AGENDA

ASSEMBLY BUDGET SUBCOMMITTEE NO. 1 ON HEALTH AND HUMAN SERVICES

ASSEMBLYMEMBER HOLLY MITCHELL, CHAIR

WEDNESDAY, APRIL 10, 2013
1:30 P.M. - STATE CAPITOL ROOM 437

ITEMS TO BE HEARD

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ITEMS TO BE HEARD

5180 DEPARTMENT OF SOCIAL SERVICES
0530 OFFICE OF SYSTEMS INTEGRATION, HEALTH AND HUMAN SERVICES AGENCY

ISSUE 1: IN-HOME SUPPORTIVE SERVICES (IHSS) PROGRAM – OVERVIEW, GOVERNOR'S MAJOR PROPOSALS, AND REVIEW OF RECENT SETTLEMENT AGREEMENT

PROGRAM OVERVIEW

The Governor's Budget includes $1.8 billion General Fund ($6.2 billion total funds) for the In-Home Supportive Services (IHSS) program in 2013-14, a 4.9 percent increase over the revised 2012-13 budget and 6.5 percent increase from the 2012 Budget Act. Average monthly caseload in this program is estimated to be 419,000 recipients in 2013-14, a 1-percent decrease from the 2012-13 projected level.

IHSS provides an alternative to out-of-home care for approximately 420,000 low-income seniors and persons with disabilities. IHSS consists of three programs: the Medi-Cal Personal Care Services Program (PCSP), the IHSS Plus Option (IPO) – a Medi-Cal State plan option that replaced the IHSS Plus Waiver Program (IPW) – and the IHSS Residual (IHSS-R) program. To qualify for PCSP and IPO services, recipients must first meet eligibility requirements for the Medi-Cal program. The IHSS-R program serves individuals who are ineligible for Medi-Cal, but meet the SSI/SSP income standards.

To qualify for IHSS program services, recipients must have demonstrated a need for care and been personally assessed by a caseworker in order for them to remain safely in their home and avoid out-of-home care. IHSS services include domestic and related services (e.g. housework, meal preparation, laundry, shopping), personal care services, accompaniment to medical appointments, protective supervision for mentally impaired recipients who place themselves at risk for injury, hazard, or accident, and paramedical services when directed by a physician.

The IHSS program is administered through the counties. Individuals seeking to become a provider in the IHSS program must undergo a criminal background check and meet other requirements.

FUNDING OVERVIEW

The average annual cost of services per IHSS client is estimated to be around $12,000 for 2012-13. The program is funded with federal, state, and county resources. Prior to July 1, 2012, the state and counties split the nonfederal share of IHSS funding at 65 and 35 percent, respectively. A 2012-13 budget trailer bill changed this structure as of July 1, 2012 to instead base county IHSS costs on maintenance of effort (MOE)

requirement. The change was related to enactment of the Coordinated Care Initiative (CCI, also called the Duals Demonstration project), which is a demonstration project authorized in eight counties.

CCI is intended to improve integration of medical and long-term care services through the use of managed health care plans and to realize accompanying fiscal savings.

PROGRAM STRUCTURE AND EMPLOYMENT MODEL

County social workers determine IHSS eligibility and perform case management after conducting a standardized in-home assessment of an individual's ability to perform activities of daily living. Based on authorized hours and services, IHSS recipients are responsible for hiring, firing, and directing their IHSS provider(s). In the vast majority of cases, recipients choose a relative to provide care.

In 2012, there were around 380,000 IHSS providers with hourly wages varying by county and ranging from $8.00 to $12.20 per hour. Prior to July 1, 2012, county public authorities or nonprofit consortia were designated as "employers of record" for collective bargaining purposes on a statewide basis, while the state administered payroll and benefits. Pursuant to 2012-13 trailer bill language, however, collective bargaining responsibilities in the eight counties participating in CCI will shift to an IHSS Authority administered by the state.

SUMMARY OF RECENT BUDGET REDUCTIONS

Budgets in recent years included major program and policy changes in the IHSS program, responding to calls for expenditure controls and for additional program integrity assurances. By way of context, the following is a summary of adopted budget and policy changes included as part of past budget negotiations.

IHSS Savings Adopted in the Past Four Budgets has included the following:

	ESTIMATED GF SAVINGS	ADDITIONAL COMMENTS
Implemented Reductions and Policies		
• Enhanced federal funding from Community First Choice Option	$107 million in 2013-14	2012-13 savings were $201 million, but are expected to decline under fed. rule changes
• Requirement for health care provider to certify need	$63.5 million in 2013-14	
• Across-the-board cut of 3.6% of authorized service hours in 2010-11 through 2012-13	$60 million in 2012-13	Governor's budget sunsets reduction as scheduled on 7/1/13
• Increased share of cost for some consumers	$45 million	

	ESTIMATED GF SAVINGS	ADDITIONAL COMMENTS
• Provider enrollment changes (background checks, criminal exclusions, training, etc.)		
• Reductions in county administrative funding		
Policies Enjoined by Court Orders or Awaiting Federal Approval		
• Across-the-board cut of 20% of authorized hours, with exceptions (impacts about 300,000 recipients)	$243 million	Enjoined in ongoing litigation with next hearing March 2013; Governor's Budget assumes implementation November 2013
• Enhanced federal funds from match to use of revenues from sales tax on support services (with reimbursement of tax payments to IHSS providers)	$95.5 million	Awaiting federal response; no savings assumed in Governor's budget
• Loss of eligibility for individuals with assessed needs below specified thresholds	$92 million	Enjoined in ongoing litigation; statute prevents changes until final, non-appealable order
• Reduction in state participation in provider wages (from maximum of $12.10 to $10.10 per hour)	$65.5 million	Enjoined in ongoing litigation; statute prevents changes until final, non-appealable order

GOVERNOR'S 2013-14 BUDGET PROPOSALS

Coordinated Care Initiative and County MOE for IHSS. The Governor's budget assumes continued implementation of the CCI/Duals Demonstration in 2013-14, although proposes to delay the phasing in for enrollment until September 2013. As a result of county IHSS MOE funding requirements that were enacted along with CCI and took effect July 1, 2012, the budget includes increases of $17.5 million GF in 2012-13 and $47.1 million GF in 2013-14 to reflect costs estimated to shift from counties to the state.

Across-the-Board Reduction of 20 Percent. Of recently adopted policies awaiting approval or enjoined in ongoing litigation (see chart on preceding page), the Governor's Budget assumed that the across-the-board reduction of 20 percent in authorized IHSS hours, with specified exception processes, is the only one that will be implemented in 2013-14. The budget assumes $113.2 million GF savings from implementation beginning November 1, 2013 that would impact the vast majority (374,000) of recipients.

RECENT SETTLEMENT AGREEMENT

Several previously enacted IHSS program reductions—intended to realize ongoing General Fund savings and initiated during a period of budget deficits—have not been implemented because the reductions were challenged in class-action lawsuits and

subsequently enjoined (prevented from being implemented) on a preliminary basis by court orders while the lawsuits proceed.

These three enacted-but-enjoined reductions include:

1. Establishing a stricter threshold of need to receive IHSS (challenged in *Oster v. Lightbourne, et al.*, commonly referred to as *Oster I*)

2. Reducing IHSS hours by 20 percent (challenged in *Oster v. Lightbourne, et al.*, commonly referred to as *Oster II*), and

3. Reducing state participation in IHSS provider wages and benefits (challenged in *Dominguez v. Brown, et al.*)

In March 2013, the Department of Social Services (DSS) and Department of Health Care Services (DHCS) reached a settlement agreement with plaintiffs that would resolve the lawsuits by repealing the three enjoined reductions and implementing a new reduction plan intended to realize some General Fund savings while lessening the magnitude of service cuts. The presiding federal district court judge has granted preliminary approval to the terms of the settlement agreement.

The settlement agreement reached between the state and plaintiffs on March 27, 2013 resolves the two outstanding lawsuits—Oster v. Lightbourne, et al. (both Oster I and II) and Dominguez v. Brown, et al.-related to the three budget reductions at issue. The terms of the settlement agreement have received preliminary approval by the presiding federal district court judge as of April 5, 2013.

The settlement calls for the repeal of the three budget reductions at issue in the litigation. In place of these reductions, the settlement calls for implementing an 8 percent reduction to IHSS hours beginning July 1, 2013 for the duration of 2013-14 (or for 12 consecutive months), followed by an ongoing 7 percent reduction to IHSS hours in future years, subject to a “trigger off” provision.

In contrast to the enacted 20 percent reduction, the 8 percent and 7 percent reductions would apply to all IHSS recipients and would not include a supplemental care application process for full or partial restoration of reduced hours. If an IHSS recipient chooses to appeal the 8 percent or 7 percent reduction, the settlement agreement provides that his/her request can be administratively denied. The recipient, in such an appeal of the 8 percent or 7 percent reduction, would not receive what is known as “aid-paid-pending "or service hours provided at the same level as before the reduction while the recipient awaits an appeal decision. The settlement agreement provides that IHSS recipients retain their rights under existing law to request a reassessment of service hours based on a change in personal circumstances.

Because an existing 3.6 percent reduction to service hours will sunset on June 30, 2013, the settlement agreement intends to avoid any time lapse between the elimination of the 3.6 percent reduction and the implementation of the 8 percent reduction. In effect, the settlement intends for recipients to experience an additional 4.4 percent reduction on top of the existing 3.6 percent reduction implemented in 2012-13 (and two prior years) for a total 8 percent reduction beginning July 1, 2013. Similarly, from the perspective of recipients, the ongoing 7 percent reduction would implement as an additional 3.4 percent reduction on top of the existing 3.6 percent reduction.

The settlement includes a "trigger off" provision for the ongoing 7 percent reduction. That is, the agreement intends for the 7 percent reduction to be partially or fully offset by General Fund savings resulting from a new "assessment" on home care services, including home health care and IHSS. Such an assessment, if enacted by the Legislature and approved by the federal Centers for Medicare and Medicaid Services (CMS), would be structured to yield increased federal Medicaid matching funds that would be used to offset General Fund expenditures on IHSS, thereby producing savings.

The settlement agreement specifies that the state and plaintiffs "support" the Legislature's passage of legislation no later than May 24, 2013 to repeal the enjoined reductions and enact the one-time 8 percent reduction and the ongoing 7 percent reduction, with the latter's reduction or elimination made possible by the General Fund savings resulting from a new assessment on home care services that would require CMS approval.

PANEL

- Will Lightbourne, Director, and Eileen Carroll, Deputy Director, Adult Programs Division, Department of Social Services
  - History and Impact of Program and Budget Changes and Presentation on Current Issues in IHSS

- Karen Keeslar, Executive Director, California Association of Public Authorities
  - Discussion of Priority Issues

- Deborah Doctor, Advocate, Disability Rights California
  - Discussion of Priority Issues

- Robert Harris, Service Employees International Union
  - Discussion of Priority Issues

- Kristina Bas Hamilton, United Domestic Workers, AFSCME
  - Discussion of Priority Issues

- Frank Mecca, Executive Director, County Welfare Directors Association of California
  - Discussion of Priority Issues

- Legislative Analyst's Office

- Department of Finance

- Public Comment

Staff Recommendation:

The IHSS budget will again come before the Subcommittee as part of May Revision caseload updates, so this item is held open.

ISSUE 2: ADDITIONAL IHSS PROPOSALS AND ISSUES

The following three issues are also presented for the Subcommittee's consideration in the IHSS area:

- Budget Change Proposal (BCP) on Coordinated Care Initiative and review of BCP in Department of Human Resources on IHSS-EERA Labor Relations
- April 1 Letter on Community First Choice Option (CFCO)
- Public Authority Rate Methodology

BUDGET CHANGE PROPOSALS

DSS BCP on the Coordinated Care Initiative. The Governor's Budget includes a BCP request for seven limited-term positions at DSS through 2014-15 to address workload associated with the Governor's Coordinated Care Initiative (CCI), for a cost in 2013-14 of $884,000 total funds ($442,000 General Fund). DSS states that these positions are needed to implement the provision for contracts between managed care health plans and agencies and for the development of a training curriculum. These positions will also certify agencies, create an appeal process, establish a fee structure, review and approve contracts, operationalize the activities associated with the CCI for the counties, and will be responsible for engaging with stakeholders at the federal, state, and county levels. The CCI impacts IHSS recipients, though the IHSS program itself remains intact under the CCI.

The Governor's Budget had proposed to delay implementation of the Coordinated Care Initiative (CCI) until September 2013, however on March 27, 2013, DHCS announced that it had entered into a Memorandum of Understanding (MOU) with the federal CMS regarding the state's Dual Demonstration, a component of the CCI. The MOU reflects the procedures under which CMS and the state plan will implement and operate Cal MediConnect, the name of the demonstration project. The project will now, pursuant to the MOU, begin no sooner than October 1, 2013 and continue until December 31, 2016.

Department of Human Resources BCP on Statewide Public Authority. The Governor's Budget includes a BCP for the California Department of Human Resources (CalHR) related to the trailer bill legislation that passed as part of the CCI and IHSS. The BCP proposes to provide resources ($563,000 General Fund) for four positions that will allow CalHR to prepare a collective bargaining platform on behalf of the Statewide Authority. In preparation, CalHR will examine current contracts, observe bargaining sessions, identify bargaining complexities, build working relationships, and determine legal and health benefit complexities. The four positions include two Labor Relations Manager II positions, one Labor Relations Counsel III position, and one Staff Personnel Program Analyst position. If the BCP is approved, effective July 1, 2013, these four positions will assess the resources needed to begin full implementation of this program on July 2014.

APRIL 1 LETTER ON CFCO

The Subcommittee is in receipt of an April Finance Letter from DSS requesting three permanent positions to handle the increased workload associated with implementing the new Community First Choice Option (CFCO) quality assurance/quality improvement (QA/QI) requirements. These positions will be responsible for the implementation of the QA/QI requirements and for the development of the CFCO QA/QI county training requirements. The April Letter requests $381,000 total funds ($190,000 General Fund).

The April Letter states that the 2013-14 budgeted General Fund savings of $107 million will be jeopardized if these positions are not approved. Currently, a new State Plan Amendment (SPA) is being developed to submit to the Centers for Medicare and Medicaid Services (CMS) this spring focusing on the new eligibility requirements to be implemented in July 2013. The positions requested will also work on data analysis and the shift of the population in IHSS eligible for CFCO once the SPA is approved by CMS.

The Affordable Care Act of 2010 (enacted March 23, 2010), established a new State Plan Option (SPO) called CFCO. This SPO provides Home and Community-Based Attendant Services and Supports for Individuals who are eligible for medical assistance under the State Plan who meet specific income criteria. CFCO provides States with 6% additional federal funding for services and supports. DHCS submitted a CFCO SPA to CMS on December 1, 2011. CFCO will be implemented retroactivity effective to that date of December 1, 2011. All IHSS recipients currently in two main segments of the caseload, the Personal Care Services Program and the IHSS Plus Option, will be transitioned into CFCO.

PUBLIC AUTHORITY RATE METHODOLOGY

The California Association of Public Authorities (CAPA) is requesting an extension for trailer language originally enacted in 2011 that requires DSS to work with the Public Authorities (via CAPA) on a new rate methodology for Public Authority administrative funding. Due to complexities with other components of the program that are still being resolved, stakeholders are requesting that more time be allowed for this endeavor.

Below is the language enacted last year in SB 1041:

> SEC. 51. Section 72 of Chapter 32 of the Statutes of 2011 is amended to read:
> Sec. 72. The State Department of Social Services, in consultation with stakeholders including, but not limited to, counties and public authorities, including representatives of the California Association of Public Authorities, shall develop a new ratesetting methodology for public authority administrative costs, to go into effect commencing with the 2013–14 fiscal year.

The request is for the Subcommittee to approve the above language with a date change to require the new rate methodology to go into effect with the 2014-15 fiscal year.

PANEL

DSS is asked to present briefly on the BCPs and the request for a date change regarding the new Public Authority rate methodology, with LAO and DOF adding comments where desired.

- Department of Social Services
- Legislative Analyst's Office
- Department of Finance
- Public Comment

Staff Recommendation:

Staff recommends approval of the CCI-related BCP as budgeted.

Staff recommends holding open the request on the Public Authority rate methodology as requested by CAPA.

As a non-action item, staff additionally recommends communication to Sub. 4 of support for the approval of the CalHR BCP related to resources for the IHSS statewide public authority.

ISSUE 3: CMIPS II – BUDGET REQUEST AND PROGRESS REPORT

BACKGROUND

DSS is the project sponsor for the Case Management, Information, and Payrolling System II (CMIPS II). The CMIPS II is tasked with being the primary source of assistance for approximately 450,000 aged, blind, and disabled recipients for domestic and ancillary services, transportation, non-medical personal care services, paramedical services, respite care, provider time keeping, and provider taxes.

The 30-plus year old Legacy CMIPS requires major modifications to meet legislative and regulatory requirements as well as caseload and management needs. The CMIPS II system was developed as its successor and is vastly different from Legacy CMIPS. The CMIPS II system will provide, according to DSS, an enhanced, efficient, and user-friendly Graphical User Interface system to support the IHSS programs and will hold approximately 30 percent more data. It will also provide updated automation support for the three IHSS programs, and eventually, the CCI and CFCO.

The CMIPS II project has entered into the Maintenance and Operations (M&O) phase with the conversion of Yolo and Merced counties in July 2012 from the Legacy CMIPS system to CMIPS II.

BUDGET REQUEST

The Governor's Budget requests the two-year extension of four existing limited-term positions to work with the Office of Systems Integration (OSI), the vendor (Hewlett Packard (HP)), and the counties in ensuring a smooth transition from Legacy CMIPS to CMIPS II and for ongoing CMIPS II Maintenance and Operations (M&O) activities. The cost of this in 2013-14 is $510,000 total funds ($255,000 General Fund). As implementation draws to a conclusion, these staff will maintain the CMIPS II system by providing ongoing technical assistance, timesheet processing with associated documents, oversight and maintenance of governmental interfaces for sharing of information, enhanced data extraction, fraud activities, monitoring county system management activities to oversee performance reviews, change management and configuration management activities, approve county requested changes, and provide support to the counties for all other issues.

PROGRESS REPORT

The administration, principally DSS and the Office of Systems Integration (OSI), with the vendor, has been responsive to requests for progress reports and updates on the resolution of issues encountered with the Group 1 Go-Live Pilot Counties, which in addition to Yolo and Merced, included San Diego. Ongoing implementation improvements are due to the lessons learned during the Pilot efforts.

The administration has stated that although Group 1 Go-Live went relatively well, there are several lessons being learned that will further enhance Group 2 Go-Live. For example, increasing communications with Health Benefit Managers (HBMs) during the conversion weekend, communicating directly with HBMs in lieu of communicating through counties, improving communication to DHCS so they can communicate more effectively with specific providers, and providing additional assistance during the go-live week, including direct assistance during data conversion. The CMIPS II Project Office is assessing open defects and issues, focusing immediate attention to those that pose a risk to Group 2 Go-Live.

Group 2 Go-Live Counties scheduled for conversion on May 1, 2013 include:

- Butte
- Del Norte
- Glenn
- Humboldt
- Lake
- Marin
- Mendocino
- Napa
- Nevada
- Orange
- Placer
- Plumas
- Riverside
- Shasta
- San Bernardino
- San Mateo
- Sierra
- Sutter
- Santa Clara
- Tehama
- Trinity
- Yuba

PANEL

DSS and OSI are being asked to present briefly on the CMIPS II progress report, and the request in the BCP proposed in the Governor's Budget, with LAO and DOF adding comments where desired.

- Department of Social Services

- Office of Systems Integration

- Legislative Analyst's Office
- Department of Finance
- Public Comment

Staff Recommendation:

Staff recommends approval of the BCP for CMIPS II.

As a non-action item, staff additionally recommends that the Subcommittee continue to request regular updates and progress reports from the administration as Group II Go-Live implements to assist with transparency, oversight, and proactive, intensive problem-solving.

5180 DEPARTMENT OF SOCIAL SERVICES

ISSUE 1: SUPPLEMENTAL SECURITY INCOME/STATE SUPPLEMENTARY PAYMENT (SSI/SSP)

BACKGROUND

Supplemental Security Income/State Supplementary Payment (SSI/SSP) provides a monthly cash benefit to enable needy aged, blind, and disabled people to meet their basic living expenses for food, clothing, and shelter. The 2013-14 Governor's Budget includes $9.7 billion ($2.8 billion General Fund) for the SSI/SSP program. This represents a 1.9 percent increase from the revised 2012-13 budget.

Caseload. Caseload is estimated to be 1.3 million recipients in 2013-14, a 1.3 percent increase over the 2012-13 projected level. The SSI/SSP caseload consists of 27 percent aged, 2 percent blind, and 71 percent disabled persons.

Grants. SSI is a federally funded benefit; SSP is state-funded and added on to the SSI benefit. The maximum amount of aid is dependent on the following factors:

- Whether one is aged, blind, or disabled;
- The living arrangement;
- Marital status; and,
- Minor status.

Effective January 2012, maximum SSI/SSP grant levels are $854 per month for individuals ($10,248 per year) and $1,444 per month for couples ($17,328 per year). The Social Security Administration (SSA) applies an annual cost-of-living adjustment (COLA) to the SSI portion of the grant, equivalent to the year-over-year increase in the Consumer Price Index (CPI). The current projected CPI growth factors are 1.7 percent for 2013 and 1.1 percent for 2014. Maximum SSI/SSP monthly grant levels would increase by $20 and $30 for individuals and couples, respectively. The grant increases associated with the SSI COLA become effective December 31, 2012 and January 1, 2014.

Cash Assistance Program for Immigrants. The Cash Assistance Program for Immigrants (CAPI) provides benefits to aged, blind, and disabled legal immigrants. The CAPI benefits are equivalent to SSI/SSP program benefits, less $10 per individual and $20 per couple. The CAPI recipients in the base program include immigrants who entered the United States (U.S.) prior to August 22, 1996, and are not eligible for SSI/SSP benefits solely due to their immigration status; and those who entered the U.S. on or after August 22, 1996, but meet special sponsor restrictions (have a sponsor who is disabled, deceased, or abusive). The extended CAPI caseload includes immigrants

who entered the U.S. on or after August 22, 1996, who do not have a sponsor or have a sponsor who does not meet the sponsor restrictions of the base program.

Disability Determination. The Disability Determination Service Division (DDSD) is responsible for determining the medical eligibility of California residents for benefits under United States Codes, Title II (Disability Insurance), Title XVI (SSI), and Title XIX (Medically Needy Only) of the Social Security Act. The state augments the SSI with the State Supplementary Payment (SSP). The State Division of DDSD is responsible for the development, evaluation, and adjudication of Medi-Cal, Medically Needy Only cases under Title XIX, which establishes eligibility for the full range of Medi-Cal services for those found disabled.

BUDGET CONTEXT

As part of the 2009-10 Budget agreement, state COLAs for SSI/SSP beneficiaries were indefinitely suspended, and depend upon future statutory authorization. This occurred after many years of COLA suspension, whereby SSI/SSP grants were reduced to minimal levels.

As part of the 2011-12 Budget, the state chose to reduce the SSP standard of the SSI/SSP program to the federally required MOE level of the 1983 payment standards for individuals only. Prior actions had reduced the grant levels for couples to the MOE floor, leaving some margin on the grants for individuals given their level of poverty. The MOE refers to a federal provision that limits the reduction a state can make to their SSP benefit levels without penalty. If a state were to reduce its SSP benefit levels below MOE levels, it would lose federal funding for Medi-Cal. California is now at the MOE floor, or the lowest benefit level possible, for the entire SSI/SSP caseload.

There are no major changes associated with SSI/SSP in the Governor's Budget, however a review of the sufficiency of grant levels and the continued non-existence of a state COLA are topics that should be considered as the budget for this caseload is reviewed.

PANEL

DSS is being asked to present briefly on the SSI/SSP program, highlighting the current state of the grants and any other issues meriting the Legislature's attention, with LAO and DOF adding comments where desired.

- Department of Social Services
- Legislative Analyst's Office
- Department of Finance
- Public Comment

Staff Recommendation:

The SSI/SSP budget will again come before the Subcommittee as part of May Revision caseload updates, so this item is held open.

ISSUE 2: COMMUNITY CARE LICENSING

BACKGROUND

The Community Care Licensing Division (CCLD) is a licensing and enforcement program aimed at protecting the health and safety of vulnerable children, adults, and seniors in community care setting. Among other activities, CCLD conducts licensing activities and enforcement for the following community care setting programs:

- **Child Care Program:** Family Child Care Home and Child Care Centers that provide care to children on a less than 24-hour basis.

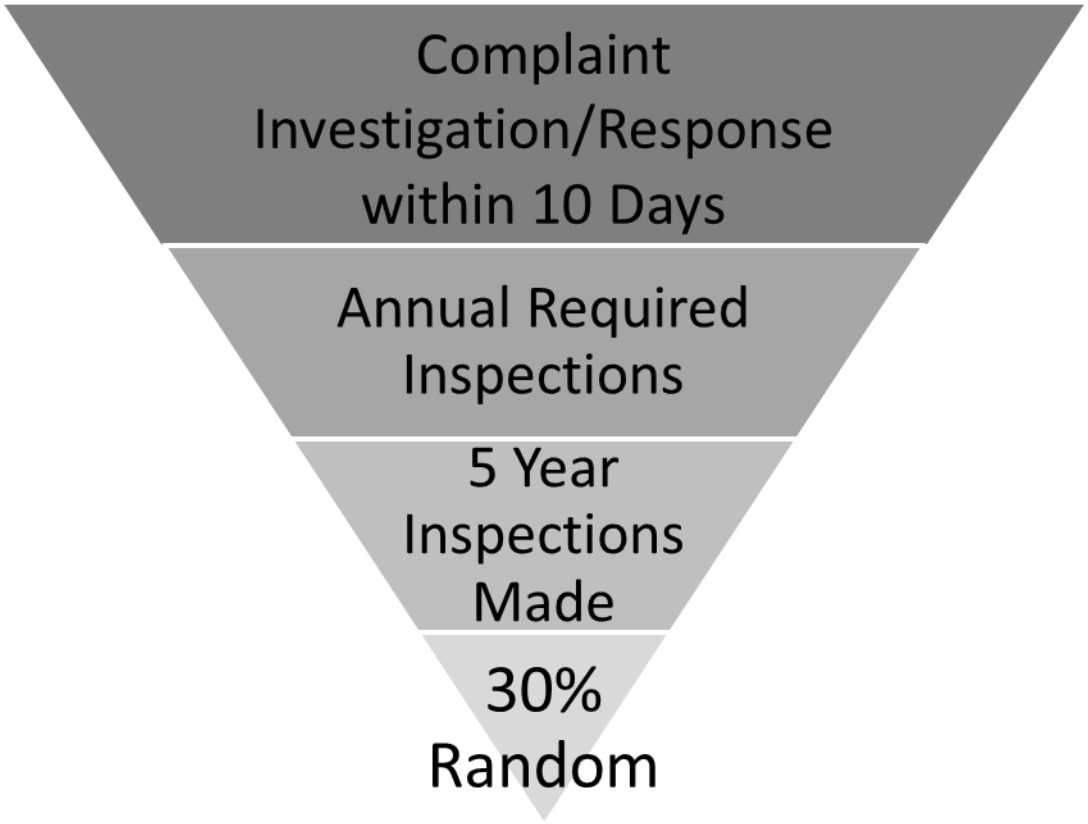
- **Children's Residential Program:** Residential care settings or agencies (e.g. foster homes, group homes, small family homes, foster family agencies or adoption agencies) that provide temporary and long-term care to children on a 24-hour basis.

- **Adult Care Program:** Residential care and day program settings that provide care to adults, including persons with a developmental disability, mental illness, HIV/AIDS, special health care needs or hospice.

- **Senior Care Program:** Residential care for persons who are 60 years or older, or adults with compatible needs and who need assistance with care and supervision including activities of daily living.

The chart on the following page was provided by the administration and includes additional information on CCL.

COMMUNITY CARE LICENSING (CCL)
FY 2012-13 PROGRAM INDICATORS
MID-YEAR UPDATE
REQUIRED INSPECTIONS



98.8%C
Compliance Rate

(98.8% last year)

91.3%
Compliance Rate

(75.3% last year)

4,078

(4,313 last year)

85.5%

(68.1% last year)

- Frequency Touching a Facility (37 mo last year)…….. 31 months
- Total Inspections (increasing by 15.2%).....96,402 (Annualized)
- Total Citations (increasing by 13.1%)…… .....52,582 (Annualized)
- Citations

  2011-12…… Type A…….....46%

  Type B……..…54%

  2012-13…… Type A……45%

  Type B……55%
- Complaints still yield highest ratio of As / Bs……. 64% / 36%
- Vacancy Rate 2012-13 8.65% (52 PY reduction, 2012-13 PLP)

  2011-12 18.3% (furlough ended 10/31/11, freeze ended)

Footnote: Type A citations are imminent risk and are the most serious (e.g. uncovered body of water)
Type B citations are potential risk and are the less serious (e.g. employee records)

REQUESTS

BCP on Tracking of Registered Sex Offenders. The Governor's Budget requests four limited-term positions (two Investigators, one Associate Governmental Program Analyst, and one Staff Information Systems Analyst), at a cost of $470,000 total funds, $385,000 General Fund, to strengthen resources for client protections by reducing the risk of abuse of children and vulnerable adults in out-of-home care posed by the potential presence of registered sex offenders (RSOs). As part of this effort, the positions would administer and maintain a secure licensing informational website, conduct monthly analysis/review of RSO address data, and provide policy direction, education, and technical assistance.

Trailer Bill Proposal on Extension of Fingerprint Fee Exemption. This proposal would continue for an additional two years the suspension of existing law that prohibits DSS and the Department of Justice (DOJ) from charging a fee to process a criminal history check of individuals who are licensed to operate child and adult facilities, provide care in a facility, or reside at that facility. Enacting this proposal therefore allows DSS to charge fees for this service.

Individuals who are licensed to operate child and adult facilities, provide care to facility clients, or reside at a facility, undergo a comprehensive background check. This check is intended to ensure that individuals with criminal histories are thoroughly evaluated and/or investigated before they are allowed to have contact with clients. CDSS requires a fingerprint-based background check from both the DOJ and the Federal Bureau of Investigation (FBI) for individuals wishing to provide care. DOJ bills CDSS $17 for the FBI and $16 for the Live Scan service, per person ($33 total). The background check for individuals associated with children's facilities that serve six or fewer children also includes a check of the Child Abuse Central Index (CACI). The CACI fee is an additional $15.

Since FY 2003-04, trailer bill language has been enacted on an annual basis to suspend existing statute that prohibits the CDSS from charging the fingerprint licensing fee to process a criminal history check of individuals who are licensed to operate child and adult facilities, provide care in a facility, or reside at the facility.

PANEL

DSS is asked to present briefly on background and the current budget requests for CCL, with LAO and DOF adding comments where desired.

- Department of Social Services
- Legislative Analyst's Office
- Department of Finance

- Public Comment

Staff Recommendation:

Staff recommends the following:

1. Approval of the BCP request for CCL.
2. Approval of the Trailer Bill Language on Extension of Fingerprint Fee Exemption.

ISSUE 3: STATE HEARINGS DIVISION

BACKGROUND

State hearings adjudicated by impartial Administrative Law Judges (ALJs) employed through DSS are used to provide due process to recipients of and applicants for many of California's health and human services' programs, including Medi-Cal, CalWORKs, CalFresh, and In-Home Supportive Services, when they disagree with a decision made by their local county welfare department. Federal mandates require that all requests for hearings be adjudicated within 90 days of a recipient's request (or 60 days for CalFresh). Two court orders, in King v. McMahon and Ball v. Swoap, impose financial penalties on DSS for failing to adjudicate decisions within those specified timeframes. The penalties are paid to the prevailing claimant.

Under the court orders, the minimum daily penalty amount is $5.00 per day, or a minimum of $50, whichever is greater. However, if 95 percent of all decisions are not issued within the required deadlines in a given month, the daily penalty rate for that programmatic category increases by $2.50 over the penalty rate being paid to claimants the previous month. On the other hand, if 95 percent of all decisions related to that particular program are issued on time in a given month, the corresponding daily penalty rate decreases by $2.50 from the penalty rate being paid the previous month. The maximum daily rate under the court orders is $100 per day. According to DSS, recent processing times and average penalties are listed below:

Program	Timeliness Requirement (In Days)	Average Processing Time (In Days)	Average Days Late	Average Penalty
CalFresh	60	83.14	23.14	$976.62
CalWORKs	90	113.69	23.69	$1,118.77
IHSS	90	117.51	27.51	$1,585.32
MediCal	90	121.25	31.25	$2,714.25

Recent Caseload Growth and Penalties. The department indicates that the state hearings caseload has increased significantly in the past five years (from approximately 80,000 requests for hearing and 14,000 decisions issued in 2007-08 to 96,000 requests and 18,000 decisions in 2011-12). The Great Recession and corresponding state fiscal crisis led to billions of dollars in reductions to California's health and human services programs, along with corresponding contractions in eligibility for and/or services provided by those programs. At least some of the significant caseload growth identified by the department is related to those changes.

In 2010-11, DSS requested statutory changes to lower the timeliness threshold for processing hearings and allow the department to hold videoconference hearings at its

discretion. Those requests were rejected by the Legislature, and the final budget instead included the addition of three ALJs and the permanent funding associated with those positions.

BUDGET REQUEST

The Governor's budget proposes $20.3 million and 153.2 authorized positions for the State Hearings Division of DSS. This includes a request for $3.4 million ($1.3 million GF) to establish 21 new, permanent state staff positions to handle an increased state hearings caseload. The General Fund resources identified are proposed to be redirected from the payment of penalties for late hearing decisions. The department indicates that these late decisions are a result of caseload growth and that the amount of penalties has increased since 2006, totaling $1.1 million for 2011-12, and projected to be as high as $1.8 million yearly over the next three years. Correspondingly, the Governor proposes trailer bill language (TBL) to limit, for a period of three years, the department's exposure to those court-mandated penalties.

The proposed TBL would reset the daily penalty to the minimum amount for a three-year period while the department directs the resources to instead increasing the number of staff who can adjudicate claims. The department believes that decisions would again be timely by the end of this period.

PANEL

DSS is asked to present briefly on background to state hearings and on the BCP proposed in the Governor's Budget, with LAO and DOF adding comments where desired.

- Department of Social Services
- Legislative Analyst's Office
- Department of Finance
- Public Comment

Staff Recommendation:

Staff recommends holding this issue open.

4200 DEPARTMENT OF ALCOHOL AND DRUG PROGRAMS
4260 DEPARTMENT OF HEALTH CARE SERVICES
4265 DEPARTMENT OF PUBLIC HEALTH
5180 DEPARTMENT OF SOCIAL SERVICES

ISSUE 1: ADP OVERVIEW AND GOVERNOR'S TRANSFER PROPOSAL

DEPARTMENT OVERVIEW

The Department of Alcohol and Drug Programs (ADP) provides leadership, policy, coordination, and investments in the planning, development, implementation, and evaluation of a comprehensive statewide system of alcohol and other drug prevention, treatment, and recovery services, as well as problem gambling prevention and treatment services. As the state's alcohol and drug authority, the Department is responsible for inviting the collaboration of other departments, local public and private agencies, providers, advocacy groups, and individuals in establishing standards for the statewide service delivery system.

This Department is undergoing significant changes. In 2011-12, the Drug Medi-Cal functions were transferred to counties as part of 2011 Realignment and administrative functions for the Drug Medi-Cal program are being transferred to the Department of Health Care Services. In 2012-13, the remaining programs were proposed to be transferred to various departments, including the Department of Health Care Services, the Department of Public Health, and the Department of Social Services. The transition of ADP functions, and the subsequent elimination of the Department, were deferred and have been altered, which is discussed in further depth in this section.

The Alcohol and Other Drug (AOD) Services Program assists counties in providing appropriate prevention, treatment, and recovery services to help Californians have healthy lives free of alcohol and other drug-related problems and become contributing members of their communities. In addition to ensuring compliance with state and federal statutes, the Department provides program oversight, maintains agreements with counties to monitor performance measures and spending related to federal maintenance of effort requirements, and implements projects consistent with specific Department objectives.

To meet this responsibility, ADP currently performs the following functions:

Service Delivery System. Design, maintain, and continuously improve a statewide infrastructure for the delivery of community-based alcohol and other drug prevention, treatment, and recovery services, as well as problem gambling prevention and treatment services. This is achieved through ongoing partnership with county governments and in cooperation with numerous private and public agencies, organizations, and groups.

System Financing. Provide efficient and effective systems of obtaining, allocating, administering, and accounting for local, state, and federal funds used in the alcohol and other drug system.

Quality Assurance. Ensure that service providers maintain compliance with basic facility and program standards. The Department licenses and/or certifies a range of programs including residential treatment centers and outpatient programs, clinics for narcotic replacement therapy, and Driving Under the Influence educational programs.

Alcohol and Other Drug Prevention. Maintain a prevention program designed to reduce and eliminate alcohol and other drug-related problems among California's children, youth, and adult populations.

Information Technology. Develop an information infrastructure that supports the goals, strategies, and operations of the Department and its stakeholders.

BUDGET CONTEXT

As part of the 2012-13 Budget, the following actions were taken in the ADP area:

- **Transfer of DADP Functions.** Adopted trailer bill language to transfer the administrative and programmatic functions of DADP to other departments within the Health and Human Services Agency, effective July 1, 2013. Requires that, in consultation with stakeholders and affected departments, the Health and Human Services Agency prepare a detailed plan for the reorganization of DADP's functions to be submitted to the Legislature as part of the 2013-14 Governor's Budget.

- **Alcohol and Drug Program Realignment.** Adopted trailer bill language necessary to implement the 2011 Public Safety Realignment. Specifically, requires the DADP and the Department of Health Care Services (DHCS) to annually report a summary of outcome and expenditure data that allows for monitoring of changes over time and indicates the degree to which programs are meeting state and county-defined outcome measures.

- **Drug Medi-Cal.** Adopted trailer bill language making programmatic changes necessary to implement the realignment of funding for the Drug Medi-Cal program and the transfer of remaining state responsibility for the program to the DHCS.

- **Women and Children's Residential Treatment Services (WCRTS).** Adopted trailer bill language declaring the state's interest in the WCRTS program, recognizing the eight current programs, and allowing for the establishment of additional programs for the purpose of pursuing four primary goals: 1) demonstrating that alcohol and other drug abuse treatment services delivered in a residential setting and coupled with primary health, mental health, and social

services for women and children, can improve overall treatment outcomes for women, children, and the family unit as a whole; 2) demonstrating the effectiveness of six-month or 12-month stays in a comprehensive residential treatment program; 3) developing models of effective comprehensive services delivery for women and their children that can be replicated in similar communities; and 4) providing services to promote safe and healthy pregnancies and perinatal outcomes.

CURRENT BUDGET REQUESTS

The Governor's Budget proposes the following for 2013-14 in the ADP area:

Transfer of ADP Functions. The 2013-14 Governor's Budget reflects the elimination of the Department of Alcohol and Drug Programs (ADP) and the shift of $322.4 million ($34.1 million General Fund) for the remaining Non-Drug Medi-Cal and Problem Gambling functions transferring to the Department of Health Care Services (DHCS) and the Department of Public Health (DPH). Of the total budget, $289.9 million is in Local Assistance and $32.5 million is in State Support.

The following is a summary of the ADP functions and associated resources proposed to be transferred to DHCS and DPH:

- **Department of Health Care Services**
  Non-DMC Programs - $313.7 million and 225.5 positions for administering and supporting the Substance Abuse Prevention and Treatment (SAPT) Block Grant, various federal discretionary grants, parolee services programs, drug court technical assistance, licensing functions, as well as the Narcotic Treatment Program, Driving-Under-the-Influence Program, and Counselor Certification activities.

- **Department of Public Health**
  Problem Gambling Prevention Services - $3.7 million and 4.0 positions in support of the Problem Gambling prevention activities. Problem Gambling Treatment Services - $5 million and 2.0 limited-term positions for the two-year extension of the Problem Gambling Treatment Services Pilot Program.

GOVERNOR'S TRANSFER PROPOSAL

As a part of the FY 2012-13 Budget process, the Legislature authorized the transfer of the programs and functions of the Department of Alcohol and Drug Programs (ADP) to departments within the Health and Human Services Agency, effective July 1, 2013. In September and October 2012, ADP convened stakeholders for gathering input on the placement of ADP functions.

As a part of the Governor's Budget, the administration proposes to transfer all of the substance use disorder programs and functions of ADP to the Department of Health

Care Services (DHCS). The proposal additionally transfers ADP's Office of Problem Gambling, which is for a distinct prevention and treatment delivery system that addresses problem gambling, to the Department of Public Health (DPH). Finally, in transferring these statutes, the proposed trailer bill language also sunsets obsolete programs to render them inoperative but leave them in statute for historical purposes. It also repeals outdated statutes that conflict with subsequent changes to statute and updates terminology to be consistent with today's substance use disorder field.

The administration states that the result of this reorganization will be a state administrative structure that will provide one state department for the substance use disorder system, align with federal and county partners, and promote opportunities for improving health care delivery to the benefit of consumers with substance use disorders. The administration contends that the reorganization offers numerous benefits to the substance use disorder system, including that it:

- Aligns with Federal and County Partners
- Promotes Opportunities for Improvement of Health Care Delivery
- Maintains Programmatic Expertise
- Consolidates All Substance Use Disorder Programs at DHCS
- Locates Office of Problem Gambling with Health Promotion Programs at DPH
- Enhances Oversight of Substance Use Disorder Programs
- Preserves Licensing and Certification Together
- Reorganizes to Reflect Realignment

The Health and Human Services Agency's Transition Plan for the Department of Alcohol and Drug Programs and stakeholder input on the proposal to eliminate ADP and to transfer functions is posted on the ADP website: http://adp.ca.gov/transfer.shtml.

PANEL

ADP (and other affected departments as appropriate) are asked to present an overview of ADP programs with budget history and to speak to the Transfer proposed in the Governor's Budget, with LAO and DOF adding comments where desired.

- Department of Alcohol and Drug Programs, Department of Health Care Services, Department of Public Health, Department of Social Services, Health and Human Services Agency

- Legislative Analyst's Office

- Department of Finance

- Public Comment (taken at the end of the panel on all items)

Staff Recommendation:

Staff recommends the following:

1. Approval of the BCP requests as budgeted, facilitating the transfer of ADP according to the Transition Plan as developed with stakeholders and presented as part of the Governor's 2013-14 Budget.

2. Approval of placeholder trailer bill language to effectuate the ADP transfer, using the administration's proposal as a basis, with the following modifications:

   A. Including a mechanism to require continued legislative oversight as this transition unfolds over the next few years;

   B. Requiring continued stakeholder involvement and input as the delivery of AOD and healthcare services in California continues to evolve; and

   C. Establishing a baseline for evaluating on an ongoing basis how and why AOD service delivery changed or improved as a result of this administrative transfer. The LAO has been asked to assist in particular with this component of the trailer bill.