AGENDA
SUBCOMMITTEE NO. 1
ON HEALTH AND HUMAN SERVICES

ASSEMBLYMEMBER PATTY BERG, CHAIR

PART 2
WEDNESDAY, MAY 21, 2008
STATE CAPITOL, ROOM 4202
1:30 P.M.

ITEMS TO BE HEARD

ITEMS ON CONSENT

4120 EMERGENCY MEDICAL SERVICES AUTHORITY

May Revision--Reversion of Unexpended Funds

The May Revision requests addition of a reversion item to revert a total of $99,000 of unexpended funds appropriated by the Budget Act of 2006.

4260 DEPARTMENT OF HEALTH CARE SERVICES

Estimate Updates:

May Revision Medi-Cal Estimate Re-Benching

The average monthly Medi-Cal caseload for 2007-08 is expected to be 6,636,500 beneficiaries, which represents a decrease of 1,200, or 0.02 percent, from the estimate of 6,637,700 at the fiscal year 2008-09 Governor's Budget. Total Medi-Cal expenditures for 2007-08 are projected to be $36.6 billion ($14.1 billion General Fund), which is a net decrease of $353.2 million (an increase of $12.7 million General Fund) from the 2008-09 Governor's Budget. The average monthly caseload for 2008-09 is projected to be 6,586,700, which represents an increase of 22,900 beneficiaries, or 0.3 percent, from the estimate of 6,563,800 reflected in the 2008-09 Governor's Budget. Total Medi-Cal expenditures are expected to be $37.2 billion ($13.9 billion General Fund), or a net decrease of $1,173,000 ($315.7 million General Fund) from the 2008-09 Governor's Budget estimate.

The Department of Health Care Services (DHCS) updates the Medi-Cal estimate for the May Revision based on more recent cost, utilization, and caseload trends, and for events or adjustments that have occurred since the November estimate (the basis for the Governor's January budget) was prepared.

May Revision Budget-Balancing Reductions Re-Benching and Revisions

It is requested that Schedule (1) of Item 4260-101-0001 [county administration] be decreased by $3,231,000, Schedule (3) of Item 4260-101-0001 [benefits] be increased by $176,349,000, and Item 4260-101-0890 [federal funds] be increased by $217,940,000 due to a loss of savings from various Medi-Cal Budget Balancing Reductions (BBRs). Adjustments to the savings amounts reflect the delay of enactment of various BBRs until July 1, 2008, more recent caseload and expenditure data to project the estimates, and an adjustment to the county administration reduction from 2.5 percent to 3.67 percent. The loss of savings also incorporates reductions on items exempted by the Legislature including the federal Breast and Cervical Cancer Treatment program, freestanding pediatric subacutes, and the Family PACT program.

These adjustments update the savings estimates for 2008-09 for the administration's BBR proposals to reflect timing changes, correction of errors in the original estimates, and to reflect the actions already taken by the Legislature in acting on provider rate reductions in AB 5 X3.

May Revision Update for Adult Day Health Care Costs and Savings

It is requested that Schedule (3) of Item 4260-101-0001 [benefits] be increased by $9,270,000 and Item 4260-101-0890 [federal funds] be increased by $9,271,000. This augmentation includes increased costs of $38.8 million ($19.4 million General Fund) for Adult Day Health Care due to an increase of approximately 3,600 users and an estimated savings of $20.3 million ($10.1 million General Fund) due to the implementation of reforms that will tighten medical necessity criteria.

May Revision AB 1629 Nursing Facility Cost-Report Adjustment

It is requested that Schedule (3) of Item 4260-101-0001 [benefits] and Item 4260-101-0890 [federal funds] each be increased by $22,380,000 due to a revised estimate for the August 2008 cost-of-living adjustment [actually cost reports of skilled nursing facilities]. The November Estimate projected an increase of 3.4 percent, which has been adjusted to 4.9 percent due to more recent data reflecting higher-than-anticipated growth in labor costs.

The higher cost growth reflects the increases in the actual cost reports and the necessary rate increase under the AB 1629 methodology. The estimated increase is within the statutory 5.5-percent rate increase cap.

May Revision Family Health Estimate Update

This estimate update results in an overall General Fund increase of $26,011,000 and federal funds increase by $821,000. These changes reflect revised expenditure estimates in the California Children's Services (CCS), Child Health and Disability Prevention, and Genetically Handicapped Person's Program (GHPP) programs based on May Revision caseload estimates. The requested adjustment also reflects an increase of $2.0 million General Fund in the CCS program for the cost of the Medical Therapy Program school-based treatment services; an increase of $3.9 million General Fund to the CCS program due to the erosion of savings associated with the delay of the implementation of the 2008-09 Budget Balancing Reductions, and an increase of $19.5 million General Fund to the GHPP primarily due to costs associated with pharmaceutical expenses for blood factor necessary for hemophiliac beneficiaries and caseload increases.

Staff Comment

The Subcommittee actions approving the estimate changes described above are intended solely to re-bench the budget based on the new estimates. Approval of these estimate changes does not imply either specific rejection or specific acceptance of any BBR or other policy proposal. Actions taken by the subcommittee at previous hearings still stand, but the amounts associated with those actions should be adjusted by the Department of Finance as necessary to be consistent with the May Revision updates.

Other Issues

May Revision--Improving Services for Seniors/Persons with Disabilities and Chronic Conditions

The May Revision requests redirection of $775,000 of Title V Maternal and Child Health funds from state operations to fund the Children's Medical Services (CMS). This would displace $775,000 of General Fund costs, of which $358,000 would be shifted to the Medi-Cal Managed Care Division and matched with $417,000 of federal Medicaid funds for a total of $775,000 to implement the seniors and persons with disabilities and chronic health conditions performance standards. This project was funded with Title V funds in the 2007 Budget Act. However, the Department determined that Title V funds could not be used for this purpose. The May Revision proposal accomplishes the legislature's intent to fund this effort and also results in a General Fund savings.

May Revision—Technical Correction to Shift of Family Planning, Access, Care, and Treatment to the Department of Public Health

The Administration requests a shift of $250,000 (General Fund) from DHCS to the Department of Public Health (DPH) to reflect a technical adjustment to the local assistance contracts in the Family Planning, Access, Care, and Treatment (PACT) program. Upon the split of the Department of Health Services, $2.8 million General Fund, representing local assistance contracts for the Family PACT program was to be included in the DPH budget. However, due to an administrative oversight, all but $250,000 General Fund was transferred to the DPH. Therefore, a technical adjustment is needed in 2008-09 to increase the DPH's General Fund by $250,000 and decrease General Fund in the DHCS by a like amount. This action also includes the related request in the DPH budget.

May Revision—Fiscal Intermediary Additional Pharmacy Consultants

The May Revision requests an increase of $1.8 million ($324,000 General Fund and $1,514,000 federal funds) to support 9.0 pharmacy consultants to address the backlog of Treatment Authorization Requests (TARs). According to DHCS, the current TAR workload has grown to the point where Medi-Cal has experienced a backlog in 10 of the past 12 months, reaching a peak of over 32,000 TARs and a delay of up to 10 business days. Current law requires a one day turnaround for TARs. Due to the backlog, auto-adjudication is utilized to expedite processing. The DHCS indicates that auto-adjudication has resulted in approving $6.4 million ($3.2 million General Fund) in TARs that would have been denied under more detailed review by consultants between February 2007 and March 2008. The Medi-Cal estimate projects annual savings of $4.7 million (total funds) as a result of the additional consultants.

4265 DEPARTMENT OF PUBLIC HEALTH

May Revision Estimate--Genetic Disease Screening Program

The May Revision requests a reduction of $2,159,000 from the Genetic Disease Testing Fund. This technical adjustment corrects for an erroneous application of the fiscal year 2008-09 price increase factor to certain operating expenses and equipment within the caseload-related expenditures associated with the Newborn Screening and Prenatal Screening programs.

4280 MANAGED RISK MEDICAL INSURANCE BOARD

Estimate Updates:

May Revision--Healthy Families Program (HFP) Estimate Update

The May Revision estimate for HFP reduces estimated costs by a total of $4.7 million ($1.9 million General Fund). These adjustments reflect changes in anticipated caseload. Year-end caseload is expected to reach 935,482 children, which is a decrease of 18,770 children from the caseload projected in the Governor's Budget but an increase of 54,483 children from the fiscal year 2007-08 caseload.

May Revision—HFP Budget Balancing Reductions Re-estimate

The May Revision includes increases in spending totaling $15.8 million $(4.8 million General Fund) to adjust the savings estimates associated with the various HFP Budget Balancing Reductions (BBRs). Adjustments to the savings amounts reflect the delay of enactment of various BBRs until July 1, 2008, more recent caseload and expenditure data.

May Revision--Access for Infants and Mothers (AIM) Estimate Update

The May Revision projects reduced spending totaling $7.2 million for the AIM Program, compared with the January Governor's Budget. The reduction consists of $3.3 million from the Perinatal Insurance Fund and $3.9 million of federal funds. The overall reduction of 4.7 percent reflects a decrease in expected enrollment from 1,320 to 1,159 average monthly persons.

May Revision—County Health Initiative Matching Fund Program Update

The May Revision now projects a reduction of $90,000 ($31,000 county funds and $58,000 federal funds) for this program in 2008-09 due to reduced caseload. Year-end caseload is expected to reach 1,838 children, which is a decrease of 53 children from the caseload projected in the Governor's Budget. This program provides federal SCHIP matching funds to counties who provide coverage to children who are federally qualified in families between 250 percent and 300 percent of the federal poverty level using county funds.

Staff Comment

The Subcommittee actions approving the estimate changes described above are intended solely to re-bench the budget based on the new estimates. Approval of these estimate changes does not imply either specific rejection or specific acceptance of any BBR or other policy proposal. Actions taken by the Subcommittee at previous hearings still stand, but the amounts associated with those actions should be adjusted by the Department of Finance as necessary to be consistent with the May Revision updates.

ITEMS TO BE HEARD

4260 DEPARTMENT OF HEALTH CARE SERVICES

ISSUE 1: CALIFORNIA DRUG DISCOUNT PROGRAM

The Budget Bill of 2007 appropriated a total of $8.8 million requested by the Governor to implement AB 2911 (Nuñez), Statutes of 2006. However, this appropriation was vetoed by the Governor on the basis of needing to fund a prudent reserve in light of revenue and spending uncertainties. For 2008-09, the Governor's budget proposes funding of $5.870 million (General Fund) to proceed with implementation (the actual amount could be more because the proposal includes budget bill language with open-ended augmentation authority).

Under this new program, the DHCS would conduct drug rebate negotiations, perform drug rebate collection and dispute resolution, and develop program policy, while a contractor would operate and manage the enrollment and claims processing functions.

Background—California Prescription Drug Discount Program. AB 2911 authorized the CA Drug Discount Prescription Drug Program to address concerns regarding the lack of access to affordable prescription drugs by lower-income Californians by offering drug discounts. The general structure of the program is for the state to negotiate with drug manufacturers for *voluntary* rebates and discounts to reduce prescription drug prices for uninsured and underinsured lower-income individuals.

Participation in the program would be targeted at uninsured California residents with incomes below 300 percent of the federal poverty level, individuals at or below the median family income with unreimbursed medical expenses equal to or greater than 10 percent of the family's income, share-of-cost Medi-Cal enrollees, and Medicare Part D enrollees that do not have Medicare coverage for a particular drug. Enrollment would occur primarily at pharmacies, which would retain the $10 enrollment fee to cover their expense.

The cost of the program has two components. First, there is the administrative and fiscal intermediary cost of negotiating discounts and for developing, operating and maintaining a discount claiming and payment system. Second, there is the cost of "float." Pharmacies would give immediate discounts to participants and be compensated by the state for those discounts. The state, in turn, would recover the discounts from the participating manufacturers, but with a lag—hence the need for the General Fund to finance the up-front cost of discounts.

Subcommittee Staff Recommendation—Defer Implementation. Though implementation of this new program has merit, due to the fiscal crisis it is recommended to delay implementation of this program for 2008-09 and to delete the entire 2008-09 funding amount. The state is not in a position to commence with a new program when existing core programs, such as Medi-Cal and Healthy Families are being proposed for reduction. By deferring this program the state will save $5.870 million General Fund. This includes eliminating all applicable funding to the Fiscal Intermediary as well.

This recommendation is proposed without prejudice to funding in the future contingent upon appropriation in the annual Budget Act or other legislation. No statutory changes are proposed.

STAFF COMMENTS

- Clearly, drug costs are a significant problem for many people, and the new program would provide some assistance. However, it is not clear how much of a discount the state could obtain or whether it would result in prices lower than can be found in the open market at some pharmacies or that are available through existing drug discount programs offered by the drug manufacturers to low-income uninsured persons.

- The budget includes many significant cuts to existing services, including a 10-percent reduction in payments to Medi-Cal providers, including pharmacists, and major reductions in eligibility. Spending money to implement new programs to benefit additional populations would seem premature while at the same time cutting access to services and reducing eligibility for existing programs. Consequently, it would appear to be more prudent to continue the deferral of this program through 2008-09. Deferring this program will result in $5.87 million of General Fund savings that can be used to prevent additional cuts to existing services.

Staff Recommendation: Defer implementation of AB 2911 for 2008-09 for a General Fund savings of $5.87 million.

Note: This action conforms with the Senate action.

ISSUE 2: LAO MAY REVISION ISSUE--FAMILY CASELOAD LIKELY UNDERSTATED

Enrollment of Families Increasing. LAO's review of the most recent available enrollment data indicates that the May Revision Medi-Cal estimate underestimates the overall number of families and children who will enroll in the program in 2008-09. The number of enrollees in several aid categories began to grow more quickly in late 2007. In particular, Medi-Cal caseload for CalWORKs-linked children and parents is growing, reversing a trend of steady decline for that category in recent years. (These are children and families who are automatically enrolled in Medi-Cal when they enter the CalWORKs program.) Growth in this category is not simply the result of enrollees shifting between eligibility categories. Data for CalWORKs enrollment from the Department of Social Services also indicates the reversal of recent downward trends in program growth. These trends are consistent with the forecast for the California economy as well: our office projects that the state unemployment rate will reach 6.5 percent in 2008 and 6.7 percent in 2009, compared with 5.4 percent in 2007. This economic outlook increases the probability that the more recent enrollment growth trends could continue through 2009.

LAO Recommendation. Higher caseload may not necessarily lead to higher program costs if the new enrollees receive services under the fee-for-service arrangement and use few services. However, about two-thirds of Medi-Cal families enroll in Medi-Cal managed care plans, and the state will begin incurring premium costs for these new beneficiaries soon after their enrollment. In order to adequately fund Medi-Cal caseload costs, LAO recommends that the Legislature augment the Medi-Cal budget by $80 million (General Fund) for 2008-09. This amount represents roughly the portion of the higher caseload LAO estimates that would enroll in managed care plans. LAO has included these higher costs in their alternative budget.

STAFF COMMENTS

- LAO should summarize their analysis of the caseload trends and recommendation and DHCS should respond.

Staff Recommendation: Hold open

ISSUE 3: LAO MAY REVISION ISSUE—MEDI-CAL ESTIMATE UNSPECIFIED REDUCTION

The LAO has raised the following issue regarding the unspecified Medi-Cal estimate reduction included in the May Revision:

Governor Vetoed Medi-Cal Funding from the 2007-08 Budget. In signing the Budget Act of 2007, the Governor vetoed almost $332 million General Fund from the Medi-Cal Local Assistance budget. In his veto message, the Governor stated, "This reduction is necessary to provide for a prudent General Fund reserve in light of the various uncertainties in revenues and spending that we face this year. This reduction is based on historical data showing that on average over the last three fiscal years, Medi-Cal expenditures have been more than $400 million General Fund lower than the estimate."

Veto Amount Achieved in Current Year Partly as a Result of One-Time Actions. The veto savings was achieved in the current year in part through $187 million in lower-than-anticipated caseload costs and utilization and in part through $145 million in one-time actions and revised assumptions included in the May Revision. Included in the $145 million is a shift of federal reimbursement for interim public hospital payments from 2008-09 to the current year, and a delay in General Fund hospital stabilization payments.

Medi-Cal Estimate Reduced for 2008-09. The Governor's Budget for 2008-09 includes an "unspecified budget reduction" in the amount of $323.3 million to reflect the continuation of the Governor's veto at a slightly reduced amount, as described above. The DHCS has indicated that the Governor intended for the veto to be an on-going reduction in funding for the Medi-Cal program. The amount of the unspecified budget reduction reflects the DHCS's estimate of the average year-end surplus amount from the last four fiscal years (2003-04 through 2006-07). At the time this analysis was prepared, DHCS was unable to explain how the $323.3 million in savings from the unspecified budget reduction would be achieved.

Concern Over DHCS Forecasting Methodology. Since the 2003-04 budget year, the Medi-Cal program's actual year-end expenditures have fallen below the appropriated amount. Inclusion of the unspecified budget reduction of $323.3 million in the budget-year implies that the department expects that their forecasting methodology would overstate Medi-Cal expenditures. Thus, DHCS believes it is necessary to make a "manual" downward adjustment to their forecasted budget. Although this manual adjustment is a small percentage of the total estimated Medi-Cal budget for 2008-09 (approximately 2 percent), we believe that the tendency for Medi-Cal to achieve an end of year surplus suggests that the department's forecasting method could be improved.
At this point in time, DHCS is unable to identify the one-time actions or policy changes that would result in lowered expenditures for the budget year and allow the unspecified budget reduction to be achieved. Since it is unknown whether further one-time actions

that would decrease program expenditures may be feasible in the budget year, it is uncertain whether DHCS will be able to achieve the full unspecified budget reduction. As a result, the LAO alternative budget, increases the Medi-Cal budget by $145 million GF — an amount is equal to the one-time savings in the current year — in order to recognize that the DHCS does not have a plan to achieve the full savings included in the unspecified budget reduction.

Analyst's Recommendations. LAO makes two recommendations.

- Augment funding for the Medi-Cal program by $145 million to recognize that DHCS is unlikely to realize the full $323.3 million General Fund amount of the administration's unspecified budget reduction.

- Adopt supplemental report language (SRL) requiring the Office of State Audits and Evaluations within the Department of Finance to perform an evaluation of the DHCS Medi-Cal estimate methodology to determine whether improvements can be made to their forecasting methodology that would enable them to more accurately predict program expenditures. Accordingly, LAO recommends the Legislature adopt the following SRL:

  > It is the intent of the Legislature that the Office of State Audits and Evaluations (OSAE) review specific aspects of the Department of Health Care Services' Medi-Cal forecasting methodology. As part of its analysis, the OSAE shall do the following (a) identify the specific spending areas that resulted in the overestimated General Fund spending from 2003-04 through 2006-07; (b) assess the specific reasons that the department overestimated spending in those areas; (c) assess whether there are any systematic flaws or biases in the estimating methodology; (d) recommend changes to improve the estimating methodology. The OSAE shall report its findings by May 1, 2009 to the Chairperson of the Joint Legislative Budget Committee and the chairpersons of the fiscal committees in both houses of the Legislature.

STAFF COMMENTS

- The current year savings of $187 million that occurred "on the natural" presumably are embedded in the current-year Medi-Cal benefit costs that were used as a base to generate the estimate of benefit costs for 2008-09. Thus, the assumed unspecified budget reduction of $323.3 million in 2008-09 would be on top of the extra savings that occurred this year.

- LAO should summarize their analysis and recommendations for the subcommittee and DHCS and DOF should respond.

Staff Recommendation: Hold open.

ISSUE 4: MAY REVISION--DEFERRED IMPLEMENTATION OF SB 437 (ALSO AFFECTS DPH AND MRMIB)

The May Revision proposes to defer implementation of SB 437 (Escutia) of 2006 for an additional year. SB 437 authorizes a number of enrollment reforms whose primary fiscal effect would be increased caseload costs. These reforms include simultaneous pre-enrollment and application process for uninsured women in the Women, Infants, and Children (WIC) program into Medi-Cal, expanded presumptive eligibility, and a two-county pilot that would allow Medi-Cal beneficiaries to self-certify their income. With respect to the Healthy Families Program, SB 437 implementation involved allowing families to self-certify their income at annual eligibility redetermination (but not initial application). The May Revision would eliminate the following funding components (General Fund) in DHCS, DPH, and MRMIB (Healthy Families Program):

- $13.6 million for DHCS Medi-Cal.
- $123,000 for DPH to fund two positions related to the WIC linkage.
- $2 million for MRMIB Healthy Families Program (including deletion of 3 positions) to implement self-certification at enrollment renewal.

The May Revision also eliminates associated federal funds.

STAFF COMMENTS

- The eligibility improvements authorized by SB 437 would be helpful in maximizing enrollment of families and children in Medi-Cal and Healthy Families. However, given that the May Revision budget includes substantial reductions to both benefits and eligibility for the existing caseload in these programs, it would appear to be prudent to concentrate resources on maintaining existing benefits and caseload to the extent possible.

- The Administration also should explore the future option of incorporating a pilot test of centralized eligibility determination in concert with the streamlining steps specified in SB 437. The LAO has estimated that statewide implementation of centralized eligibility determination for children and families could save $75 million annually in administrative costs and further streamline enrollment processing for beneficiaries. These potential administrative savings could offset some of the cost of additional enrollment and health services.

Staff Recommendation: Adopt the May Revision for all three departments.

4265 DEPARTMENT OF PUBLIC HEALTH

ISSUE 1: MICROBIOLOGIST LABORATORY STAFFING

At its April 7th hearing, the Subcommittee discussed the proposed Budget Balancing Reduction to reduce funding for the Viral and Rickettsial Disease Laboratory by a total of $982,000, including a reduction of $642,000 to eliminate 5 microbiologist positions. Because of vacancies, this reduction should not result in a cut to existing staff. However, the Subcommittee also has heard testimony that the Department has difficulty competing with local governments and private health entities in hiring and retaining microbiologists. Without competent and experienced microbiologists, the department cannot carry out it mandate to detect disease outbreaks and protect the public health.

STAFF COMMENTS

In order to facilitate the Department in seeking appropriate adjustments in compensation to hire and retain microbiologists, the Subcommittee may wish to retain $150,000 of the proposed reduction and adopt Budget Bill Language authorizing the use of these funds for compensation adjustments for microbiologists, subject to approval by the relevant control agencies.

> Item 4265-001-0001:
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> Of the amount appropriated in this item, $150,000 shall be available for compensation adjustments for employees in the Public Health Microbiologist classification that are determined to be necessary to hire and retain staff. Any compensation adjustments shall be subject to the regular approval processes by the Department of Personnel Administration and Department of Finance.

Staff Recommendation: Restore $150,000 of the BBR reduction to the Viral and Rickettsial Laboratory and adopt the suggested Budget Bill language.