the same amount); or
- reducing state SSP benefits even further by reducing the *total* amount of the *combined* SSI/SSP benefit rate.

**Food stamp cash-out.** SSI recipients are not eligible for food stamps. Why? Because, back in 1973, the state elected to add \$10 to the SSP payments, which represented the “bonus value” of food stamps that SSP recipients would, otherwise, have been entitled to receive.<sup>16</sup> Of course, the

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<sup>15</sup> There is no SSI or SSP COLA for residents of Medicaid-funded medical care facilities, i.e., nursing homes and hospitals.

<sup>16</sup> The SSI/SSP program began operation on January 1, 1974. Back in those days, people who were eligible for food stamps generally had to pay for them. People purchased food stamps at a discount. The difference between the purchase price and the cash value of the food stamps was known as the “bonus value.” The state determined that SSI/SSP recipients would be eligible for food stamps with a bonus value of only \$10. The state decided at that time that the administrative cost of providing SSI/SSP recipients with food stamps worth \$10 was much higher than simply giving

food stamp program has changed dramatically since that time, and inflation has eroded the purchasing power of \$10. Presently, most SSI/SSP recipients would be entitled to much more than \$10 worth of food stamps. Yet, the food stamp cash-out remains.<sup>17</sup> The latest federal legislation on the subject allows California to deny food stamps to SSP recipients so long as it complies with the inadequate federal SSI COLA pass-along requirements.<sup>18</sup> (See the discussion of federal maintenance-of-effort and pass-along requirements, above.)

### **Federal administration of SSP.**

California has agreed to federal administration of its mandatory and optional SSP benefits. California, like other states that have chosen federal administration of their SSP program, has entered into an agreement with SSA, which specifies the conditions for federal administration. That agreement essentially provides that the state will deposit the funds for SSP payments (together with various fees for administration) with the federal government. SSA will then include the state SSP payment, together with any SSI payment, as part of its regular monthly payment to SSI/SSP recipients.

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them the \$10 in cash as part of the SSP grant. It was a good move at that time, but is questionable at this time.

<sup>17</sup> One problem with eliminating the cash-out is that, without the cash-out, SSI/SSP payments would be considered family income for food stamp households that have SSI/SSP and non-SSI/SSP recipients. Currently, SSI/SSP payments are not considered family income for non-SSI/SSP food stamp recipients because SSI/SSP recipients are ineligible for food stamps. Including SSI/SSP payments in family income in this instance could reduce the total dollar value of the food stamps that the family is eligible for. Therefore, families in this situation could be worse off than if the food stamp cash-out remains.

<sup>18</sup> The California Food Policy Advocates have prepared an excellent publication on this issue. It is available at this link: <http://www.cfpa.net/CashoutinCA2003.pdf>. The cost data in the publication are outdated (for example, food costs have gone up) but the policy discussion is relevant.

Under California law, California must maintain its agreement with SSA for federal administration and must make payments to SSA for the cost of the SSP payments:

“The department shall enter into an agreement with the secretary providing for administration by the secretary of the provisions of this chapter. The agreement shall provide at least the following:

(a) That the secretary shall, on behalf of the state, make supplementary payments to an applicant or recipient under this chapter at such times and in such installments as may be agreed upon.

(b) That the state shall pay to the secretary an amount equal to expenditures made by the secretary as such supplemental payments less amounts payable by the federal government pursuant to Section 401 of Title IV of the Social Security Act Amendments of 1972.”

Welfare and Institutions Code § 12100 [Emphasis added].

**Federal administrative standards for SSP.** If SSA administers the state SSP program, federal SSI regulations apply. This enables SSA to operate the SSP program as if it were part of the SSI program.<sup>19</sup> The state has some flexibility in specifying the SSP grant amount. (See discussion below.) The state can also specify additional income exclusions that apply to the SSP program but that do not apply to the SSI program.<sup>20</sup> There are additional income exclusions, and sometimes resource exclusions, that

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<sup>19</sup> Individuals who are ineligible for federal SSI payments (for reasons other than excess countable income) and who were not grandfathered into the SSI program when the program began in 1974, are also ineligible for federally-administered SSP payments. The state can provide SSP basic needs cash benefits to individuals who are ineligible for SSI, but it must set up a state-only program to do that. The Cash Assistance Program for Immigrants (CAPI), and the California Veterans Cash Benefit (CVCB) program are programs of this type. (See discussion below.) Any California statute that provides eligibility for SSP benefits that cannot be administered by the federal government mandates a state-only SSP program. The former Excess Value Home (EVH) program, Welfare & Institutions Code section 12152(b), and the *Harrington v. Obledo* program are programs of this type. See, *Harrington v. Obledo* (1977) 72 Cal.App.3d 705.

<sup>20</sup> Maine is the only state that has done this.

apply to SSI and SSP payments to individuals who were grandfathered into the SSI program from the former state welfare programs that SSI replaced in January 1974.

**SSP payment rates.** States can select several options for variation in SSP payments rates. States can design variations in payment rates for categories of recipients based on age, blindness or disability for individuals and for married couples. States can also design variations in payment rates based on living arrangement and geographical variations.<sup>21</sup> As discussed above, California has variations in SSP rates based on all of these factors, except for geographical variations. California does not provide different SSP benefits for people in urban areas as compared to rural areas. Some states do.

**Federal and state contractual requirements.** SSA regulations seem to require that the state deposit sufficient SSP funds with SSA by the 5th business day of the month in which the payments to SSP recipients are made. 20 CFR § 416.2090(a)(2). This means that for SSI/SSP checks sent out on February 1, the state must deposit funds to cover the payments sometime around February 5. The regulation does not specify what happens if the deposit is not made. The regulations provide that SSA must give 90 days' written notice of termination of the agreement (provided the termination date is the last day of a quarter) but may give less notice if the state does not deposit the required funds. 20 CFR § 416.210(d). The state Controller has this to say about the issue on his "Frequently Asked Questions About Payment Delays" webpage:

### **10. Will my SSI/SSP payment be delayed?**

The SSI is a federal program administered by the Federal Social Services Administration (SSA). SSP is a supplemental state-funded program that also is administered through the SSA. The SSA has

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<sup>21</sup> Any variation in SSP payments based on recurring or non-recurring special needs cannot be administered by the federal government. The state must provide for either state or county administration of these supplements. The Special Circumstances program, Assistance Dog Special Allowance program, and the In-Home Supportive Services residual program pay supplements of this type. Those programs are discussed below.

"floated" the States portion in the past when the State could not provide funding due to a lack of a budget. Because the SSA requires a 30-day notification before ceasing payment, state health officials believe the SSA will continue to disburse both federal and state payments to California's elderly, blind and disabled recipients at least through March and possibly April.

This statement can be found on the Controller's website at this link: <http://www.sco.ca.gov/eo/fiscalissues/payments01-2009d.shtml>.<sup>22</sup>

**Notice of termination of federally-administered SSP benefits.** SSP payments cannot be withheld from SSP recipients unless timely and adequate written notice is first given. Apparently, the state is required to give at least 30-days' notice of termination. SSA takes the position that it does not have to give notice. SSA regulations provide that termination of federal administration of SSP is not an initial determination. 20 CFR § 1403(a)(16). If so, SSA is not required to give notice. 20 CFR § 1404. However, notwithstanding this regulation, due process requires that either SSA or the state give timely and adequate written notice of termination, with an opportunity for a pre-termination hearing, before SSP benefits are terminated.

### **Impact of SSP cuts on residents of non-medical out-of-home care facilities.**

**People with developmental disabilities.** The cost of group home and other licensed community care facility services for Regional Center clients is funded by the SSI/SSP non-medical out-of-home care payment plus an additional supplement based on the level of service needed by the client. The additional supplement is an entitlement under the Lanterman Act. It is also an entitlement under the Medi-Cal DD Waiver<sup>23</sup> for clients who are eligible for services under the Waiver, as most Regional Center clients in group homes or community care facilities are. If SSP is not paid, the individual SSI payment is sufficient to fully cover only the Room and Board and the Personal and Incidental (P&I) portions of the SSP non-medical out-

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<sup>22</sup> Accessed on February 4, 2009. A copy of the webpage is available from the author.

<sup>23</sup> Medi-Cal Home and Community-Based Services (HCBS) Waiver for the Developmentally Disabled.

of-home care rate. The SSI payment is not sufficient to cover more than a small amount of the Care and Supervision portion of the rate.<sup>24</sup> The difference, up to the full payment rate of the additional Lanterman Act or Medi-Cal Waiver supplement, would have to be paid out of Regional Center or Medi-Cal funds.

**Children and youth with a diagnosis of emotional disturbance.** The cost of group home and other licensed community care facility services for children and youth with a diagnosis of emotional disturbance is funded by the SSI/SSP non-medical out-of-home care payment plus an additional supplement based on the level of service needed by the client. If SSP is not paid, the SSI payment is not sufficient to cover more than a small amount of the Care and Supervision portion of the rate. (See discussion above.) The difference, up to the full payment rate of the additional supplement, would have to be paid by the agency with responsibility for the placement.

**Adults with a diagnosis of serious mental illness.** Failure to pay the non-medical out-of-home care rate is likely to have very serious consequences for adults with a diagnosis of serious mental illness who live in non-medical out-of-home care facilities. At the present time, board and care facilities all over the state are closing, even with the current rates. Rate supplements are provided entirely with county funds and are scarce. Medi-Cal payments can cover various residential mental health services, such as crisis services and day treatment, but do not cover the Care and Supervision paid for with SSP. It is likely that there would be no source of funding to replace SSP. Counties would have to make up the shortfall entirely out of county funds. Many more board and care facilities could be expected to close. Many people in those facilities would probably be transferred to facilities that provide a higher level of care, such as Mental Health Rehabilitation Centers, at a higher cost to the counties. Other people would likely move to single room occupancy hotels or shelters. Some would likely become homeless.

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<sup>24</sup> The Room and Board part of the non-medical out-of-home care rate is \$466, and the P&I part of the rate is \$126, for a total of \$592. This is less than the federal SSI benefit rate of \$674. This would leave the recipient with only \$82 in SSI to pay for care and supervision.

**Other people with disabilities and seniors over age 65.** The situation is also very serious for individuals with other disabilities and seniors over the age of 65. There are no programs to replace the SSP Care and Supervision funds. Many individuals in this category would probably be transferred to facilities that provide a higher level of care, such as nursing facilities. Others would likely move to single room occupancy hotels or shelters. Some would likely become homeless.

**Coverage of Care and Supervision under Medi-Cal instead of SSP.**

California could fund the Care and Supervision portion of the SSP grant as a personal care service under the Medi-Cal program if it elected to do so, but probably not as part of the federally administered SSI/SSP program. California could also fund some or all of the Care and Supervision portion of the SSP grant as an assisted living service under the Medi-Cal program if it elected to do so. However, most states electing to cover assisted living under Medicaid do so using waivers. California provides assisted living services under the DD waiver. In addition, California has a very small assisted living waiver serving individuals who otherwise would qualify for nursing facility care. California also provides mental health residential treatment services under Medi-Cal that could potentially be expanded to cover care and supervision.

**Cash Assistance Program for Immigrants (CAPI)**

CAPI is a state-funded and county-administered program available for immigrants who are ineligible for SSI (and federally-administered SSP) solely due to immigration status. CAPI recipients are individuals who are lawful permanent residents or residents permanently residing in the United States under color of law (PRUCOL)<sup>25</sup> and who therefore would have met the SSI/SSP immigration status eligibility requirements that were in effect until August 22, 1996, the date of the enactment of the federal Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996. The PRWORA disqualified a number of immigrants from SSI.

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<sup>25</sup> "PRUCOL" means persons who are "permanently residing in the United States under color of law" and refers to non-citizens residing in the United States with the knowledge and permission of the Immigration and Naturalization Service (INS), and the INS does not contemplate enforcing their departure.

CAPI continues the SSP program for people who were disqualified from the SSI program (and federally-administered SSP) by the PRWORA. CAPI, in effect, continued to pay state SSP payments to those individuals who were disqualified from receiving federal SSI payments, but replaced the federal SSI payment for those individuals with SSP funds. However, CAPI cannot be administered by the federal government because CAPI recipients are ineligible for SSI.

CAPI is entirely funded from the state General Fund. The program is administered by the county welfare departments--the same folks who administer Medi Cal eligibility, IHSS, CalWORKs, food stamps, etc. CAPI administration is relatively straightforward compared to SSI/SSP because there is no federal money and no federal administration. It operates in the same way as other state programs administered by county welfare departments.

CAPI eligibility requirements and payment amounts are the same as for SSI/SSP with the following exceptions: First, the SSI/SSP immigration status requirements in effect on August 21, 1996, continue to apply to the CAPI program. Second, the CAPI grant levels are \$10 per month less than the combined SSI/SSP grant levels (\$20 less for a married couple). This is because there is no food stamp cash-out for CAPI recipients. There is no food stamp cash-out for CAPI recipients because CAPI recipients are eligible for food stamps under the California Food Assistance Program (CFAP) (see below).

### **California Food Assistance Program (CFAP)**

CAPI recipients, and other individuals who are ineligible for federally-funded food stamps due to immigration status, are eligible for food stamps under CFAP. CFAP follows regular food stamp rules except that it provides food stamps to immigrants who were disqualified from the federally-funded food stamp program, or the SSI program, by the federal Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996.

## **Other SSP programs.**

There are also other state-funded SSP programs. The California Veterans Cash Benefit (CVCB) program is administered by the SSA in the same way as the federally-administered SSP program. The Special Circumstances program (SCP)(which is currently suspended), and the In-Home Supportive Services residual (IHSS-R) program are administered by the county welfare departments. The Assistance Dog Special Allowance (ADSA) program is administered by CDSS. CVCB provides a basic needs SSP payment equal to the federally-administered benefit discussed above. The other three programs provide for special needs not covered by the basic SSP grant, either on a recurring or non-recurring basis.

**California Veterans Cash Benefit (CVCB) program.** The CVCB program is a State-funded SSP program that pays benefits to: (1) Veterans of the Commonwealth of the Philippines military forces who were in the service of the United States during World War II; (2) who reside in the Republic of the Philippines; (3) who are eligible to receive a federal Special Veterans Benefit (SVB); and (4) were eligible for SSI and California's federally-administered SSP in December 1999. The CVCB and SVB programs are administered by the Social Security Administration (SSA) in the same way as SSI/SSP. The combined SVB/CVCB payment is the same amount as the combined SSI/SSP payment.

**Special Circumstances program (SCP).** Special circumstances payments were available to SSI/SSP recipients on a nonrecurring basis based on the individual's particular situation. This program replaced the special needs grants that were available to people under the former welfare programs that were replaced by the SSI/SSP program. Payments were limited to: replacement or repair of essential household furniture and equipment; replacement of clothing; housing repairs; moving expenses; housing modifications; and prevention of foreclosure. The program was funded by the state and administered by the counties. Services were limited by the amount of the state appropriation, and counties typically ran out of money for the program well before the end of the fiscal year. The program was suspended effective July 1, 2002, due to elimination of state funding. Some counties may still provide similar benefits with county funds.

**Assistance Dog Special Allowance (ADSA) program.** The Assistance Dog Special Allowance (ADSA) program is a recurring special-needs SSP program. It provides a monthly payment of \$50 to eligible persons who use a guide, signal, or service dog to help them with needs related to their physical<sup>26</sup> disabilities. The allowance is to help pay the costs of food, grooming, and health care for the dogs. Persons are eligible for ADSA if they receive SSI/SSP, IHSS, or CAPI. SSDI beneficiaries are also eligible if their income is less than the federal poverty level. Applications are made to CDSS. Payments are made on the first of the month by the state.

**In-Home Supportive Services residual (IHSS-R) program.** Discussion of IHSS is beyond the scope of this memo. However, it is important to note that IHSS is a type of recurring special needs SSP program.<sup>27</sup> It was a replacement for the special needs attendant care grants that were available to people under the former welfare programs that were replaced by the SSI/SSP program. It uses the same methodology for determining eligibility (including methodology for determining countable income and resources) as the SSP basic needs cash grant program.

### **Where to find the law and program rules.**

#### **State Supplementary Payment (SSP) program.**

- Federal law: Title XVI of the Social Security Act, 42 U.S.C. § 1381, *et seq.*, available at this link:  
[http://www.ssa.gov/OP\\_Home/ssact/title16b/1600.htm](http://www.ssa.gov/OP_Home/ssact/title16b/1600.htm).

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<sup>26</sup> The regulations limit eligibility to persons with physical disabilities. This is questionable in that the statute contains no such limitation. See, W&IC § 12553(a).

<sup>27</sup> CDSS has acknowledged this by making IHSS recipients eligible for ADSA: “It is the Department’s policy that ADSA benefits are available to In-Home Supportive Services (IHSS) recipients who do not also receive SSI or SSP since IHSS is a subcategory of benefits authorized under the SSP program. (Assistance Dog Special Allowance (ADSA) Monthly Payment Increase, Proposed Regulations ORD No. 0302-09, Initial Statement of Reasons, available on CDSS website at this link:

<http://www.dss.cahwnet.gov/ord/PG761.htm>, then select “Initial Statement of Reasons.” PDF file available at this link:  
<http://www.dss.cahwnet.gov/ord/entres/getinfo/pdf/d030209s.pdf>.)

- Federal regulations: 20 CFR Part 416, specifically § 416.2001, *et seq.*, available at this link:  
[http://www.ssa.gov/OP\\_Home/cfr20/416/416-0000.htm](http://www.ssa.gov/OP_Home/cfr20/416/416-0000.htm).
- Federal administrative guidance materials: Social Security Administration, Program Operations Manual System (POMS) section SI 01400.0000, *et seq.*, available at this link:  
<https://secure.ssa.gov/apps10/poms.nsf/lnx/0501400000!opendocument>
- State law: W&IC § 10000 *et seq.* (general provisions relating to administration of public social services); § 11000, *et seq.* (general provisions relating to administration of aid and medical assistance); § 12000 *et seq.* (state supplementary program).
- State regulations: CDSS Manual of Policies and Procedures (MPP), Eligibility and Assistance Standards (EAS) chapter 46-100, *et seq.*, available at this link:  
<http://www.dss.cahwnet.gov/ord/entres/getinfo/pdf/eas13.pdf>.  
Nonmedical out-of-home care for adults regulations are available at this link:  
<http://www.dss.cahwnet.gov/ord/entres/getinfo/pdf/ssman2.pdf>.
- State administrative guidance materials:  
<http://www.cdss.ca.gov/agedblinddisabled/PG1792.htm>.

### **Cash Assistance Program for Immigrants (CAPI).**

- State Law: W&IC §§ 10553, 10554, 18943.
- State regulations: CDSS Manual of Policies and Procedures (MPP), Eligibility and Assistance Standards (EAS) chapter 49-000, available at this link:  
<http://www.dss.cahwnet.gov/ord/entres/getinfo/pdf/eas16.pdf>.
- State administrative guidance materials:  
<http://www.cdss.ca.gov/agedblinddisabled/PG1742.htm>.

### **California Food Assistance Program (CFAP).**

- State law: W&IC §§ 10553, 10554, 18904.
- State regulations: CDSS Manual of Policies and Procedures (MPP), Food Stamp Regulations, § 63-403 and 63-411, available at this link:  
<http://www.cdss.ca.gov/foodstamps/entres/getinfo/pdf/fsman4a.pdf>.

### **California Veterans Cash Benefit (CVCB) program.**

- Federal law: Title VIII of the Social Security Act, 42 U.S.C. § 1381, *et seq.*, 42 U.S.C. § 1001, available at this link: [http://www.ssa.gov/OP\\_Home/ssact/title08/0800.htm](http://www.ssa.gov/OP_Home/ssact/title08/0800.htm).
- Federal regulations: 20 CFR Part 408, specifically § 408.101, *et seq.*, [http://www.ssa.gov/OP\\_Home/cfr20/408/408-0000.htm](http://www.ssa.gov/OP_Home/cfr20/408/408-0000.htm).
- Federal administrative guidance materials: Social Security Administration, Program Operations Manual System (POMS) section VB 001, *et seq.*, available at this link: [https://secure.ssa.gov/apps10/poms.nsf/chapterlist!openview&restrict\\_tocategory=14](https://secure.ssa.gov/apps10/poms.nsf/chapterlist!openview&restrict_tocategory=14).
- State law: W&IC § 12400.
- State regulations: CDSS Manual of Policies and Procedures (MPP), Eligibility and Assistance Standards (EAS) chapter 49-100, *et seq.*, available at this link: <http://www.cdss.ca.gov/cdssweb/entres/getinfo/pdf/eas16.PDF> .

### **Special Circumstances program (SCP).**

- State law: W&IC §§12500, 12250, 12550.1.
- State regulations: § 46-425, *et seq.*, available at this link: CDSS Manual of Policies and Procedures (MPP), Eligibility and Assistance Standards (EAS) § 46-425, *et seq.*, available at this link: <http://www.cdss.ca.gov/getinfo/pdf/eas14.pdf>.

### **Assistance Dog Special Allowance (ADSA) program.**

- State law: W&IC §§ 12553, 12554.
- State regulations: CDSS Manual of Policies and Procedures (MPP), Eligibility and Assistance Standards (EAS) § 46-430, *et seq.*, available at this link: <http://www.cdss.ca.gov/getinfo/pdf/eas14.pdf>.

### **In-Home Supportive Services residual (IHSS-R) program.**

- State law: W&IC 12300, *et seq.*
- State regulations: <http://www.dss.cahwnet.gov/ord/entres/getinfo/pdf/ssman2.pdf>, <http://www.dss.cahwnet.gov/ord/entres/getinfo/pdf/ssman3.pdf>, and <http://www.dss.cahwnet.gov/ord/entres/getinfo/pdf/ssman4.pdf>.
- State administrative guidance materials: <http://www.cdss.ca.gov/agedblinddisabled/PG1743.htm>,

<http://www.cdss.ca.gov/agedblinddisabled/PG1281.htm>, and  
<http://www.cdss.ca.gov/agedblinddisabled/PG1216.htm>.

## **Where to find more information.**

**CDSS statistics** can be found here:

<http://www.dss.cahwnet.gov/research/PG370.htm>.

**SSA statistics** on the SSI/SSP program can be found here:

[http://ssa.gov/policy/data\\_sub109.html](http://ssa.gov/policy/data_sub109.html).

**SSI/SSP.** The Social Security Administration has an excellent website:

<http://socialsecurity.gov/>.

**CAPI.** Information can be found on the CDSS website at this link:

<http://www.cdss.ca.gov/agedblinddisabled/PG1420.htm>.

**CFAP.** The California Guide to the Food Stamp Program website is an excellent resource for CFAP and all California Food Stamp information:

[http://www.foodstampguide.org/?page\\_id=113](http://www.foodstampguide.org/?page_id=113).

**CVCB.** Information can be found on the CDSS website at this link:

<http://www.cdss.ca.gov/agedblinddisabled/PG1421.htm>.

**ADSA.** Information can be found on the CDSS website at this link:

<http://www.cdss.ca.gov/cdssweb/PG82.htm>

**IHSS.** Information can be found on the CDSS website at these links:

<http://www.cdss.ca.gov/agedblinddisabled/PG1829.htm>,

<http://www.cdss.ca.gov/agedblinddisabled/PG1817.htm>,

<http://www.cdss.ca.gov/agedblinddisabled/PG1814.htm>,

<http://www.cdss.ca.gov/agedblinddisabled/PG1815.htm>,

<http://www.cdss.ca.gov/agedblinddisabled/PG1816.htm>,

<http://www.cdss.ca.gov/agedblinddisabled/PG1216.htm>.