AGENDA

ASSEMBLY BUDGET SUBCOMMITTEE NO. 1 ON HEALTH AND HUMAN SERVICES

ASSEMBLYMEMBER HOLLY MITCHELL, CHAIR

WEDNESDAY, APRIL 11, 2012
1:30 P.M. - STATE CAPITOL ROOM 437

ITEMS TO BE HEARD

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4170 DEPARTMENT OF AGING

ISSUE 1: DEPARTMENT OVERVIEW AND PROGRAM UPDATE

BACKGROUND

The California Department of Aging's (CDA's) stated mission is to promote the independence and well-being of older adults, adults with disabilities, and families through:

- Access to information and services to improve the quality of their lives;
- Opportunities for community involvement;
- Support to family members providing care; and
- Collaboration with other state and local agencies.

As the designated State Unit on Aging, the Department administers Older Americans Act programs that provide a wide variety of community-based supportive services as well as congregate and home-delivered meals. It also administers the Health Insurance Counseling and Advocacy Program. The Department also contracts directly with agencies that operate the Multipurpose Senior Services Program.

The Department administers most of these programs through contracts with the state's 33 local Area Agencies on Aging (AAAs). At the local level, AAAs contract for and coordinate this array of community-based services to older adults, adults with disabilities, family caregivers and residents of long-term care facilities.

OVERVIEW OF DEPARTMENT'S MAJOR AREAS

Nutrition. The Nutrition Program provides nutritionally-balanced meals, nutrition education and nutrition counseling to individuals 60 years of age or older. In addition to promoting better health through improved nutrition, the program focuses on reducing the isolation of the elderly and providing a link to other social and supportive services such as transportation, information and assistance, escort, employment, and education.

Senior Community Employment Services. The federal Senior Community Service Employment Program, Title V of the Older Americans Act, provides part-time subsidized training and employment in community service agencies for low-income persons, 55 years of age and older. The program also promotes transition to unsubsidized employment.

Supportive Services and Centers. This program provides supportive services including information and assistance, legal and transportation services, senior centers, the Long-Term Care Ombudsman and elder abuse prevention, and in-home services for frail older Californians as authorized by Titles III and VII of the Older Americans Act. The services provided are designed to assist older individuals to live as independently as possible and access the programs and services available to them.

Special Projects. This program includes the community-based Health Insurance Counseling and Advocacy Program (HICAP). HICAP provides personalized counseling, community education and outreach events for Medicare beneficiaries. HICAP is the primary local source for accurate and objective information and assistance with Medicare benefits, prescription drug plans and health plans.

Medi-Cal Programs. This program includes the Multipurpose Senior Services Program (MSSP) and Adult Day Health Care (ADHC) program, which will be eliminated effective February 29, 2012. The new Community-Based Adult Services (CBAS) program will begin March 1, 2012 and will provide necessary medical and social services to those in the elder community with the greatest need. The CBAS program is to be operated by the Department of Health Care Services, which will require a revision to the proposed budget to reflect this shift in program operation. The MSSP provides health/social case management to prevent premature and unnecessary long-term care institutionalization of frail elderly persons. The Department provides program oversight of the MSSP via an interagency agreement with the Department of Health Care Services.

FISCAL OVERVIEW

Fund Source	2010-11 Actual	2011-12 Projected	2012-13 Proposed	BY to CY Change	% Change
General Fund	$32,218	$32,398	$32,591	193	0.6%
Federal Trust Fund	166,248	153,856	148,565	(5,291)	-3.4%
Reimbursements	7,585	8,649	8,571	(78)	-0.9%
State HICAP Fund	2,464	2,474	2,475	1	0.0%
Skilled Nursing Facility Quality and Accountability Fund	1,900	1,900	1,900	-	0.0%
Special Deposit Fund	507	1,187	1,188	1	0.1%
Mental Health Services Fund	206	-	-	-	-
Total Expenditure	$211,128	$200,464	$195,290	(5,174)	-2.6%
Positions	117.2	124.6	124.2	-	-0.3%

BUDGET CONTEXT

Severe reductions were made in the 2009-10 Budget for Aging programs. The Legislature had modified the Administration's proposals at the time, which were to eliminate all General Fund within CDA. Despite this, Governor Schwarzenegger vetoed remaining General Fund for programs that had been fiscally stripped of resources over the course of several budget cycles.

The 2011-12 budget provided $33 million from the General Fund for the Department of Aging, a one percent decrease in funding compared to the revised 2010–11 funding level. Savings from a reduction in the Multipurpose Senior Services Program are largely offset by expiration of federal ARRA funding, which had previously been used to offset General Fund costs.

- **Multipurpose Senior Services Program.** The budget adopted a reduction of up to $2.5 million to MSSP and rejected the remainder of the Governor's proposal to eliminate the program, with budget bill language directing the administration to consult with the federal government about how to achieve the savings operationally and minimize any impacts on the number of clients served. The reduction amounted to an approximate 13 percent cut. The MSSP Program is discussed in further background as part of this agenda.

- **Long-Term Care Ombudsman Program.** The budget approved the Governor's proposal to shift funding for the Long-Term Care Ombudsman Program from the Federal Citations Penalties Account to a combination of the State Health Facilities Citation Penalties Account ($1.2 million) and the Skilled Nursing Facility Quality and Accountability Fund ($1.9 million). It also approved a corresponding statutory change to include the program as an allowable use of resources in the State Health Facilities Citation Penalties Account.

PANEL

- Department, please provide an overview of the conditions of programs and services provided under your purview, highlighting major changes or shifts in funding, operation, and impact where this is significant for the Subcommittee's working knowledge of your program and fiscal state.

- Department, please describe the recent history of General Fund expenditures for programs at Aging. Please describe the condition of funding for the Long-Term Care Ombudsman Program.

- Department of Finance (DOF), please provide any additional comments.

- Legislative Analyst's Office (LAO), please provide any comments or additional insight regarding the overview topic of which the Legislature should be aware.

- Public Comment on any issue not otherwise agendized that relates to this department.

Staff Recommendation:

This item is included for informational and context-setting purposes. No action is required.

ISSUE 2: GOVERNOR'S PROPOSAL ON MULTIPURPOSE SENIOR SERVICES PROGRAM (MSSP)

BUDGET ISSUE

The budget proposes $40.5 million ($20.2 million GF) for local assistance and $2.5 million ($1.2 million GF) for state operations related to the MSSP program. The budget also proposes to integrate MSSP, along with other long-term care supports and services, into Medi-Cal managed care over a period of three years.

BACKGROUND ON MSSP

MSSP provides care management services for frail, elderly clients who wish to remain in their own homes and communities. Clients must be age 65 or older, eligible for Medi-Cal, and certified or certifiable as eligible for placement into a nursing home. Teams of health and social service professionals assess each client to determine needed services and then work with the clients, medical providers, families, and others to develop an individualized care plan. Services that may be provided with MSSP funds include, but are not limited to: care management, adult social day care, housing assistance, in-home chore and personal care services, respite services, transportation services, protective services, meal services, and special communication assistance. CDA currently oversees operation of the MSSP program statewide and contracts with local entities that directly provide MSSP services. The program operates under a federal Medicaid Home and Community-Based, Long-Term Care Services Waiver.

PROPOSAL TO INTEGRATE LONG-TERM CARE SERVICES AND SUPPORTS

As discussed during the joint Sub. 1 and Committee on Aging hearing on March 7, 2012, the Governor's budget includes a Coordinated Care Initiative for Medi-Cal enrollees. The Administration intends for the initiative to improve service delivery for 1.2 million people who are eligible for both Medi-Cal and Medicare (dual eligibles) and 330,000 Medi-Cal enrollees, many of whom rely on long term support services (LTSS). To achieve these improvements, the Administration proposes to combine the full continuum of medical services and LTSS, including MSSP, into a single benefit package delivered through the Medi-Cal managed care delivery system starting on January 1, 2013. Additional information on the Coordinated Care Initiative is available in the agenda for the March 7 hearing.

The core MSSP service is care coordination using a multidisciplinary team that identifies and responds to health and social service needs of seniors who are eligible to enter into a nursing home. In 2013, in counties not involved in the Dual Demonstration, the Administration proposes to maintain the MSSP program's current eligibility process and programmatic requirements. In Demonstration Counties, the Demonstration sites (through managed care plans) would be expected to contract with existing MSSP sites to provide care coordination to the plans' enrollees. In 2014, the managed care plans would be responsible for assessing the needs of all plan members and providing necessary health and LTSS. Along with those responsibilities, they would have flexibility to determine how to provide care coordination to their members. They could contract with MSSP sites, hire and incorporate the current MSSP staff into the health plans' care management team, or choose other strategies. In 2015, eligibility for LTSS would be assessed by Demonstration sites using the proposed universal assessment tool. Between 2013 and 2015, as managed care plans and the Demonstration expand to all counties, MSSP program's care coordination functions would become part of the plans' care coordination systems. In other words, it appears that MSSP may not necessarily continue to exist as a discrete program.

REDUCTION TO MSSP IN 2011-12 BUDGET

The 2011 Budget Act included a reduction of up to $5 million ($2.5 million GF) to MSSP. Related budget bill language directed CDA and DHCS to consult with the federal government about how to achieve the savings operationally and to minimize any impacts on the number of clients served. The Department reports that minor administrative savings were achieved, but the bulk of the reduction was ultimately achieved reducing the number of clients served. There are 11,789 statewide slots for MSSP clients. After a reduction in 2008-09, the sites were operating at 87 percent of capacity. After this latest reduction, they are now operating at 77 percent of capacity.

PANEL

- Department, please respond to the following questions:
    - How was the 2011-12 reduction to MSSP implemented? What efforts did the Administration undertake to achieve the savings operationally?
    - Please describe the existing relationships between managed care plans and MSSP sites.
    - Under the administration's proposal, how is MSSP budgeted and what are the major assumptions that drive its funding and formulation, both in the near and long-term?
    - How would the transition to receiving LTSS through managed care work for current MSSP clients and those currently waiting for services?
    - How is the Administration engaging MSSP sites and staff as the Coordinated Care Initiative is being developed and refined?
    - What role does CDA have for MSSP under the proposal? Who would authorize MSSP services?
- Department of Finance (DOF), please provide any additional comments.
- Legislative Analyst's Office (LAO), please provide any comments or additional insight regarding the topic of which the Legislature should be aware.
- Public Comment.

Staff Recommendation:

Staff recommends holding open the integration of MSSP into managed care, as this action will ultimately conform to any action related to the larger proposal from the Governor and administration on LTSS Integration.

5180 DEPARTMENT OF SOCIAL SERVICES

ISSUE 1: IN-HOME SUPPORTIVE SERVICES – PROGRAM OVERVIEW

BACKGROUND

With a 2011-12 budget of $5.0 billion ($1.4 billion GF), the IHSS program provides personal care services to approximately 440,000 qualified low-income individuals who are blind, aged (over 65), or who have disabilities. IHSS services include tasks like feeding, bathing, bowel and bladder care, meal preparation and clean-up, laundry, and paramedical care. These services frequently help program recipients to avoid or delay more expensive and less desirable institutional care settings.

There are 440,000 low-income IHSS recipients who are aged, blind, or who have disabilities. There are 366,125 IHSS providers whose wages vary from $8.00 to $12.20 hourly. In 2012-13, services are estimated to cost an average of $11,420 annually per client.

Funding and Oversight. IHSS is funded with federal, state, and county resources. Recently, the state opted to implement the program under a new federal Medicaid waiver option called the Community First Choice Option (CFCO), which offers an enhanced rate of 56 percent federal financial participation (six percent over the base rate of 50 percent). The state is also benefitting from an additional enhanced rate of 75 percent for a period of one year for IHSS recipients transitioning from nursing facilities to community-based settings. The state and counties split the non-federal share of IHSS funding at 65 and 35 percent, respectively. The average annual cost of services per IHSS client is estimated at $11,420 for 2012-13.

Program Structure and Employment Model. County social workers determine eligibility for IHSS after conducting a standardized in-home assessment, and periodic reassessments, of an individual's ability to perform specified activities of daily living. Once eligible, the recipient is responsible for hiring, firing, and directing an IHSS provider or providers. The counties or public authorities must conduct a criminal background check and provide an orientation before a provider can receive payment. At the end of 2011, there were just over 366,000 working IHSS providers. County public authorities are designated as "employers of record" for collective bargaining purposes, while the state administers payroll, workers' compensation, and benefits. Hourly wages for IHSS providers vary by county and range from the minimum wage of $8.00 per hour in nine counties to $12.20 in one county. The state participates in the costs of wages up to $12.10 ($11.50 plus $.60 for health benefits) per hour, with counties paying the difference if they negotiate a higher wage. In approximately 72 percent of cases, IHSS recipients choose a family member to provide care (including roughly 45 percent of providers who are a spouse, child, or parent of the recipient). In around half of cases, IHSS providers live with the recipients.

SUMMARY OF RECENT BUDGET CHANGES

The last three budgets included significant changes to IHSS. The following are in effect or pending implementation (savings are annual for 2012-13 unless otherwise noted):

- Additional program integrity measures, including background checks and criminal records exclusions for providers, more training for social workers, changes to time sheets, and directed mailings or unannounced home visits when there is a concern.

- Savings of $151.1 million General Fund from a requirement for recipients to obtain from a licensed health professional a certification of their need for services to prevent risk of out-of-home care.

- Savings of $145.1 million General Fund from the federal CFCO waiver option.

- Upon federal approval, savings of $95.5 million General Fund as a result of a sales tax on supportive services and matching funds for the use of the tax revenues.

- Current year savings of $64.4 million General Fund from an across-the-board reduction of 3.6 percent in all recipients' authorized hours until July 1, 2012.

- Increases in out-of-pocket costs for consumers (resulting from elimination of what was called a "share-of-cost buy-out").

- Reductions in administrative funding for Public Authorities.

The following changes were also enacted, but federal courts have stopped them from taking effect as a result of ongoing litigation:

- Savings of approximately $222.0 million General Fund (full year impact) from an across-the-board reduction, subject to specified exemptions and exceptions, of 20 percent of authorized hours. This reduction was triggered by lower than anticipated 2011-12 revenues.

- Savings of $65.5 million General Fund from reducing to $10.10 ($9.50 plus $.60 per hour for health benefits) the maximum provider wages the state participates in.

- Elimination of eligibility, subject to exemptions, for domestic and related services or all services, for individuals whose needs were assessed to be below a specified threshold. This reduction has been statutorily delayed until July 1, 2012, subject to a final court order upholding the policy. No updated estimate of the savings associated with the policy is available at this time.

The 2011-12 budget also established a pilot that requires DHCS to identify Medi-Cal beneficiaries at high risk of not taking medications as prescribed and to procure automated machines to assist them. If the pilot and any enacted alternatives for achieving savings would not together result in $140 million General Fund, an across-the-board reduction in IHSS services, with specified exceptions, would begin October 1, 2012.

Some of these policy changes are discussed in further detail later in this agenda under other issue headings.

IHSS AND THE GOVERNOR'S LTSS PROPOSAL

As discussed in detail in the aforementioned March 7 hearing, the Governor's Budget also establishes a new program for care for IHSS Dual Eligible beneficiaries, to be phased in over a three-year period. This proposal purports to coordinate IHSS, other home and community-based services, and institutional long-term care. Under the Governor's proposal, all individuals receiving both Medi-Cal and Medicare benefits (dual eligible beneficiaries) will be required to enroll in managed care health plans for their Medi-Cal benefits. No IHSS savings are estimated to result from this proposal in 2012-13.

PANEL

- Department, please provide an overview of the conditions of the IHSS program, highlighting major caseload and provider trends and program priorities.

- Department of Finance (DOF), please provide any additional comments.

- Legislative Analyst's Office (LAO), please provide any comments or additional insight regarding the overview topic of which the Legislature should be aware.

- Public Comment will be taken on IHSS issues once at the end of all of the IHSS items.

Staff Recommendation:

This item is included for informational and context-setting purposes. No action is required.

ISSUE 2: GOVERNOR'S PROPOSAL ON DOMESTIC AND RELATED SERVICES

BUDGET ISSUE

The budget proposes $206.2 million net GF savings in 2012-13 from the elimination of domestic and related IHSS services for approximately 245,000 IHSS recipients who reside in shared living arrangements and currently receive these services on a pro-rated basis and 80,000 who reside in shared living arrangements and currently receive these services without prorating (with some duplication between these groups). In roughly 0.2 percent or around 1,000 of these cases [accounting for $1.2 million ($0.4 million GF) of the proposed savings], the recipient is a child under the age of 18. The estimated savings account for administration costs of $9.4 million ($3.3 million GF) associated with the policy changes. There would also be corresponding losses of $317.0 million and $4.7 million in federal funds for services and administration, respectively. The budget assumes enactment of this policy by April 1, 2012, which would allow for a full-year of implementation to begin 90 days after enactment on July 1, 2012.

The administration made a similar proposal last year, which was rejected by the Legislature.

BACKGROUND

Domestic and related services include housework, meal preparation, meal clean-up, laundry, shopping, and errands. The proposal also impacts heavy cleaning and yard hazard abatement services. Currently, if IHSS recipients who share their homes with other individuals have some of these needs met in common by their households, the social worker who determines their eligibility for IHSS services can pro-rate or reduce the authorized hours of IHSS services related to those activities.

The administration proposes to instead make all IHSS beneficiaries residing in shared living arrangements ineligible for domestic and related services based on the presumption that the underlying needs can be met in common. The proposal includes exceptions that rebut that presumption when: a) all other household members are IHSS recipients (estimated to be the case for one percent of domestic and related service recipients), or b) all other household members have physical or mental impairments that prevent them from performing domestic and related services (the prevalence of which the Department was unable to estimate). Under the proposed policy, the existence of an impairment would have to be verified by "reliable evidence," such as social worker observation or medical certification.

LEGAL RISK

According to the LAO, Washington State recently enacted a restriction on domestic and related services for individuals who lived with their IHSS providers. The state's Supreme Court determined, however, that the policy violated federal requirements regarding the equal treatment of Medicaid beneficiaries.

In addition to concerns about the violation of Medicaid rules, the LAO also raises that the proposal could potentially violate the federal Americans with Disabilities Act (ADA). The LAO states that anytime IHSS services are reduced or eliminated, there is risk of asserting that the change puts recipients at risk of institutional placement. In order to qualify for IHSS services, recipients must now secure documentation from a health care provider that indicates that without IHSS they are at risk of placement in a facility. If recipients have a signed document indicating that IHSS services are needed, it may be legally difficult to eliminate a portion of those services without risk of litigation invoking the ADA.

ANTICIPATED IMPACTS

Recipients who reside in shared living arrangements and currently receive pro-rated domestic and related services would lose an average of 14 hours of services per month, effective 90 days after enactment of the proposed change. Recipients who live with others and have non-pro-rated hours today would lose an average of 9 hours of domestic and related services per month, effective after notice following their next reassessment.

PANEL

- Department, please respond to the following questions:
  - Under the proposed policy, would an IHSS recipient potentially be eligible for domestic and related services if his/her need was not being met in common for reasons other than a housemate's receipt of IHSS or physical or mental impairment (e.g., because the housemate is not available or not willing to assist)?
  - Does the presumption that domestic and related needs are met in common extend to areas of the house that are not shared (e.g., cleaning the recipient's bedroom and bathroom) or responsibilities that are not shared (e.g., laundering the recipient's sheets if s/he sleeps alone)?
  - What analysis has the administration conducted to determine whether this reduction would comply with federal and state Medicaid and disability-related laws?
  - How does this proposal fit in with the administration's Coordinated Care Initiative proposal, which relies on an increased investment in IHSS and other long-term care supports and services in order to reduce costs associated with hospitalizations and nursing home stays. Describe what weatherization means for homes and what kinds of homes are being targeted for improvement.
- Department of Finance (DOF), please provide any additional comments.
- Legislative Analyst's Office (LAO), please provide any comments or additional insight regarding the topic of which the Legislature should be aware.
- Public comment will be taken on IHSS issues once at the end of all of the IHSS items.

Staff Recommendation:

Staff recommends rejection of this proposal given the ample concerns raised around consumer impact and the federal restrictions that would inhibit this kind of policy from taking effect if it were adopted, as raised by the LAO.

The IHSS budget remains open pending review in May, when the Legislature will have the benefit of updated fiscal reports and projections.

ISSUE 3: GOVERNOR'S PROPOSAL ON 20 PERCENT REDUCTION IN IHSS HOURS

BACKGROUND AND BUDGET ISSUE

The 2012-13 Budget created a trigger mechanism, if specified revenues were not obtained and conditions met as specified in Section 3.94(b) of the 2011 Budget Act, for implementing an across-the-board reduction in IHSS services of 20 percent, beginning January 1, 2012. The trigger was to yield savings of $100 million, with specified notice requirements and exceptions. The trigger was ultimately pulled by Governor Brown in December 2011, but its implementation was halted by a federal court order.

BUDGET ISSUE

In the Governor's proposed budget, the Administration proposes to make the 20 percent January 1, 2012 "trigger" reduction in IHSS operational by April 1, 2012 unless inhibited by a court decision. The budget adjusts its projected savings resulting from the delayed implementation of the 20 percent across-the-board reduction that was to implement January 1, 2012 but was delayed due to the court injunction. The budget instead assumes implementation on April 1, 2012 of the 20 percent cut, for a savings of $39.4 million GF in the current year, and $179 million in the budget year. The budget also includes a set-aside to fully fund the program in the event that the court rules in favor of the plaintiffs and against the state.

PROPOSED TRAILER BILL

As part of the above-referenced proposal, the Administration proposes trailer bill language to provide additional detail to statutes that establish a 20 percent reduction in authorized hours of IHSS services for each IHSS recipient, subject to specified exemptions and exceptions. Specifically, existing law requires DSS to work with the counties to develop a process for counties to "preapprove" supplemental IHSS hours for individuals who clearly meet the criteria for an exception to the reduction policy. The Department indicates that it has worked with the counties to develop the required policy detail and now seeks to codify more specific criteria, which include preapproval for individuals who: a) receive Early and Periodic Screening, Diagnosis, and Treatment services, b) are authorized to receive the statutory maximum of 283 hours of services per month, c) are authorized to receive protective supervision, or d) have been assessed to have a particular level of need (a functional ranking of 5) for certain specified services.

The statutory provisions the Administration proposes to amend were established as part of the 2011-12 budget and is the subject of active litigation, as mentioned. The proposed amendments seem intended to provide additional detail, and not to make substantive changes in how the Department would implement the law.

PANEL

- Department, please provide a description of the proposed trailer bill and its intent.
- Department of Finance (DOF), please provide any additional comments.
- Legislative Analyst's Office (LAO), please provide any comments or additional insight regarding the proposed trailer bill language.
- Public Comment will be taken on IHSS issues once at the end of all of the IHSS items.

Staff Recommendation:

Staff recommends rejecting the administration's trailer bill proposal in this area. The language proposes to modify an area of statute under active litigation as crafted.

ISSUE 4: UPDATES ON IMPLEMENTATION OF PROGRAM CHANGES PREVIOUSLY ADOPTED

This part of the agenda will walk through select changes to the IHSS program made in previous budgets and associated changes or updates that are being brought forward either by the administration or stakeholders for review.

A. EXTENSION OF SALES TAX ON SUPPORTIVE SERVICES

The 2010-11 budget established a sales tax on specified supportive services, which includes IHSS, and assumed $190 million General Fund (GF) savings due to enhanced federal funding from matching the use of revenues obtained pursuant to the tax. Related statutory provisions established supplementary payments for IHSS providers that would equal the portion of their gross receipts that is subject to state and federal taxation as a result of the tax on supportive services. These provisions are scheduled to take effect when the federal Centers for Medicare and Medicaid Services (CMS) approves implementation of the state's related Medicaid plan amendment, but "no earlier than July 1, 2010."

Because the state is still awaiting a response to its proposed plan amendment from the federal government, the Administration proposes to update the effective date of the statute to be "no earlier than January 1, 2012."

PANEL AND STAFF RECOMMENDATION

- Department, please describe the trailer bill proposal and provide an update to the Subcommittee on discussions with the federal administration on this subject.

- Staff recommends approving the proposed technical change to the effective date of these statutory provisions.

B. MEDICATION DISPENSING MACHINE PILOT PROJECT

The 2011-12 budget established a medication dispensing machine pilot project that requires DHCS to identify Medi-Cal beneficiaries at high risk of not taking medications as prescribed and to procure automated machines to assist them. If the pilot and any enacted alternatives for achieving savings would not together result in $140 million GF, an across-the-board reduction in IHSS services, with specified exceptions, would begin October 1, 2012. The 2012-13 budget proposes to repeal these statutory requirements.

DHCS and the California Medicaid Research Institute (CaMRI) contracted with the University of California, Davis Center for Healthcare Policy and Research (CHPR) to further assess the potential cost savings associated with the MDM pilot enacted last year. Their work was based on a review of the evidence-based literature related to the causes of non-adherence with medication prescriptions (e.g., characteristics of the patient, such as knowledge related to medication or personality factors, and factors related to the medication regimen, such as side effects and complexity). After this review, CHPR concluded that there is insufficient evidence to reliably assess the effectiveness of MDMs for overcoming many of these factors. The Center assumed that MDM would primarily assist patients who do not take medications as prescribed because of reasons like forgetfulness, confusion, or other cognitive impairments (and would not necessarily prevent adverse health consequences from other reasons for non-adherence). In addition, data available to DHCS does not allow the Department to clearly identify the group of patients who would be likely to suffer from these particular challenges and to use a high-cost health care service, such as in-patient hospitalization, as a result. For these reasons, CHPR recommended that before moving forward with statewide implementation of the pilot, the state would need to obtain the results of a research study lasting approximately three years and costing $3 million to $3.5 million.

DHCS estimates that moving ahead with full-scale implementation this year could result in net Medi-Cal costs from $5.2 up to $57.4 million GF. On the other end of the spectrum, in the most optimistic scenario, the state could instead save $59.9 million if allowed to share savings with the federal government. Ultimately, however, DHCS believes that the potential costs are more likely to be incurred than the savings are to be achieved. As a result, the administration proposes to repeal the MDM pilot rather than invest significant additional time in researching or implementing the project.

PANEL AND STAFF RECOMMENDATION

- Department, please describe the trailer bill proposal and describe the research findings that led to this proposal.

- Staff recommends approving the proposed trailer bill language to repeal the medication dispensing machine pilot and the related trigger for an across-the-board reduction in IHSS hours.

C. COMMUNITY FIRST CHOICE OPTION

The 2011-12 budget adopted savings of $128 million General Fund in IHSS due to expected approval of an additional six percent in FMAP as a result of IHSS qualifying under the new federal Community First Choice Option (CFCO) made available under section 1915(k) of the federal Social Security Act (42 U.S.C. Sec. 139n(k)).

The state submitted the State Plan Amendment (SPA) proposal to the Centers on Medicare and Medicaid Services (CMS) on December 1, 2011. CMS responded on February 28, 2012 with comments and the state has 90 days to respond to the questions raised.

PANEL AND STAFF RECOMMENDATION

- Department, please describe the issues raised in the CMS letter, your reaction, and next steps.

- Staff recommends requesting that DSS provide a summary update in writing to the Legislature and stakeholders on progress toward realizing the CFCO option, indicating any areas of potential challenge, prior to or at May Revision.

D. PUBLIC AUTHORITY ADMINISTRATIVE METHODOLOGY

The 2011-12 budget rejected a May Revision proposal that would have reduced administrative funding for Public Authorities by $7.7 million ($3.2 million General Fund). With this action, the budget required DSS, in consultation with designated stakeholders, to develop a new rate-setting methodology for public authority IHSS administrative costs, which is intended to take effect beginning with the 2012-13 fiscal year. Additionally, the budget rejected a May Revision proposal that would have reduced administrative funding for counties to implement the IHSS programs by $12.6 million ($5.2 million General Fund).

PANEL AND STAFF RECOMMENDATION

- Department, please describe work and progress that has been made to develop the new administrative methodology. The California Association of Public Authorities may also testify to this issue.

- Staff has no recommendation at this time.

E. CLEAN-UP TO LANGUAGE ON BACKGROUND CHECKS

The California Association of Public Authorities (CAPA) is proposing language to clean up sections of law regarding tier two crimes and DSS's need to receive Criminal Offender Record Information (CORIs) from Public Authorities for general exception applicants under the new provider exclusion policies adopted in IHSS in recent years.

The proposed language would amend WIC 12305.87 to change subsection (e)(2) and add Public Authorities to the language that requires counties to submit CORIs to DSS for general exception applicants. CAPA states that per DSS, as of the end of December 2011, there were 41 general exception applications pending which cannot be processed without receiving the CORIs from the Public Authority.

PANEL AND STAFF RECOMMENDATION

- CAPA, please describe the proposed language.
- Staff recommends holding open the proposed language.

Staff Recommendation:

As laid out in the individual sections, staff recommends the following under each subtopic in this issue:

A. Extension of Sales Tax on Supportive Services - Staff recommends approving the proposed technical change to the effective date of these statutory provisions.

B. Medication Dispending Machine Pilot Project - Staff recommends approving the proposed trailer bill language to repeal the medication dispensing machine pilot and the related trigger for an across-the-board reduction in IHSS hours.

C. Community First Choice Option - Staff recommends requesting that DSS provide a summary update in writing to the Legislature and stakeholders on progress toward realizing the CFCO option, indicating any areas of potential challenge, prior to or at May Revision.

D. Public Authority Administrative Methodology - Staff has no recommendation at this time.

E. Clean-Up To Language on Background Checks - Staff recommends holding open the proposed language.

ISSUE 5: SUPPLEMENTAL SECURITY INCOME/STATE SUPPLEMENTARY PAYMENT

BUDGET ISSUE

The Governor's budget recognizes the continuing impact of a 3.6 percent federal cost-of-living adjustment (COLA) that increased SSI/SSP payments as of January 1, 2012. The increase was $24 (from $830 to $854) for the typical individual recipient and $37 increase (from $1,407 to $1,444) for the typical couple. The budget also estimates that a federal COLA of 0.2 percent will increase grants further as of January 1, 2013. However, the final determination of this 2013 COLA will not be made by the federal government until later in the year.

The budget also includes parallel adjustments to grants provided under the Cash Assistance Program for Immigrants (CAPI). CAPI benefits are equivalent to SSI/SSP benefits, less $10 per individual and $20 per couple (so $844 and $1424, respectively), for legal immigrants who do not qualify for federal assistance. The total budget for CAPI is proposed to be $135.1 million GF.

BACKGROUND ON SSI/SSP

The SSI program is a federal cash assistance program that provides income support to low-income individuals and couples who are aged, blind, or who have disabilities. California supplements SSI grants through the state's SSP. There are approximately 1.3 million SSI/SSP beneficiaries in 2011-12. Around 70 percent qualify because of a disability, while 28 percent qualify because of advanced age and two percent because of blindness.

In prior years when there was a federal COLA that increased SSI benefits, the state was able to simultaneously lower its SSP payments (effectively "capturing" the federal COLA in order to save GF resources). However, state SSP payments are now at the minimum level required under federal Maintenance of Effort (MOE) requirements that look to the level of 1983 payment standards. If the state were to lower its SSP benefit levels below the federally required MOE, it would lose federal Medi-Cal funding.

PANEL

- Department, please briefly summarize the changes to SSI/SSP grant levels in recent years and as proposed for 2012-13.

- Department of Finance (DOF), please provide any additional comments.

- Legislative Analyst's Office (LAO), please provide any comments or additional insight regarding the topic of which the Legislature should be aware.

- Public Comment.

Staff Recommendation:

Staff recommends approving the budgeted changes in SSI/SSP grant levels, which include increases related to federal COLAs. This item was included for informational purposes as the Legislature receives frequent questions from the public about the level of SSI/SSP grants and impacts of federal COLAs.

4700 DEPARTMENT OF COMMUNITY SERVICES AND DEVELOPMENT

ISSUE 1: DEPARTMENT OVERVIEW AND PROGRAM UPDATE

BACKGROUND AND OVERVIEW

The mission of the Department of Community Services and Development (CSD) is to administer and enhance energy and community services programs that result in an improved quality of life and greater self-sufficiency for low-income Californians.

Energy Programs. The Energy Programs assist low-income households in meeting their immediate and long-term home energy needs through financial assistance, energy conservation, and weatherization services.

- The Low-Income Home Energy Assistance Program (LIHEAP) provides financial assistance to eligible households to offset the costs of heating and/or cooling dwellings, payments for weather-related or energy-related emergencies, and free weatherization services to improve the energy efficiency of homes. This program may include a leveraging incentive program in which supplementary LIHEAP funds can be obtained by LIHEAP grantees if non-federal leveraged home energy resources are used along with LIHEAP weatherization related services.

- The federal Department of Energy Weatherization Assistance Program provides weatherization related services, while safeguarding the health and safety of the household.

- The Lead Hazard Control Program provides for the abatement of lead paint in low-income privately owned housing with young children.

Community Services. The Community Services Block Grant Program is designed to provide a range of services to assist low-income people in attaining the skills, knowledge, and motivation necessary to achieve self-sufficiency. The program also provides low-income people with immediate life necessities such as food, shelter, and health care. In addition, services are provided to local communities for the revitalization of low-income communities, the reduction of poverty, and to help provider agencies to build capacity and develop linkages to other service providers.

FISCAL OVERVIEW

Fund Source	2010-11 Actual	2011-12 Projected	2012-13 Proposed	BY to CY Change	% Change
Federal Trust Fund	398,576	259,695	260,183	488	0.2%
Reimbursements	4	-	-	-	-
Total Expenditure	398,580	259,695	260,183	488	0.2%
Positions	123.0	128.5	128.5	0	0.0%

PANEL

- Department, please provide an overview of the conditions of programs and services provided under your purview, highlighting major changes or shifts in funding, operation, and impact where this is significant for the Subcommittee's working knowledge of your program and fiscal state.

- Department, please describe the recent history of General Fund expenditures for programs at CSD.

- Department of Finance (DOF), please provide any additional comments.

- Legislative Analyst's Office (LAO), please provide any comments or additional insight regarding the overview topic of which the Legislature should be aware.

- Public Comment on any issue not otherwise agendized that relates to this department.

Staff Recommendation:

This item is included for informational and context-setting purposes. No action is required.

ISSUE 2: UPDATE ON STATUS OF USE OF FEDERAL WEATHERIZATION FUNDS

BACKGROUND

On February 17, 2009, the federal government enacted the American Recovery and Reinvestment Act of 2009 (Recovery Act), in part, to promote economic recovery and stabilize state and local government budgets. The U.S. Department of Energy (Energy) awarded $185.8 million of Recovery Act funds to CSD for its Weatherization program. The Bureau of State Audits has been monitoring and reporting on CSD's efforts and progress toward allocating these funds to maximize production and weatherize enough homes to ensure that grant funds are spent so that they don't revert by the March 31, 2012 deadline, while also ensuring that it meets its production goals under the annual weatherization grants that expire on June 30, 2012.

The recent BSA letter report, dated February 2, 2012, concludes that if Energy approves a proposed nine-month extension of the March 31, 2012 deadline, CSD should have ample time to spend the remaining Recovery Act funds. However, because the average cost for weatherizing a home has fallen significantly short of its estimates, as of December 31, 2011, CSD must ensure that its service providers weatherize about 15,000 more homes to spend the remaining funds. Additionally, the BSA letter states that some service providers are not always following the Energy-approved protocols that ensure not only that the measures installed in homes are cost effective, but that they also maximize opportunities for saving energy.

PANEL

- Department, please respond to the following questions:
  - Describe what weatherization means for homes and what kinds of homes are being targeted for improvement.
  - Please provide an overview of the schedule for units weatherized – how many have already been weatherized and how many are projected to be weatherized before the federal deadline?
  - How have federal standards changed for weatherization and what has this meant for implementation of the Recovery Act funds?
  - What other issues should the Legislature be made aware of at this time?

- Department of Finance (DOF), please provide any additional comments.

- Legislative Analyst's Office (LAO), please provide any comments or additional insight regarding the topic of which the Legislature should be aware.

- Public Comment.

Staff Recommendation:

This item does not require action, however the Subcommittee may request to be kept informed on any additional changes, including schedule changes, to implementation of Recovery Act funds.

5160 DEPARTMENT OF REHABILITATION

ISSUE 1: DEPARTMENT OVERVIEW AND PROGRAM UPDATE

BACKGROUND AND OVERVIEW

The California Department of Rehabilitation works in partnership with consumers and other stakeholders to provide services and advocacy resulting in employment, independent living, and equality for individuals with disabilities.

Vocational Rehabilitation. The Vocational Rehabilitation Services Program delivers vocational rehabilitation services to persons with disabilities through vocational rehabilitation professionals in district and branch offices located throughout the state. In addition, the Department has cooperative agreements with state and local agencies (education, mental health, and welfare) to provide unique and collaborative services to consumers. The Department operates under a federal Order of Selection process, which gives priority to persons with the most significant disabilities.

Persons with disabilities who are eligible for the Department's vocational rehabilitation services may be provided a full range of services, including vocational assessment, assistive technology, vocational and educational training, job placement, and independent living skills training to maximize their ability to live and work independently within their communities.

The Department also provides comprehensive training and supervision to enable persons who are blind or visually impaired to support themselves in the operation of vending stands, snack bars, and cafeterias. Prevocational services are provided by the Orientation Center for the Blind to newly blind adults to prepare them for vocational rehabilitation services and independent living.

The Department also works with public and private organizations to develop and improve community-based vocational rehabilitation services for the Department's consumers. The Department sets standards, certifies Community Rehabilitation Programs, and establishes fees for services provided to its consumers.

Independent Living Services. The Department funds, administers, and supports 29 non-profit independent living centers in communities located throughout California. Each independent living center provides services necessary to assist consumers to live independently and be productive in their communities. Core services consist of information and referral, peer counseling, benefits advocacy, independent living skills development, housing assistance, personal assistance services, and personal and systems change advocacy.

The Department also administers and supports the Traumatic Brain Injury (TBI) Program. In coordination with consumers and their families, seven service providers throughout California provide a coordinated post-acute care service model for persons with TBI, including supported living, community reintegration, and vocational supportive services.

The Department also serves blind and deaf-blind persons through counselor-teacher services, purchase of reader services, and community-based projects to serve the elderly blind.

FISCAL OVERVIEW

Fund Source	2010-11 Actual	2011-12 Projected	2012-13 Proposed	BY to CY Change	% Change
General Fund	$54,167	$54,554	$55,829	$1,275	2.3%
Federal Trust Fund	315,077	348,605	353,249	4,644	1.3%
Reimbursements	6,150	7,680	7,680	0	0.0%
Traumatic Brain Injury Fund	1,018	1,176	1,168	(8)	-0.7%
Vending Stand Fund	689	3,361	3,361	-	0.0%
Mental Health Services Fund	83	-	-	-	
Total Expenditure	377,184	415,376	421,287	5,911	1.4%
Positions	1,749.2	1,776.0	1,777.0	1	0.1%

PANEL

- Department, please provide an overview of the conditions of programs and services provided under your purview, highlighting major changes or shifts in funding, operation, and impact where this is significant for the Subcommittee's working knowledge of your program and fiscal state.

- Department, please describe the General Fund expenditures for programs at DOR and to what standard services are being provided given federal requirements.

- Department of Finance (DOF), please provide any additional comments.

- Legislative Analyst's Office (LAO), please provide any comments or additional insight regarding the overview topic of which the Legislature should be aware.

- Public Comment on any issue not otherwise agendized that relates to this department.

Staff Recommendation:

This item is included for informational and context-setting purposes. No action is required.

ISSUE 2: GOVERNOR'S PROPOSAL TO ELIMINATE REHABILITATIONS APPEALS BOARD

BUDGET ISSUE

The Governor proposes to achieve savings and efficiencies from eliminating the Rehabilitation Appeals Board (RAB), which currently reviews appeals filed by applicants for or consumers of DOR services. The associated responsibilities would be transferred to impartial hearing officers (IHOs) through an interagency contract with the Office of State Hearings or another state entity. The Administration estimates that contracting with IHOs will cost approximately $80,000 and DOR would continue to incur staffing costs of another $95,000 for one staff position to coordinate case referrals. Thus, the total cost for this proposal would be $175,000 per year ($37,000 GF). By contrast, in 2010-11 the budget for RAB was $205,000 ($43,000 GF); but actual expenditures over the last five years averaged $292,000. The Legislature rejected a similar proposal made by the Governor as part of the 2011-12 budget process.

According to the Administration, the present RAB appeals process complies with federal law but has several significant drawbacks, including that hearings cannot always be scheduled within the statutory timeframes due to quorum requirements and that the RAB has consistently exceeded its budgeted operating costs. The Administration also indicates that IHOs with more legal and evidentiary expertise will have greater ease in sorting through complex legal questions and documenting related conclusions.

BACKGROUND

By law, the RAB consists of seven members appointed by the Governor, although at present one seat is vacant. Members serve a term of four years and are subject to Senate confirmation. A majority of board members must be individuals with disabilities who are independently self-supporting in businesses and professions within the community. Board members receive reimbursement for travel expenses and a per diem of $100 for each day spent on their duties. The RAB hears appeals by applicants for DOR services who wish to contest a denial of eligibility and by existing DOR consumers who are not satisfied with the services being provided to them. The DOR provides vocational rehabilitation services to approximately 115,000 Californians with disabilities annually. In federal fiscal year 2011, approximately 11,000 consumers achieved employment outcomes. During that same period of time, 32 requests for appeal were resolved.

BUDGET CONTEXT

In his 2011-12 Budget, Governor Brown proposed to eliminate the Rehabilitation Appeals Board (RAB), which hears appeals by applicants and consumers of Department of Rehabilitation services who wish to contest a denial of eligibility or are not satisfied with the services being provided to them. The Governor's proposal was to use administrative law judges to perform this function.

Disability rights advocates opposed the elimination, stating that a majority of members on the RAB must be persons with disabilities who are self-supporting and have overcome barriers to employment, making their expertise very difficult to cultivate in other quasi-judicial options. They also cited increased costs associated with adequately addressing consumer complaints and grievances with the department in the absence of the RAB. For its relatively low cost of

$30,000, the RAB, they argue, performs extremely important functions that cannot be substituted through an option that has not developed expertise with issues specific to rehabilitation.

The Legislature chose to reject this proposal when it was forwarded in 2011.

PANEL

- Department, please respond to the following questions:
  - Please describe the appeal and decision-making processes, including due process protections, as they exist today and how they would differ under this proposal.
  - How would the Administration ensure the accessibility of the appeals process to consumers of the department's services?
  - Can the administration discuss its perspective on any revisions to their trailer bill language that makes more explicit the process by which hearing officers review cases that would otherwise be reviewed by the RAB?
- Department of Finance (DOF), please provide any additional comments.
- Legislative Analyst's Office (LAO), please provide any comments or additional insight regarding the topic of which the Legislature should be aware.
- Public Comment.

Staff Recommendation:

Staff recommends holding this item open pending further review of the trailer bill language and of any modifications to it that would enhance decision-making toward sustained or improved outcomes for consumers with issues that would come to the RAB and that would move to hearing officers under the administration's proposal.