

# AGENDA

## ASSEMBLY BUDGET SUBCOMMITTEE NO. 1 ON HEALTH AND HUMAN SERVICES

ASSEMBLYMEMBER DR. JOAQUIN ARAMBULA, CHAIR

Monday, August 17, 2020  
10:00 am - STATE CAPITOL, ROOM 4202

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*Due to the statewide stay-at-home order and guidance on physical distancing, seating for this hearing will be very limited. All are encouraged to watch the hearing from its live stream on the Assembly's website at: <https://www.assembly.ca.gov/todaysevents>.*

*A moderated telephone line will be available to assist with public participation. After witnesses have concluded, and after the conclusion of member questions, the public may provide public comment by calling the following toll-free number: **1-877-692-8957 / Access Code: 131 54 202**.*

*If you encounter technical problems with accessing the public comment phone line, please contact the Assembly Budget Committee at (916) 319-2099 and a staff member will assist you.*

*The public may also submit written testimony to: [BudgetSub1@asm.ca.gov](mailto:BudgetSub1@asm.ca.gov). Please note that any written testimony sent to that email address are considered public comment and may be read into the record.*

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### Oversight Hearing

#### The Administration's Long-Term Care at Home Pending Proposal and Skilled Nursing Facility COVID-19 Emergency Response

##### Panel 1 – Governor's Long Term Care at Home Pending Proposal

- Will Lightbourne, Director, Department of Health Care Services
- Kim McCoy Wade, Director, California Department of Aging
- Jacob Lam, Principal Program Budget Analyst, Department of Finance

Member Q&A

##### Panel 2 – Stakeholder Reaction Panel

- Patty Berg, Former State Assemblymember, Former Chair, Assembly Budget Subcommittee #1 on Health and Human Services and Assembly Committee on Aging and Long-Term Care

- Karen Keeslar, Executive Director, California Association of Public Authorities for IHSS (CAPA)
- Tiffany Whiten, Long-Term Care Director, SEIU California

Member Q&A

**Panel 3 – Skilled Nursing Facility Emergency Response**

- Claire Ramsey, Senior Staff Attorney, Justice in Aging
- Denise Likar, MSW, Vice President, Independence at Home, a SCAN community service
- Leza Coleman, Executive Director, California Long Term Care Ombudsman Association
- Craig Cornett, CEO/President, California Association of Health Facilities

Member Q&A

**Panel 4 – Administration Reaction Panel**

- Will Lightbourne, Director, Department of Health Care Services
- Kim McCoy Wade, Director, California Department of Aging
- Heidi Steinecker, Deputy Director, Center for Health Care Quality, California Department of Public Health

Member Q&A

***Public Comment***

## Background Paper

California is facing unprecedented challenges. Older adults living in congregate settings are at high risk for COVID-19 virus transmission, infection, and death, in part due to co-occurring morbidities with COVID-19. COVID-19 threatens older adults living with chronic conditions and their caregivers, with disproportionate impact on Black, Latinx, and Asian/Pacific Islander populations, particularly among residents in skilled nursing facilities (SNFs). The Central Valley and Inland Empire are current hot spots for disease transmission and community infection.

**Enacted 2020 Budget Preserves Programs for Older Adults.** In spite of massive fiscal challenges, the Legislature and Governor reached an agreement in the 2020 Budget to preserve the current Medi-Cal home and community-based services (HCBS) programs, including Community-Based Adult Services (CBAS), Multipurpose Senior Services Program (MSSP), Caregiver Resource Centers (CRCs), and full funding for the In-Home Supportive Services (IHSS) caregiving at home program. The values of safety net preservation and basic support for California's lowest income and most vulnerable populations drove the architecture of the 2020 Budget.

**Governor's 2020 May Revision Included Substantial HCBS Reductions.** The Governor's 2020 May Revision proposed the elimination of the CBAS and MSSP programs, as well as a funding reduction to CRCs. Additionally, the Governor proposed to reduce IHSS recipients' service hours by 7-percent, effective July 1, 2020. These May Revision proposals were ultimately rejected, however the final budget deal retained a possible 7-percent IHSS service hours reduction on December 31, 2021, reliant on a revenue/expenditure calculation affecting programs linked to a "suspension" policy, which is set to be made at the 2021 Governor's May Revision. This suspension policy was originally crafted in the 2019 Budget deal.

**Administration Introduces "Long-Term Care at Home Benefit" Concept.** On May 22, 2020, the Department of Health Care Services (DHCS) and the California Department of Aging (CDA) announced the development of a potential new Long-Term Care at Home benefit. According to the Administration, while this new model of care was initially envisioned to address the need to decompress California's SNFs in response to the COVID-19 public health emergency, the Administration has altered its purpose to "provide a more holistic, coordinated, and bundled set of medical and home and community-based services, allowing qualified Medi-Cal beneficiaries across the state an option to stay healthy at home." The Administration's draft benefit design, revised as of July 17, 2020, is included in the "Attachments" document to this background paper. The Administration has asserted that the benefit design is changing due to continuing conversations with the federal Centers for Medicaid and Medicare Services (CMS) and as it consults with stakeholders.

**Timeline and Planned Implementation, No Legislative Deliberation Envisioned.** Since the news of the initial concept in late May, the Administration iterated that it would move forward to seek federal approvals by late summer and implement this new benefit design by January 1, 2021. A proposal for budget trailer bill language was released in June to create a new licensure category associated with the new benefit, and this language was later rescinded. The Administration, after stakeholder consultation (discussed below), currently states that it will seek federal approvals later in the current calendar year and plans to implement the new benefit on a subsequently delayed timeline in calendar year 2021. With no trailer bill or policy vehicle encapsulating this proposal, there is no formal role for Legislative deliberation on this potential set of changes. This remains the situation at the time of this writing.

**Stakeholder Reaction and Input.** The Administration has been consulting with stakeholders in this process, with three meetings held via zoom in July 2020, principally through the vehicle of the Master Plan for Aging's Long-Term Services and Supports (LTSS) Subcommittee. The LTSS Subcommittee membership and the following cited documents are included in the "Attachments" document to this background paper. On July 17, 2020, the LTSS Subcommittee released a statement calling for: (1) an immediate crisis response to utilize existing programs and federal flexibilities to focus on identifying those most at risk for nursing home admission; and (2) DHCS to work with federal and state partners to develop a thoughtful approach to State Plan and infrastructure development, integrating health and LTSS services, with increased access to quality HCBS on a statewide basis and full supports for family caregivers.

Pursuant to their July 17 statement, on August 4, 2020, the LTSS Subcommittee released "Recommendations for Immediate Action/Consideration in this Legislative Cycle," which included the following:

### **Transition and Diversion Services**

1. Adaptation of the California Community Transitions program available to residents in skilled nursing facilities for fewer than 90 days.
2. Establishment of a Community Living Fund to support diversion and transition to address non-recurring immediate need for goods or services needed for transition.
3. Increasing the capacity for person-centered, short-term service coordination, transition services and navigation and expand the role of Aging and Disability Resource Connections to build out and fund their COVID-19 assessment framework statewide.

### **Increase Access to Community Services: Additional Waiver Slots, Program Flexibility and Rates**

4. Increasing slots and participating counties in the Assisted Living Waiver.
5. Increasing slots and flexibility in the Home and Community-Based Alternatives Waiver.
6. Changes to facilitate In-Home Supportive Services assessments prior to facility discharges.

7. Increasing slots and creating rate stability for the Multipurpose Senior Services Program.
8. Creating emergency authorization and presumptive eligibility for the Community Based Adult Services program.
9. Creating greater access to Caregiver Resource Centers for more caregivers statewide.
10. Creating a supplemental rate and expedited approval for new participants in the Program of All-Inclusive Care for the Elderly.

**Increase Health and Safety**

11. Requiring mandatory COVID testing prior to admission to a skilled nursing facility.
12. Ensuring that clients, participants, residents, and staff in skilled nursing facilities and in Home and Community-Based Services programs have sustainable access to all necessary personal protective equipment.

**Key Questions for Presenters in this Oversight Hearing.**

1. How does the pending Long-Term Care at Home benefit help California contend with the COVID-19 crisis now?
2. What does this proposal mean for the programs (e.g. CBAS, MSSP, CRCs, IHSS) recently proposed for elimination or reductions?
3. Is the goal of this proposal Medi-Cal cost-containment?
4. Why isn't this being considered in a legislative vehicle in 2021, which would allow for a public deliberative process?
5. What's the fiscal analysis of the proposal? What are the General Fund costs and/or savings for 2021-22 and over the multi-year and what are the key contribution factors to costs/savings?
6. What can we do to address the immediate crisis of the disproportionate death rate in skilled nursing facilities?
7. What can be done to ensure that older adults are aging in place safely during and after the COVID crisis?
8. How is the state responding to the LTSS recommendations on emergency response?