AGENDA
SUBCOMMITTEE NO. 1
ON HEALTH AND HUMAN SERVICES

ASSEMBLYMEMBER PATTY BERG, CHAIR

THURSDAY, MAY 29, 2008
STATE CAPITOL, ROOM 4202
UPON THE CALL OF THE CHAIR

ITEM	DESCRIPTION	PAGE
VOTE-ONLY ITEMS		
5180	**DEPARTMENT OF SOCIAL SERVICES**	3
Issue 1	BBR – Deaf Access Program	3
Issue 2	BBR – Adult Protective Services	3
Issue 3	BBR – Disability Determination Service Division	4
Issue 4	BBR – State Hearings Workforce	4
Issue 5	BBR – Reduction in Child Welfare Services Allocation	5
Issue 6	BBR – 10 Percent Reduction to the Basic Care, Specialized Care, and Clothing Allowance Rates for the Foster Care, Kin-GAP, and Adoption Assistance Program	6
Issue 7	Foster Care Overpayments Budget Bill Language	7
Issue 8	Dual Agency Caseload Reduction	8
Issue 9	Kinship Guardianship Assistance Payment (Kin-GAP) Program	9
Issue 10	Privatization of Independent Adoptions	10
Issue 11	Program Improvement Plan Penalty	14
Issue 12	Child and Family Services Review Consultant Contract	15
Issue 13	Child Welfare Services: Resources Family Pilot Program (AB 340)	16
Issue 14	Interim Statewide Automated Welfare System (ISAWS) Migration Project	17
Issue 15	Foster Family Home and Small Family Home Insurance Fund Reduction	19

Issue 16	Cash Assistance Program for Immigrants (CAPI) Advocacy Program	20
Issue 17	BCP – Implementation of Conlan v. Shewry	21
Issue 18	Tehama County Caseload Transfer SFL	22

ITEMS TO BE HEARD

5180	**DEPARTMENT OF SOCIAL SERVICES**	23
Issue 1	In-Home Supportive Services – Governor's January and May Revision Proposals	23
4440	**DEPARTMENT OF MENTAL HEALTH**	27
Issue 1	MHSA Positions	27

VOTE-ONLY ITEMS

5180 DEPARTMENT OF SOCIAL SERVICES

ISSUE 1: BBR – DEAF ACCESS PROGRAM

The Administration proposes a reduction of $281,000 GF ($300,000 federal funds) to the Deaf Access Program (DAP). The DAP was created in 1980 to ensure that public programs and services are adapted to meet the needs of deaf and hard of hearing individuals and their families, so that they may receive the public services to which they are entitled, achieve economic independence, and fully participate in mainstream society. This is done through contracts with local, non-profit agencies that specialize in providing services to deaf and hard of hearing individuals. Services provided include communication services, counseling, advocacy services, independent living skill instruction, job development and placement, information and referral, and community education.

The Subcommittee has heard from the public and discussed this issue in prior hearings.

Staff Recommendation: Reject the proposed BBR for the Deaf Access Program.

ISSUE 2: BBR – ADULT PROTECTIVE SERVICES

The Governor's Budget proposes to reduce funding for the Adult Protective Services (APS) Program by $11.4 million ($6.1 million General Fund). This represents a ten percent cut to the total program funding.

The Subcommittee has heard from the public and discussed this issue in prior hearings.

Staff Recommendation: Reject the proposed BBR for Adult Protective Services.

ISSUE 3: BBR – DISABILITY DETERMINATION SERVICE DIVISION

The Governor's Budget proposes to reduce the Disability Determination Service Division (DDSD) within the Department of Social Services (DSS) by $1.2 million ($589,000 General Fund) and 10.2 positions in 2008-09 and $2.4 million ($1.2 million General Fund) and 20.4 positions in 2009-10 and annually thereafter. This is a 10 percent reduction to DDSD.

The Subcommittee has heard from the public and discussed this issue in prior hearings.

Staff Recommendation: Reject the proposed reduction in funding and positions since DSS will need additional resources again in 2009-10 to handle a new backlog of cases. Eliminate the 4.0 limited-term positions and $401,000 ($200,000 General Fund) provided in 2007-08 for 2008-09 to address the backlog, since that latest backlog has already been eliminated. This action conforms to the Senate.

ISSUE 4: BBR – STATE HEARINGS WORKFORCE

The Administration proposes to eliminate 13 Administrative Law Judge (ALJ) positions and 6 Office Technician positions for an annualized reduction of $780,000 GF and $337,000 GF in 08-09 in the State Hearings Division (SHD).

The Subcommittee has not yet acted to reject the GF reduction proposed in the BBR. The Subcommittee has heard from the public and discussed this issue in prior hearings.

Staff Recommendation: Reject the GF reduction proposed in the BBR for State Hearings Workforce.

ISSUE 5: BBR – REDUCTION IN CHILD WELFARE SERVICES ALLOCATION

The Governor's Budget proposes to reduce the Child Welfare Services (CWS) allocation by $129.6 million ($83.7 million General Fund). This is an 11.4 percent reduction to the General Fund portion of the CWS allocation, excluding funds for the Child Welfare Services Case Management System, the Adoptions Program, and the Child Abuse Prevention Program.

The Subcommittee has heard from the public and discussed this issue in prior hearings.

There have been no adjustments to county allocations to account for inflation in any DSS programs since 2001-02. By the Administration's estimates, the shortfall in the amount of administrative funding needed by the counties and actually provided is over $1.1 billion (almost $633 million General Fund) annually. In the CWS program alone, the underfunding is estimated to be $649 million ($291 million General Fund). Counties have partially covered the shortfall by overmatching the State's contribution with local dollars by more than $150 million annually. The proposed CWS reduction will further exacerbate this historic funding shortfall.

It is also unclear how the proposed CWS reduction will be implemented. The DSS indicates that statutory changes are not necessary to implement the reduction and that counties have the "flexibility" to choose how to apportion the reduction to various CWS program expenditures. However, the services provided through the CWS program are mandated by state and federal law and regulation, so it not clear what counties could avoid doing without potentially running afoul of program requirements. Furthermore, CWS program funds are allocated to the counties for specific services and functions. Counties do not have the statutory authority to move monies from one function to another to align with local decisions about where to make the CWS cuts.

Staff Recommendation: Reject the proposed BBR for the Child Welfare Services allocation.

ISSUE 6: BBR – 10 PERCENT REDUCTION TO THE BASIC CARE, SPECIALIZED CARE, AND CLOTHING ALLOWANCE RATES FOR THE FOSTER CARE, KIN-GAP, AND ADOPTION ASSISTANCE PROGRAM

The Governor's Budget proposed a 10 percent cut to basic care, specialized care, and clothing allowance rates for foster family homes (FFHs) and group homes (GHs), including those serving children who are seriously emotionally disturbed (SED), KinGAP, and the Adoption Assistance Program (AAP). Foster family agencies (FFAs) are proposed to receive a 5 percent rate cut. Trailer bill language is provided to implement the proposed rate cuts.

The cut was originally estimated to save $10.9 million ($6.8 million General Fund) in 2007-08 and $130.8 million ($81.5 million General Fund) in 2008-09 and annually thereafter. The May Revision estimates that the savings in 2008-09 have eroded by $33.2 million ($22.5 million General Fund) as a result of not adopting the reduction during the special session.

In the 2007-08 budget, FFHs, GHs, KinGAP, and AAP cases after January 1, 2008 received a five percent increase to the basic care, specialized care, and clothing allowance rates effective January 1, 2008. FFAs were excluded from the rate increase to enable counties to recruit and retain additional foster families into the system. Prior to 2007-08, a rate increase had not been provided to foster care since July 1, 2001.

Approximately 80,000 children in foster care, including 1,700 SED, 14,000 children in the Kin-GAP program, and 7,300 children living with non-related legal guardians will be affected by the rate cut. The Administration indicates that the proposed reductions to foster care rates will result in less funding to meet the needs of children in care. In addition, the reduction in the specialized care rate may reduce the placement alternatives for children with special needs resulting in more expensive placements.

Staff Recommendation: Reject the proposed reduction to basic care, specialized care, and clothing allowance rates for the Foster Care, Kin-GAP, and Adoption Assistance Programs as included in the BBR. .

ISSUE 7: FOSTER CARE OVERPAYMENTS BUDGET BILL LANGUAGE

The Governor's Budget proposes budget bill language that would permit DSS to transfer state and federal local assistance funding to state operations to cover the workload costs incurred by DSS associated with the processes that DSS and the CWDA are required to develop to implement collection and repayment of foster care overpayments.

The federal government recently clarified that it requires repayment of all state and county overpayments currently verified, whether or not the overpayment has been recollected. Up to that point, the current practice was to repay the federal share of foster care overpayments upon recoupment from foster care providers. At the May Revision last year, the Administration proposed to comply with the new federal requirement by sharing the cost of the repayment with the counties according to the foster care sharing ratio, which is 40 percent state General Fund and 60 percent county funds. The Administration also proposed to retroactively apply that sharing ratio to foster care overpayments dating back to October 2003. Because the 40:60 sharing ratio is already in statute, the Administration asserted it does not need legislation to apply the ratio to repayments or to require repayments according to the ratio retroactively.

Based on concerns with the legality and fairness of the Administration's proposal, the Legislature negotiated trailer bill language with the Administration that: 1) rejects any retroactive cost-sharing of foster care overpayments; 2) requires DSS to work with the CWDA to develop a fair approach to state/county cost sharing of overpayments on a prospective basis, including repayment for legally uncollectible overpayments; 3) requires DSS to clarify policy and adopt regulations where lacking for the collection of overpayments; 4) requires DSS to gather and disseminate information and support county best practices for the prevention and recovery of overpayments; and 5) requires DSS and the Office of Systems Integration to work with CWDA to complete expedited approval of county requests to modify or implement automation systems designed to minimize overpayments and to provide counties with needed data from the CWS/CMS system to minimize overpayments.

The Governor's Budget includes $2.7 million General Fund for 2007-08 and $1.7 million ($1.2 million General Fund and $503,000 in county funds) for 2008-09 for the repayment of foster care overpayments. The DSS did not indicate during trailer bill discussions last year that they would need additional resources to implement the foster care overpayment language, nor did they submit a budget change proposal (BCP) requesting resources for 2008-09.

The Administration already has authority to administratively establish needed positions during the current year. In a year when there are cuts proposed to direct services and county administration, it is important to keep as much local assistance funding intact for those purposes and not allow it to be redirected for state workload. The DSS can submit a BCP in the future if it determines that it needs additional resources.

Staff Recommendation: Reject the proposed budget bill language. This action conforms to the Senate.

ISSUE 8: DUAL AGENCY CASELOAD REDUCTION

The May Revision requests a decrease of $8,786,000 ($3,841,000 General Fund) due to a decrease in the estimated Dual Agency foster care population from 3,138 cases to 2,172 cases. The caseload decline represents a 31 percent decrease from the caseload estimate included in the Governor's Budget. Previous estimates were based on dual-agency caseload data from fiscal year 2005-06. The May Revision reflects caseload projections based on updated dual-agency population data.

The May Revision also requests that the following budget bill provisional language be added to Item 5180-101-0001:

"X. Notwithstanding any other provision of law, upon request by the Department of Social Services, the Department of Finance may increase the expenditure authority in this item for the purpose of funding a supplemental payment to foster parents and families receiving adoption assistance payments for children served by both regional centers and child welfare agencies pursuant to Welfare and Institutions Code Section 11464 as amended by Chapter 177, Statutes of 2007."

The Departments of Social Services and Developmental Services are required by law to establish criteria by which counties will determine which dual-agency children are eligible for the supplemental payment within 120 days of the August 24, 2007 enactment date of the dual agency statutes. The DSS and DDS have been working with counties and regional centers over the past five months to develop the criteria and a draft will be shared with stakeholders for comment on May 23, 2008. DSS expects to have the implementing instructions to counties so that they can begin approving the supplemental rate this June. The supplemental rate may be approved for some dual agency children retroactive to July 1, 2007, consistent with the dual agency statutes enacted last year.

Staff Recommendation: Approve the reduced funding due to caseload reductions and the proposed budget bill language as included in the agenda.

ISSUE 9: KINSHIP GUARDIANSHIP ASSISTANCE PAYMENT (KIN-GAP) PROGRAM

The May Revision requests an increase of $10,241,000 ($3,428,000 General Fund) due to delayed implementation of program enhancements to the Kinship Guardianship Assistance Payment (Kin-GAP) program. The Governor's Budget assumed all 5,800 new Kin-GAP cases would phase-in after 24 months beginning in July 2007. However, the resolution of programmatic issues related to Medi-Cal eligibility and child support collections have delayed implementation of Kin-GAP enhancements. In addition, it is taking longer than anticipated for these cases to move through the dependency court. Caseload data suggests that the phase-in of the enhanced program will take up to 24 months beginning in January 2008. Since children will remain in the Foster Care system for a longer period of time, and will continue to require social services supervision, Foster Care and administrative savings in CWS will be lower than projected in the Governor's Budget. Offsetting savings in the CalWORKs program of $6.1 million are also included in the May Revision, to reflect fewer cases than anticipated moving out of Foster Care.

Staff Recommendation: Approve the May Revision request for Kin-GAP.

ISSUE 10: PRIVATIZATION OF INDEPENDENT ADOPTIONS

The Governor's Budget proposed to privatize the Independent Adoptions Program (IAP) by transferring the direct services provision from DSS and three counties to licensed private adoption agencies. This proposal would result in net savings of $1.2 million General Fund and elimination of 18 positions in 2008-09, increasing to $2.5 million and 36 positions in 2009-10 and annually thereafter.

An independent adoption is one in which the birth parent places his or her child directly with the prospective adoptive family. Independent adoptions are investigated on behalf of the court by the Department of Social Services' (DSS') seven district offices (covering 55 counties) and three county adoption agencies (Alameda, Los Angeles, and San Diego). The investigations are required by law to assess the adoptive home and determine whether the child is a proper subject for adoption. The investigation must be completed within 180 days of the filing of the adoption petition and the findings are reported to the court with a recommendation for or against the adoption petition. Current law authorizes the charging of a $2,950 fee, which helps offset the cost of the IAP. Current law also permits DSS and the three counties to defer, reduce, or waive the fee completely for low income prospective adoptive parents. There are approximately 1,000 independent adoptions finalized each year, with approximately 1,500 cases pending each month.

The total annual costs of the IAP are $5.0 million. These costs are offset by $2.5 million in fees collected annually ($1.7 million by the State and $844,000 by the three counties), leaving net annual costs of $2.5 million General Fund. According to DSS, the district offices collect 60 percent of their total fees and the State collect 52 percent of their total fees. It is not known exactly why there is a discrepancy in the fee collections by the State and counties or why fee collections are not higher, although counties do have staff dedicated to collecting the fee and the State does not.

Impact of the Proposed Reduction: The DSS indicates that an impact of this proposal will be that licensed private adoption agencies could significantly increase the adoption fees charged to prospective adoptive parents currently served by the IAP. The DSS estimates that, on average, the costs of an independent adoption would range from $10,000 to $20,000 under a private adoption agency. This would make adoptions less affordable and reduce the number of independent adoptions that take place. A reduction in the number of independent adoptions could lead to more children being placed in the foster care system, which is significantly more expensive.

Alternative to Privatizing the Program: Although the May Revision continues the proposal to privatize the IAP, the Administration has held discussions with advocates to provide technical assistance on options for raising fees enough to cover the costs of the program, without eliminating the ability of low income, prospective adoptive parents to adopt, particularly for relative adoptions. The following components of an alternative have come out of those discussions:

- The full fee could be raised from $2,950 to $4,500, the pre-placement fee could be raised from $775 to $1,550, and a minimum fee of $500 could be established. These increases should not significantly impact the current accessibility to independent adoptions through the IAP.

- Changes can be made to statute to enhance fee collections by ensuring that partial fees are paid up front and the situations in which fees may be reduced are clarified.
- DSS could increase fee collections if it had one staff dedicated to that function.

Enactment of these higher fees, providing DSS one staff dedicated to fee collections, and assuming a five percent increase in collections would yield approximately $3.3 million in fee revenue. This alternative would still require $1.8 million General Fund be provided annually to DSS and counties to cover the full costs of the program. While it does not make the IAP fully self-sufficient, it does move it closer to that goal, while keeping this adoption alternative affordable.

Staff Recommendation: Reject the proposal to privatize the IAP. As an alternative, adopt the following:

1. Commencing October 1, 2008, increase full fees to $4,500, pre-placement fees to $1,550, and establish a minimum fee of $500.
2. The trailer bill language in Attachment I to implement those new fees and assist in higher fee collection rates.
3. Provide one AGPA and $100,000 to DSS dedicated to fee collection in the IAP.
4. Reduce the funding for IAP by $510,000 General Fund ($232,000 in state operations and $278,000 in local assistance) in 2008-09. This provides $2.011 million General Fund ($611,000 in state operations and $1.4 million in local assistance) to cover three months of IAP costs at the current fee levels and nine months of IAP costs at the higher fees.
5. Provide $1.8 million General Fund ($500,000 in state operations and $1.3 million in local assistance) for IAP in 2009-10 to reflect full-year implementation of the higher fees.

In addition, adopt uncodified trailer bill language requiring DSS to: 1) meet with stakeholders prior to Subcommittee hearings in 2009 to determine ways that the IAP process can be simplified and/or streamlined, including whether the fee amounts are appropriate and report back on those discussions with any recommendations the Department might have during the 2009 Subcommittee hearings; and 2) report back during 2009 Subcommittee hearings on how much fee collections have improved as a result of the trailer bill changes and what impact the new fees have had on the number of independent adoptions.

Trailer bill language for the Independent Adoptions Program

Section 8808 of the Family Code is amended to read:

8808. (a) The department or delegated county adoption agency shall interview the petitioners within forty five (45) working days, excluding legal holidays, after the filing of the adoption petition.
~~and~~ (b) The department or delegated county adoption agency shall interview all persons from whom consent is required and whose addresses are known as soon as fifty percent (50%) of the fee has been paid to the department or delegated county adoption agency. ~~possible and, in the case of residents of this state, within 45 working days, excluding legal holidays, after the filing of the adoption petition.~~ The interview with the placing parent or parents shall include, but not be limited to, discussion of any concerns or problems that the parent has with the placement and, if the placing parent was not interviewed as provided in Section 8801.7, the content required in that interview. At the interview, the agency shall give the parent an opportunity to sign either a statement revoking the consent, or a waiver of the right to revoke consent, as provided in Section 8814.5. (c) In order to facilitate ~~these~~ the interview described in this section, at the same time the petition is filed with the court, the petitioners shall file with the district office of the department or with the delegated county adoption agency responsible for the investigation of the adoption, a copy of the petition together with fifty percent (50%) of the fee, the names, addresses, and telephone numbers of all parties to be interviewed, if known. This section shall become operative on ~~January 1,1995~~ October 1, 2008.

Section 8810 of the Family Code is amended to read:

8810. (a) Except as otherwise provided in this section, whenever a petition is filed under this chapter for the adoption of a child, the petitioner shall pay a nonrefundable fee to the department or to the delegated county adoption agency for the cost of investigating the adoption petition. ~~Payment~~ Fifty percent (50%) of the payment shall be made to the department or delegated county adoption agency~~, within 40 days of the filing of the petition, for~~ at the time the adoption petition is filed, and the remaining balance shall be paid no later than the date determined by the department or delegated county adoption agency in an amount as follows:

(1) For petitions filed on and after ~~July 1, 2003~~. ~~two thousand nine hundred fifty dollars ($2,950)~~ October 1, 2008, four-thousand five hundred dollars ($4,500).

(2) For petitioners who have a valid preplacement evaluation at the time of filing a petition pursuant to Section 8811.5, ~~seven hundred seventy-five dollars ($775)~~ one-thousand five hundred fifty dollars ($1,550) for a postplacement evaluation pursuant to Sections 8806 and 8807.

(b) Revenues produced by fees collected by the department pursuant to subdivision (a) shall be used, when appropriated by the Legislature, to fund only the direct costs associated with the state program for independent adoptions. Revenues produced by fees collected by the delegated county adoption agency pursuant to subdivision (a) shall be used by the county to fund the county program for independent adoptions.

(c) The department or delegated county adoption agency may ~~only waive, or~~ reduce the fee to no less than $500 when the prospective adoptive parents are very low income, according to the income limits published by the Department of Housing and Community Development, and making the required payment would be detrimental to the welfare of an adopted child. The department shall develop additional guidelines regarding income and/or assets to determine the financial criteria for ~~waiver or~~ reduction of the fee under this subdivision.

Section 8820 of the Family Code is amended to read:

8820. (a) The birth parent or parents or the petitioner may appeal in either of the following cases:

(1) If for a period of 180 days from the date of ~~filing the adoption petition~~ paying fifty percent (50%) of the fee or upon the expiration of any extension of the period granted by the court, the department or delegated county adoption agency fails or refuses to accept the consent of the birth parent or parents to the adoption.

(2) In a case where the consent of the department or delegated county adoption agency is required by this chapter, if the department or agency fails or refuses to file or give its consent to the adoption after full payment has been received.

(b) The appeal shall be filed in the court in which the adoption petition is filed. The court clerk shall immediately notify the department or delegated county adoption agency of the appeal and the department or agency shall, within 10 days, file a report of its findings and the reasons for its failure or refusal to consent to the adoption or to accept the consent of the birth parent or parents.

(c) After the filing of the report by the department or delegated county adoption agency, the court may, if it deems that the welfare of the child will be promoted by that adoption, allow the signing of the consent by the birth parent or parents in open court or, if the appeal is from the refusal of the department or delegated county adoption agency to consent thereto, grant the petition without the consent.

Staff Recommendation: Adopt the components as outlined in the staff recommendation, rejecting the proposal to privatize IAP. This action is intended to fully conform to the Senate.

ISSUE 11: PROGRAM IMPROVEMENT PLAN PENALTY

The May Revision requests an increase of $9.4 million General Fund related to the federal assessment of a Program Improvement Plan Penalty. California failed to meet a compliance measure related to the stability of foster care placements in the first federal Child and Family Services Review and subsequently has been levied a federal penalty in the amount of $9.0 million. In March 2008, the DSS appealed this penalty based on concerns with the methodology and data used to evaluate the state's performance. Beginning in March 2008, interest will accrue at a cost of approximately $100,000 per month. The May Revision proposes payment of the penalty to avoid the accrual of further interest charges, but DSS will continue to appeal. If the DSS is successful in its appeal it would not have to pay the penalty or interest. If the appeal is unsuccessful, the DSS would pursue a settlement agreement to reduce the penalty and/or permit program reinvestment of the penalty amount.

Staff Recommendation: Approve the request for Program Improvement Plan Penalty.

ISSUE 12: CHILD AND FAMILY SERVICES REVIEW CONSULTANT CONTRACT

The May Revision requests an increase of $300,000 ($188,000 General Fund) for a county contractor to coordinate the implementation of the state Program Improvement Plan (PIP). The funds would be used to hire a contractor to complete research and prepare the Statewide Self Assessment. In addition, funding is needed to support preparation and completion of the onsite review in three counties and development of the PIP.

California's second Federal Child and Family Services Review recently was completed and preliminary findings indicate that the state will not achieve substantial conformity on all safety, permanency, and well-being outcomes assessed in the review. Although the DSS has yet to receive final federal findings, the submittal of the state's PIP will be required within 90 days of federal notification of the state's failure to pass the review. Therefore the DSS would need the additional funding for contract services to implement the PIP in the counties in 2008-09.

Staff Recommendation: Approve the request for the CSFR Consultant Contract pursuant to the May Revision.

ISSUE 13: CHILD WELFARE SERVICES: RESOURCES FAMILY PILOT PROGRAM (AB 340)

The Governor's Budget requests $440,000 ($278,000 General Fund) and four, two-year limited-term positions to implement Assembly Bill (AB) 340 (Chapter 464, Statutes of 2007). The estimated local assistance funding needed to implement this bill is $870,000 ($377,000 General Fund).

AB 340 establishes a three-year pilot project in up to five counties to test implementation of a strategy developed by DSS and the County Welfare Directors Association (CWDA) over the past three years to consolidate the existing separate and duplicative processes for licensing foster family homes, approving relatives and nonrelated extended family members, and approving adoptive families. California currently has three separate processes for licensing foster parents, approving relative caregivers, and approving families to adopt children in foster care. These processes are governed by three different statutory codes, sets of regulations, funding streams, and, in some cases, different government entities. As part of the Program Improvement Plan resulting from the 2002 Child and Family Services Review (CFSR), DSS agreed to develop a legislative proposal for a caregiver assessment process that would combine foster care licensing, including relative approvals, and adoption home studies into a single process. AB 340 is the result of that effort.

Staff Recommendation: Reduce the BCP by half, from $1.53 million total ($756,000 SGF) to $739,000 ($429,000 SGF), by instructing the counties to leverage private, philanthropic resources, reducing State personnel by half, and reducing the local assistance estimate.

ISSUE 14: INTERIM STATEWIDE AUTOMATED WELFARE SYSTEM (ISAWS) MIGRATION PROJECT

The Governor's Budget requests a decrease of $853,000 in 2007-08 and an increase of $59.8 million ($27.2 million General Fund) in 2008-09 for the Interim Statewide Automated Welfare System (ISAWS) Migration project. As part of the special session, the Administration proposed to eliminate the ISAWS Migration project completely for a savings of $97.7 million ($44.0 million General Fund). Rather than eliminate the project, the Legislature chose to delay implementation of ISAWS Migration by one month, leaving the issue open for discussion in the spring budget process, rather than cancel the project and forego the benefit of prior progress and investment.

The proposal to cancel the ISAWS Migration project has been heard in this Subcommittee. During that hearing, members expressed concerns about canceling the project now and losing the investment already made, particularly in light of uncertain ongoing federal support for the existing system. It was also not clear exactly when the Administration would need to begin procuring a new system. Furthermore, it was revealed that the General Fund savings from cancellation of the project would actually be at least $13.9 million less because the State would have to repay the federal government for federal funding already received for migration. As a result, the Legislature acted to delay implementation of the ISAWS Migration project by one month, resulting in savings of $3.5 million General Fund, and requested the Administration provide alternatives to canceling the project that might also result in additional General Fund savings. In response to that request, Office of Systems Integration (OSI) worked with the vendor and counties and developed an option that would allow the project to continue without incurring additional General Fund costs in 2008-09.

That option consists of the following components:
- Use of $6.8 million ($3.4 million General Fund) in maintenance and operations (M&O) savings from the existing ISAWS system.
- Use of $14.5 million General Fund in savings from the CMIPS II project resulting from obtaining a higher federal funding match for the project.
- Use of $4.0 million ($1.8 million General Fund) in M&O savings from the CWS/CMS project.
- Negotiated contract changes resulting in savings of $24.5 million ($11.7 million General Fund).

There would also be a three-month delay in implementation activities, but this delay would not impact the overall timeline for completion of the project. This option would result in ongoing General Fund savings in the ISAWS Migration project of $1.3 million. It is important to note that, at this time, OSI and the Administration do not support the alternative proposal and continue to advocate for canceling the ISAWS Migration project. The LAO also included elimination of the project in their alternative budget. Counties remain strongly opposed to canceling the project. In light of the facts that the State is likely to need to begin reprocuring a system to replace ISAWS in the next couple of years if the current project is cancelled, that we cannot be assured of ongoing federal funding for the existing project, that the savings resulting from canceling the project as estimated by the Administration are overstated because we have to repay federal funds already used toward development of the new system, and that we would lose the investment of time and funding already made in the new system, canceling the ISAWS Migration project now does not make fiscal sense.

Staff Recommendation: Reject the proposal to cancel the ISAWS Migration project and approve the alternative proposal to maintain the project as discussed in the agenda. Adopt placeholder trailer bill language to continue the ISAWS Migration project.

ISSUE 15: FOSTER FAMILY HOME AND SMALL FAMILY HOME INSURANCE FUND REDUCTION

The Governor's Budget proposes a $127,000 General Fund reduction to the Foster Family Home and Small Family Home Insurance Fund. This represents a 10 percent cut to the annual appropriation to the fund.

The Foster Family Home and Small Family Home Insurance Fund is a depository for all funds appropriated for the purpose of paying, on behalf of foster family homes and small family homes, claims ad litem resulting from occurrences peculiar to the foster care relationship and the provision of foster care services. The fund currently contains a balance of $5.8 million in addition to the amount that is appropriated each fiscal year. The Senate took $2.8 million on a one-time basis to reduce the ongoing reserve to $3 million, which DSS indicated is a prudent amount for this fund.

Based on additional historical information on the fund balances provided by DSS, it appears that the fund could safely sustain an ongoing 10 percent reduction and still cover claims. It should be noted, however, that this fund sustained previous reductions of $305,000 in 2004-05 and $500,000 in 2005-06. A 10 percent reduction of $127,000 is likely to be the last reduction that can be made to the annual appropriation to this fund before the amount of claims would exceed the appropriation.

Staff Recommendation: Conforming to the Senate, (1) approve the proposed reduction as budgeted and (2) approve a one-time reduction to the fund of $2.8 million General Fund.

ISSUE 16: CASH ASSISTANCE PROGRAM FOR IMMIGRANTS (CAPI) ADVOCACY PROGRAM

The Cash Assistance Program for Immigrants (CAPI) advocacy program sunsets on June 30, 2009. The Subcommittee took action on April 16 hearing to extend the sunset date to July 1, 2013. Subsequently, the Senate took action to extend the sunset to July 1, 2011.

Adopt trailer bill language to extend the sunset of the CAPI advocacy program to July 1, 2011. Adopt placeholder supplemental report language to require the Department of Social Services to report by July 1, 2010, by county, on the number of SSI applications filed by CAPI recipients through the advocacy program; the number of SSI applications approved; and the amount of the savings resulting from the program.

Staff Recommendation: Modify the Subcommittee's prior action on CAPI to align with the Senate sunset date to July 1, 2011, conforming to their action. Consistent with this, adopt placeholder supplemental report language to require the Department of Social Services to report by July 1, 2010, by county, on the number of SSI applications filed by CAPI recipients through the advocacy program; the number of SSI applications approved; and the amount of the savings resulting from the program.

ISSUE 17: BCP – IMPLEMENTATION OF CONLAN V. SHEWRY

The Governor's Budget requests $85,000 ($42,000 General Fund) and one, two-year limited-term position for continued implementation of the Conlan II court order. This position was administratively established in the current year pursuant to budget bill language that provided DSS authority to shift funding from local assistance to state operations for the purposes of implementing the court order. DSS is requesting continuation of that budget bill language in 2008-09. On November 16, 2006, the court approved the State's Conlan II implementation plan.

Conlan II requires DSS to reimburse In-Home Supportive Services recipients for out-of pocket, medically necessary expenses for: 1) the three-month period prior to the month the recipient applied for Medi-Cal (the retroactive period); 2) from the date the recipient applied for the Medi-Cal program until their Medi-Cal card is issued (the evaluation period); and 3) excess co-payment and excess share of cost charges after the recipient's Medi-Cal card is issued (the post-approval period). Claims fall into two separate categories: claims for services received June 27, 1997 through November 16, 2006, must be received by the Department of Health Care Services by approximately November 16, 2007; and claims for services received on or after November 16, 2006, must be submitted within approximately one year of receipt of services as part of the permanent IHSS program.

Originally, it was anticipated that the greatest Conlan II workload would result from the claims received June 27, 1997 through November 16, 2006, but the majority of workload DSS is now experiencing is generated from the post November 16, 2006 claims. It is anticipated that there will be ongoing workload resulting from Conlan II, but DSS still does not have enough experience to know how heavy that ongoing workload will be.

Staff Recommendation: Approve the request for funding and a limited-term position. Approve continuation of the budget bill language for one more year.

ISSUE 18: TEHAMA COUNTY CASELOAD TRANSFER SFL

The DSS submitted a Spring Finance Letter on April 1, 2008, requesting $56,000 General Fund and one-half of a position to manage the increased caseload resulting from the transfer of Tehama County's licensing program for Family Child Care Homes (FCCHs) back to the State.

FCCHs care for infants and very young children who are completely reliant upon providers for long periods of time. These facilities must meet minimum statutory licensing standards. In 2008-09, DSS will license and monitor about 39,467 FCCHs that serve a total of 385,000 children and counties under contract with DSS will license another 3,700 facilities.

Tehama County has responsibility for licensing and overseeing 105 FCCHs. On March 12, 2008, the Tehama County Board of Supervisors took action to terminate their contract with DSS to license and monitor FCCHs effective June 30, 2008. To absorb the increased workload, DSS needs one-half of a position. The funding for the position be transferred from local assistance funding provided to Tehama County for licensing and monitoring of FCCHs, resulting in no net General Fund increase to the budget.

Staff Recommendation: Approve the requested funding and position as included in the Spring Finance Letter.

ITEMS TO BE HEARD

5180 DEPARTMENT SOCIAL SERVICES

ISSUE 1: IN-HOME SUPPORTIVE SERVICES – GOVERNOR'S JANUARY AND MAY REVISION PROPOSALS

The Subcommittee will review proposals in the In-Home Supportive Services program from the Governor's January 10 budget and also from the May Revision. In response to these proposals, the Subcommittee will hear from the following panel of stakeholders, with limited public comment (name and affiliation) for the remaining audience.

- Service Employees International Union
- UDW / AFSCME
- Protection and Advocacy, Inc.
- California Association of Public Authorities
- CA IHSS Consumer Alliance

Governor's IHSS Proposals

1. IHSS Reduction of Hours. The May Revision proposes to rescind the $336.6 million ($109.4 million General Fund) reduction proposed in January, related to decreasing non-medical domestic and related services hours in IHSS by 18 percent effective July 1, 2008.

As part of the budget balancing reductions (BBRs) proposed for the Special Session, the Administration proposed to reduce non-medical domestic and related services hours in IHSS by 18 percent, effective July 1, 2008. Hours in the domestic services, meal preparation, meal clean-up, laundry, food shopping, and shopping errands categories were proposed for reduction. The cuts would have resulted in an average reduction of 6.6 hours per client per month and total estimated savings of $336.6 million ($109.4 million General Fund).

The proposed reduction to IHSS hours was heard by this Subcommittee and was not adopted during the special session. As was discussed during the January 30 hearing, it is highly doubtful that the level of savings estimated by the Administration as a result of their proposal would materialize. This is because there would have remained the ability for IHSS recipients to appeal the reduction in hours and to request reassessments, which would have led to the restoration of hours. This led to the Administration rescinding this proposal in the May Revision.

2. IHSS Quality Assurance. The May Revision includes the following proposals related to IHSS Quality Assurance:

- It proposes to rescind trailer bill language proposed in January, which would have eliminated the existing statutory quality assurance requirements for DSS in the IHSS Quality Assurance (QA) Program.
- It requests $1.7 million ($836,000 General Fund) to make 16 existing limited-term positions that will expire on June 30, 2008 permanent. These positions are related to continuing to administer and monitor the IHSS QA program.

- It requests $439,000 ($220,000 General Fund), to make five positions permanent that are currently limited-term. These positions are responsible for the implementation, administration, and monitoring of the IHSS Plus Waiver (IPW).

The original proposal to eliminate the state IHSS QA requirements and to provide permanent resources to implement the IPW has been discussed in this Subcommittee. The DSS was provided IPW positions on a limited-term basis beginning in 2004-05 when the State's waiver was approved. Although the current IPW expires on July 31, 2009, DSS believes that the State will continue to receive the waiver. Therefore, they argue that conversion of these limited-term positions is justified. However, the proposed elimination of the IHSS QA requirements appeared to violate the State's agreement with the federal CMS and jeopardize continued approval of the IPW and receipt of associated federal funding.

3. 10 Percent Reduction to IHSS Administration. The May Revision continues to include a $24.4 million ($10.2 million General Fund) reduction to administrative funding for counties for the IHSS Program. This is approximately a 10 percent reduction.

There is also trailer bill language proposed that would extend the reassessment period from 12 to 18 months, which is intended to reduce the counties' IHSS administrative workload. Under current law, counties may extend the reassessment period on a case-by-case basis under specified, documented conditions. The proposed change is intended to reduce the counties' IHSS administrative workload. IHSS administration funds are used by counties for the workers who perform IHSS assessments and reassessments. There is concern that the proposed statutory changes will not result in the estimated savings. As the LAO notes in their analysis, just the passage of more time between assessments may lead to more requests by recipients for reassessments, as recipients may experience changes in their conditions.

Furthermore, although the proposed trailer bill language makes the extension from 12 to 18 months for reassessments mandatory, it does not eliminate or scale back the conditions that must exist and be documented for the 18-month extension to be granted. The County Welfare Directors Association (CWDA) indicates that counties that use the 18 month extension permitted under current law already do so for the majority of IHSS recipients who meet the specified criteria. There are also some counties that do not even bother with the 18-month extension allowed under current law because the documentation required to provide the extension is too burdensome. For those counties, it is less work to do the reassessment every 12 months. Therefore, making the 18-month reassessment period mandatory without removing the specified conditions will either not result in additional administrative savings, because any savings have already been achieved with the current law, or will actually result in increased costs for counties who currently choose not to use the 18-month extension, because they will have to incur the administrative costs to document that the required conditions exist.

4. Reduce State Participation in IHSS Wages. The May Revision proposes to reduce state financial participation in IHSS wages and benefits statewide to the current minimum wage of $8.00 per hour plus 60 cents per hour for health benefits. The proposal would result in estimated General Fund savings of $186.6 million.

Currently, the State is required to pay 65 percent of the non-federal costs of IHSS wages up to $12.10 per hour ($11.50 for wages plus an additional $0.60 per hour for individual health benefits) in counties that have an IHSS Public Authority or Non-Profit Consortium. For the counties that have neither a Public Authority nor a Non-Profit Consortium, the law provides for the state to share in the cost of wages only up to the state minimum wage plus 5.31 percent ($8.42 per hour) with no state share in health benefits. For the counties that have a Contract Mode, current statute provides for state participation in the costs up to the maximum allowable contract rate. Currently, 44 counties have IHSS wages above $8.00 per hour.

5. IHSS Functional Index Change. The May Revision proposes to change the criteria to qualify for domestic and related services, to only those individuals with an overall Functional Index (FI) score of 4 or higher. IHSS services would be discontinued for individuals with a score of 2-3.99. (FI scores below 2 already do not receive services). This proposal would result in estimated savings of $159.3 million ($52.0 million General Fund).

FI Scores are set by county social workers, who determine the recipient's level of ability and dependence upon verbal or physical assistance by another for each of the following 14 functions: housework, laundry, shopping and errands, meal preparation and cleanup, mobility inside, bathing and grooming, dressing, bowel and bladder, repositioning, eating, respiration, orientation, and judgment.

The individual's ability to perform each function is scored on a scale of 1-5:

- Rank 1: Independent: able to perform function without human assistance.
- Rank 2: Able to perform a function, but needs verbal assistance, such as reminding, guidance, or encouragement.
- Rank 3: Can perform the function with some human assistance, including, but not limited to, direct physical assistance from a provider.
- Rank 4: Can perform a function but only with substantial human assistance.
- Rank 5: Cannot perform the function, with or without human assistance.

The Administration estimates that 83,000 IHSS recipients would lose an average of 21.6 domestic and related care services hours under this proposal. These reductions would be applied per task. Therefore, for any domestic or related service, if the consumer has a functional index score below 4 for that task, under this proposal the consumer would no longer receive hours for that task. For example, a rank of 3 means that some human assistance is needed and that the function cannot be done independently. This assistance would no longer be provided under this proposal. The combination of administrative costs and successful appeals could significantly erode the savings estimated for this proposal.

DSS states this proposal needs federal Centers for Medicaid and Medicare Services (CMS) review to determine if it is permissible under federal Medicaid rules, and if so, whether a state plan amendment (SPA) would be needed. DSS is still drafting a letter to obtain this clarification. Once this letter is sent, it is expected to take two to three months to hear back from CMS. Therefore, we will not know whether this proposal is viable in time to make decisions for the 2008-09 budget.

6. Limiting IHSS Share of Cost. The May Revision proposes to limit the State's payment of the difference between the Medi-Cal Share of Cost (SOC) and the IHSS program SOC to recipients with a Functional Index (FI) Score of 4.00 and above. All other recipients would be required to pay their full SOC. This proposal would result in estimated General Fund savings of $27.7 million in 2008-09 (due to the October 1, 2008 implementation date) and $37.0 million in 2009-10 and annually thereafter.

Under current law, when an IHSS recipient is determined to have a SOC in the program the State "buys out" or funds the difference between the IHSS SOC and the higher Medi-Cal SOC. The State initiated this buy-out to prevent any negative financial hardship to those recipients with a SOC who were moved to Medi-Cal. The SOC buy-out is also financially beneficial to the State because the State receives federal Medicaid funding for IHSS recipients that were not previously eligible for federal funding.

Currently, there are approximately 8,625 IHSS recipients in the buy-out program for 2008-09. Under this proposal, approximately 7,100 IHSS recipients would be required to pay a new monthly share of cost, averaging $427 out of their own pockets.

In their analysis of the May Revision, the LAO notes that this proposal could result in increased requests for reassessments and appeals of individuals' functional rankings. The combination of administrative costs and successful appeals could significantly erode the savings estimated for this proposal. Furthermore, the LAO notes that a recipient's FI Score, which is what is used under this proposal for determining SOC for the recipient, is not related to income.

As an alternative, the LAO recommends reducing state participation in the SOC by 50 percent for all IHSS recipients. This would only save an estimated $16.5 million in 2008-09 and $22 million annually, but the savings would not be eroded due to increased administrative costs and appeals.

As with the previous proposal related to the functional index, this proposal also needs federal CMS review to determine its viability.

Staff Recommendation:

1. IHSS Reduction of Hours. Approve the May Revision proposal to rescind the IHSS reduction of hours BBR.

2. IHSS Quality Assurance. Approve the May Revision proposal to rescind the trailer bill language eliminating the IHSS QA program; approve the request for $1.7 million ($836,000 General Fund) and 16 positions to continue administration of the IHSS QA program; and approve $439,000 ($222,000 General Fund) and five positions for implementing the IPW.

3. 10 Percent Reduction to IHSS Administration. Accept the 10 Percent Reduction, but reject the TBL on the proposed extended reassessments. Instead, adopt placeholder trailer bill language to suspend focused eligibility reviews for counties while the IHSS administrative cut is being implemented, with review from the Legislature on the appropriateness of reinstituting these reviews during the usual Budget Subcommittee process when the administration's local assistance budget would normally undergo examination.

4. Reduce State Participation in IHSS Wages. Reject the May Revision proposal and associated trailer bill.

5. IHSS Functional Index Change. Reject the May Revision proposal and associated trailer bill.

6. Limiting IHSS Share of Cost. Reject the May Revision proposal and associated trailer bill.

4440 DEPARTMENT OF MENTAL HEALTH

ISSUE 1: MHSA POSITIONS

Assemblymember Beall has requested that the Subcommittee consider taking action to do the following:

> Require all state positions in any state department funded with Mental Health Service Act dollars be two-year limited term.

The Senate has not taken an action like this, so if this action is approved, this will go to Budget Conference Committee.