



**LEGISLATION & PUBLIC
INFORMATION UNIT**

1029 J Street, Suite 150
Sacramento, CA 95814

Tel: (916) 497-0331

TTY: (916) 497-0835

Fax: (916) 497-0813

www.disabilityrightsca.org

California's protection and advocacy system

Quick and Dirty Summary of the July 28, 2009 Final Budget Revisions

On July 28, Governor Schwarzenegger signed a spending plan to close the state's approximate \$24 billion dollar budget gap. The final budget includes \$16.1 billion in spending cuts; \$3.5 billion in revenues and revenue accelerations; \$2 billion in borrowing, including borrowing from local government; \$1 billion in fund shifts; and \$1.4 billion in other "solutions". The Governor made an approximate \$395 million in line-item vetoes in the health and human services area. Other than making significant reductions to health and human services programs that will significantly affect persons with disabilities, the final budget package:

- Reduces projected General Fund revenues by \$3.5 billion.
- Increases by 10 percent the amount withheld from individual paychecks under the Personal Income Tax (PIT) program. This change is effective October 1, 2009, and increases General Fund revenues by an estimated \$1.7 billion in 2009-10.
- Alters the amount of estimated taxes that individuals and corporations must submit to the state each quarter. This change accelerates the collection of these payments in the first half of 2010, thereby increasing General Fund revenues by \$610 million in 2009-10.
- Does not include legislative proposals to (1) raise cigarette taxes, (2) impose a severance tax on oil produced in the state, and (3) establish PIT withholding on payments to independent contractors.

While not all inclusive, the following provides a "quick and dirty" summary of key provisions of the final budget agreement, the Governor's line-item vetoes and focuses on proposals which have the greatest impact people with disabilities. For additional information on the budget, please continue to check our website at:

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http://www.disabilityrightsca.org/news/budget_crisis-2008.htm

Additionally, we suggest that you look at the following links:

The California Budget Project:

http://www.cbp.org/documents/090727_Governor_Signs_Budget.pdf

The Legislative Analysts Office (LAO):

http://www.lao.ca.gov/2009/bud/july_09_budget_package/July_2009_Budget_Package_072909.pdf

The Governor's budget documents:

<http://www.dof.ca.gov/budget/historical/2009-10/governors/summary/documents/enacted/FullBudgetSummary.pdf>

THE DEPARTMENT OF DEVELOPMENTAL SERVICES (DDS) REDUCTIONS

DDS 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.

Through a stakeholder process, DDS was required to achieve a target amount of \$234 million in savings. This was in addition to program changes stakeholders worked to identify earlier in the budget process to achieve \$100 million in General Fund savings as well as the 3% cut in payments to some regional center providers. We have more detailed documents and fact sheets that outline the various programmatic changes. They can be found on our website at: www.disabilityrightsca.org

SPECIAL EDUCATION ADJUSTMENTS AND REDUCTIONS

Special education services are designed to address the individualized educational and related developmental needs of children with disabilities. Special education services include Early Intervention Services for infants

and toddlers, pre-school for students starting at age three, services for school age children in grades K-12, and transition services for eligible students up to age 22.

Additional federal funds: The budget deal for 2009-10 includes the use of one-time federal funds authorized under the ARRA (American Recovery and Reinvestment Act). This means \$634 million of ARRA Individuals with Disabilities Education Act funds will be available for students with disabilities. These funds will help compensate for the loss of general education funding for services to special education students.

Transportation: The budget deletes \$3.9 million in state funding for student transportation at State Special Schools and uses federal special education funding to backfill the reduction 2009-10. While a net loss in the overall special education funding levels, the backfill of federal dollars will allow children who are blind, deaf, or hard of hearing, and attend state special schools to continue to get transportation services to and from school.

CAHSEE suspension: The budget deal will suspend the California High School Exit Exam as a requirement for graduation for eligible students with disabilities, beginning in 2009-10, until the State Board of Education authorizes an alternative exam for eligible students with disabilities. This would mean students with disabilities would not have to pass the state high school exit exam, a high stakes test, in order to graduate from high school.

Funding for AB 3632 services: The budget, through a deferral, reduces funding by \$52 million (half of the total funding) for mental health services for special education students who need these services. Common types of AB 3632 services can include: individual, group or family psychotherapy; day treatment services; or residential placement. Children who need these services to receive an appropriate education may not get them because of funding reductions.

SSI/SSP REDUCTIONS

Supplemental Security Income (SSI) makes monthly payments to people with limited income and few resources and who are age 65 or older; blind;

or have a disability. Disabled or blind children can receive SSI. The basic SSI amount is the same nationwide. However, many states, including California, add money to the basic benefit.

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

Additional \$5 grant reduction for individuals: Effective October 1, 2009, the budget reduces grants for individuals by an additional \$5 per month to \$845.00.

Additional grant reduction for couples: Effective October 1, 2009, the budget reduces grants for couples to the minimum level permitted under federal law (\$1407.00).

Automatic COLA eliminated: Eliminates automatic state cost-of-living adjustments in SSI/SSP starting January 1, 2011, unless the Legislature takes action in a future year to change this. This change does not affect the “pass through” of any federal COLA for the SSI portion of the grant.

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 for 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.

CAPI and CFAP programs retained: The budget retains CAPI and CFAP. Individuals will continue to receive \$10 per month less than SSI/SSP recipients, and couples will continue to receive \$15 less per month than

SSI/SSP recipients. There are no changes in the structure of the CAPI program.

Additional \$5 grant reduction for individuals and additional grant reduction for couples: The amount of CAPI grants are aligned with those in SSI/SSP. (*i.e.*, additional \$5 reduction in grant for individuals, corresponding reduction in grant for couples.)

IN HOME SUPPORTIVE SERVICES (IHSS) REDUCTIONS

IHSS is a statewide public program providing personal care and domestic services to 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.

Reduction in IHSS Public Authority Administration: Reduces state funding for Public Authority (PA) administration by \$4.6 million, a 20 percent reduction. The Governor's line-item veto includes an additional cut of \$8.7 million to state funding for PA administration.

Elimination of state Share of Cost buyout program: 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; the state "buys out" the difference between that SSI level and the Medi-Cal income eligibility level. Effective October 1, 2009, the budget eliminates the state subsidy or "share of cost buyout" for recipients of IHSS required to pay a share of cost to receive services. This means the buyout program has been eliminated entirely for all IHSS recipients who have a share of cost for Medi-Cal. Therefore, this does away with the lower share of cost that IHSS recipients used to have.

Elimination of domestic and related services for individuals with functional index (FI) rankings below 4 for a particular task: Effective September 1, 2009, the budget eliminates those domestic and related services for recipients with FI rankings below level 4 in the activity of daily living related to the particular service (e.g., housework, laundry, shopping and errands, meal preparation and meal cleanup). This eliminates those domestic or related services for individuals who cannot provide the service for themselves without human assistance (FI 3) or who cannot provide the service for themselves without verbal assistance such as reminding, guidance or encouragement (FI 2). There will be no carve-out or exception for individuals who receive protective supervision, paramedical services, or more than 120 hours of IHSS services per month because the governor eliminated the carve-out through his ability to line-item veto.

Elimination of IHSS services entirely for individuals with FI scores below level 2: Eliminates IHSS services entirely for individuals with FI scores below level 2 (*i.e.*, the individual may have difficulty performing the function, but completion of the function by the individual poses no substantial risk to his or her safety). While the governor eliminated the exception/carve-out adopted by the conference for individuals receiving IHSS domestic and related services for individuals who have a FI below 4 (see above), it is unclear whether the governor eliminated the carve out which would have allowed individuals with a functional index below 2 to receive IHSS if they receive protective supervision, paramedical services, or more than 120 hours of IHSS services per month. The veto message does not indicate this exception has been eliminated, although staff from the Department of Finance indicates that the governor intended to eliminate this exception as well.

Notice to providers: Providers will receive a list specifying the approved duties to be performed for each IHSS recipient under the provider's "care" and a complete list of supportive service tasks available under the IHSS program. This requirement is to be implemented no later than December 1, 2011.

Fingerprinting and criminal background checks for providers: Requires all providers go through a criminal background check process, including fingerprinting.

Timesheet fingerprints: Beginning April 1, 2010, fingerprints will be obtained from all IHSS applicants and recipients by the county at the time of the initial assessment or reassessment. An individual who is a minor or who is physically unable to provide fingerprints due to amputation or other physical limitation is exempt from any requirement to provide fingerprints. Beginning July 1, 2011, both the provider and recipient will be required to place an index fingerprint on each timesheet submitted to the county.

Additional timesheet changes: Establishes a civil penalty for time-sheet fraud. This requires that providers sign an acknowledgement of eligible recipient services; it also requires in-person verification of Provider Employment Documents by a county worker.

Unannounced visits: Requires county social workers to conduct unannounced visits.

Enhanced fraud detection and prevention: Provides \$10 million for local anti-fraud investigations and activities; provides additional positions at the Department of Social Services and the Department of Health Care Services to investigate anti-fraud activities; requires counties to train staff in additional fraud-prevention efforts; requires the county to issue targeted mailings in certain circumstances; and, limits the ability of providers to receive a check at a post office box.

MEDI-CAL REDUCTIONS

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. Key components to the Medi-Cal budget which were reduced or adjusted are included below.

Federal fiscal relief for Medi-Cal: Assumes \$1 billion in General Fund savings by obtaining additional federal funds.

Unspecified Medi-Cal reductions: Assumes \$323 million in General Fund savings; how these savings would be achieved has not yet

been determined.

Medi-Cal anti-fraud expansion: \$46.8 million projected savings by the administration by “expanding efforts to combat fraud, waste and abuse in the Medi-Cal Program with a primary focus on Adult Day Health Care, physician services and pharmacy.”

Adult Day Health Care: The budget adopts reforms to Adult Day Health Care programs including a temporary 3-day cap, workgroup and minimum standards on medical necessity, on-site Treatment Authorization Requests, and anti-fraud measures for approximately \$25 million in General Fund savings. Adult Day Health Care provides a variety of health, therapeutic, and social services for those at risk of being placed in a nursing home.

Long-term care rates: Adopts the May Revise proposal to expand long-term care fees for an additional \$18 million in revenue and reduced long-term care rates (*i.e.*, no rate increase this year as was established by AB 1629) for a savings of \$75.7 million to the General Fund.

County operations: \$60.6 million cut to state funding for county operations of the Medi-Cal program in 2009-10.

Private Hospital Disproportionate Share Hospitals (DSH) payment reduction: Reduces payments to private DSH by 10 percent (\$18.4 million General Fund savings). These hospitals receive special federal funding to treat significant populations of indigent patients.

Medi-Cal pharmacy reforms: \$66 million in savings results by implementing new federal and state drug pricing policies aimed at lowering costs and retaining quality care. These reforms require certain providers known as federal “Drug Pricing” providers to dispense only drugs purchased through the program, compel manufacturers of HIV/AIDS/cancer drugs to pay particular rebates subject to a penalty for noncompliance, establish upper billing limits for drugs, and direct the state to perform a therapeutic category review of antipsychotic drugs.

Managed Care: Requires the Department of Health Care Services to submit a waiver to the federal government, a Medi-Cal hospital waiver,

which is currently up for renewal. The current waiver includes a "Safety Net Care Pool" that provides primary care services for certain uninsured individuals.

The goal with the waiver is to achieve the following:

- Strengthen California's health care safety net, including disproportionate share hospitals (hospitals that receive special federal funding to treat significant populations of indigent patients)
- Reduce the number of uninsured Californians
- Increase federal financial participation
- Improve health care quality and outcomes
- Promote home and community based care

The budget requires the waiver to include Medi-Cal restructuring proposals to:

- Increase access to better coordinated and integrated care for seniors, people with disabilities, children with significant medical needs, and people with behavioral health conditions
- Improve health outcomes
- Slow long-term growth of the Medi-Cal program

Restructuring will also seek to: Improve coordination between Medicare and Medi-Cal, improve integration of physical and behavioral health care, and use medical homes and specialty centers for children with significant medical needs.

Department of Health Care Services is authorized to seek waiver authority from the federal government to enroll beneficiaries into specified organized delivery systems, such as: Managed Care, enhanced primary care case management, or a medical home model.

This is subject to federal approval and may only occur after funds for this purpose have been appropriated by the Legislature.

Community clinic programs: Reduces General Fund support for community clinic programs and reduces by approximately \$25 million.

MHSA, MENTAL HEALTH, AND EPSDT REDUCTIONS

MHSA: The Mental Health Services Act (MHSA) is a proposition that was passed by voters in 2004 authorizing a 1% income tax surcharge on incomes over \$1 million. The purpose of the MHSA is to provide funding for innovative community mental health programs to offer support so that people with psychiatric disabilities do not end up institutionalized, in jails or homeless. The budget reflects \$1.271 billion in MHSA funding available to counties, and allocates funding to various state departments for administrative functions including \$40.1 million to the Department of Mental Health.

Mental Health Managed Care: Counties provide what are called “specialty mental health services”, through managed care. These are mental health services that are not provided by physical health care providers or by Medi-Cal fee-for-service providers. These include inpatient hospital services, outpatient mental health services including residential services, and targeted case management. Outpatient services can be provided by psychiatrists, psychologists, licensed clinical social workers, marriage and family therapists, and peer counselors. The enacted budget contains reductions in General Fund support for mental health managed care from \$226.65 million provided in February to \$113.27 million.

However, the schedule of Medi-Cal mental health benefits provided by county mental health plans (MHPs), and county MHP contractors, has not been changed. (The July 1, 2009 elimination of psychologist services only applies to the Medi-Cal fee-for-service program—it does not apply to Medi-Cal mental health services provided by county MHPs or county MHP contractors.)

EPSDT: Early and Periodic Screening, Diagnosis and Treatment (EPSDT) requires states to provide children with all services listed in the Medi-Cal schedule of benefits that are appropriate for children, as well as all other medical services that are eligible for federal matching funds. These services include Therapeutic Behavioral Services and Therapeutic Foster Care. The budget increases the EPSDT amount to over \$1 billion from \$824.5 million proposed in February.

OTHER HEALTH AND HUMAN SERVICES PROGRAMS

Office of AIDS programs: The Governor eliminated \$52.1 million from several key programs and services within the Office of AIDS, including: Education and prevention, therapeutic monitoring, counseling and testing, early intervention, housing, and home and community based care. The budget provides for \$25 million in funding for the AIDS drug assistance program.

Residential Rates: Reduces by 10 percent the rates paid to group homes, foster family agencies, and on behalf of children diagnosed as seriously emotionally disturbed (\$26.6 million).

Adoption Assistance Program: Eliminates automatic increases in financial support available to families adopting a child with disabilities (\$900,000). Prior to this, monthly Adoption Assistance Program grants automatically increased with the age of the child.

HEALTHY FAMILIES PROGRAM REDUCTIONS

Healthy Families is low cost insurance for children and teens. It provides health, dental and vision coverage to children who do not have insurance and do not qualify for free Medi-Cal. The final budget does not eliminate the Healthy Families Program but rather reduces program eligibility from 250 to 200 percent of federal poverty.

It reduces \$174 million in General Fund support for the Healthy Families Program and adopts intent language that outside sources of funding support the program and, if outside funding is unavailable, waiting lists for services will be established. It eliminates \$2.7 million in General Fund support for Certified Application Assistance for the Medi-Cal/Healthy Families joint application.

CALIFORNIA WORK OPPORTUNITY AND RESPONSIBILITY FOR KIDS PROGRAM (CalWORKs) REDUCTIONS

The CalWORKs program provides temporary financial assistance and

employment-focused services to families with minor children who have income and property below state maximum limits for their family size. The final budget, among other things:

- Limits adults to 48 cumulative months of cash assistance in any 60-month period. Adults may return to aid one year after reaching the initial 48-month limit. This change does not appear to affect the children's portion of the grant during the period in which the adult loses aid.
- Requires counties to conduct a "self-sufficiency review" every six months with CalWORKs adults who do not participate in welfare-to-work activities for sufficient hours. Adults who fail to attend this meeting without good cause will have their cash assistance payment cut by 50 percent.
- Cuts funding for county operation of the CalWORKs Program by \$375 million in 2009-10.
- Eliminates automatic cost-of-living adjustments in CalWORKs program for CalWORKs grants starting 2010-11, unless the Legislature takes action in a future year to change this.