AGENDA

ASSEMBLY BUDGET SUBCOMMITTEE NO. 1 ON HEALTH AND HUMAN SERVICES

ASSEMBLYMEMBER TONY THURMOND, CHAIR

WEDNESDAY, MARCH 9, 2016
1:30 P.M. - STATE CAPITOL, ROOM 4202

ITEMS TO BE HEARD

Please note that this is a further-edited version to correct minor issues in the version previously released.

LIST OF PANELISTS IN ORDER OF PRESENTATION

5180 DEPARTMENT OF SOCIAL SERVICES

ISSUE 1: SUPPLEMENTAL SECURITY INCOME/STATE SUPPLEMENTARY PAYMENT – BUDGET AND PROGRAM REVIEW AND ADVOCATES' PROPOSALS

- Will Lightbourne, Director, and Eileen Carroll, Deputy Director, Adult Programs Division, California Department of Social Services
- Phuong La, Department of Finance
- Mike Herald, representing Californians for SSI
- Anthony Faber, SSI/SSP Recipient, San Francisco County
- Callie Freitag, Legislative Analyst's Office
- Public Comment

ISSUE 2: IN-HOME SUPPORTIVE SERVICES (IHSS) PROGRAM – OVERSIGHT OVER IMPLEMENTATION OF OVERTIME POLICY – PROBLEMS AND ISSUES

- Will Lightbourne, Director, and Eileen Carroll, Deputy Director, Adult Programs Division, California Department of Social Services
- Cathy Senderling, County Welfare Directors Association of California
- Deborah Doctor, Disability Rights California
- Olivia Ceballos-Cardona, IHSS Provider, Placer County
- Phuong La, Department of Finance
- Callie Freitag, Legislative Analyst's Office
- Reaction from Department of Social Services and Department of Finance
- Public Comment

ISSUE 3: IHSS – ADDITIONAL PROPOSALS IN THE GOVERNOR'S BUDGET

- Will Lightbourne, Director, and Eileen Carroll, Deputy Director, Adult Programs Division, California Department of Social Services
- Phuong La, Department of Finance
- Callie Freitag, Legislative Analyst's Office
- Public Comment

ISSUE 4: IHSS – ADVOCATES' PROPOSALS

- Deborah Doctor, Disability Rights California
- Kim Rutledge, UDW/AFSCME Local 3930
- Phuong La, Department of Finance
- Callie Freitag, Legislative Analyst's Office
- Public Comment

ISSUE 5: ADULT PROTECTIVE SERVICES (APS) – BUDGET AND PROGRAM REVIEW AND TRAINING PROPOSAL

- Will Lightbourne, Director, and Eileen Carroll, Deputy Director, Adult Programs Division, California Department of Social Services
- Chi Lee, Department of Finance
- Sara Stratton, APS Supervisor, San Francisco County Human Services Agency
- Callie Freitag, Legislative Analyst's Office
- Public Comment

ITEMS TO BE HEARD

5180 DEPARTMENT OF SOCIAL SERVICES

ISSUE 1: SUPPLEMENTAL SECURITY INCOME/STATE SUPPLEMENTARY PAYMENT – BUDGET AND PROGRAM REVIEW AND ADVOCATES' PROPOSALS

PANEL

- Will Lightbourne, Director, and Eileen Carroll, Deputy Director, Adult Programs Division, California Department of Social Services
    - Please present on the Governor's Budget for SSI/SSP.
- Phuong La, Department of Finance
    - Please present on the Governor's Budget for SSI/SSP.
- Mike Herald, Western Center on Law and Poverty
    - Please present on the advocates' proposals for SSI/SSP.
- Anthony Faber, SSI/SSP Recipient, San Francisco County
    - Please present on the recipient's perspective of SSI/SSP.
- Callie Freitag, Legislative Analyst's Office
    - Please present on possible options and costs for increasing the SSI/SSP grants to levels more commensurate with poverty guidelines.
- Public Comment

PROGRAM BACKGROUND

Program Description. The Supplemental Security Income/State Supplementary Payment (SSI/SSP) program provides a monthly cash benefit to enable needy aged, blind, and disabled people to meet their basic living expenses for food, clothing, and shelter. The state's General Fund provides the SSP portion of the grant while federal funds pay for the SSI portion of the grant. The 2016-17 Governor's Budget includes $10.3 billion ($7.4 billion federal funds, $2.9 billion General Fund) for the SSI/SSP program.

To be eligible for SSI/SSP, a person must be at least 65 years old, blind, or disabled (including blind or disabled children). A qualified recipient must file an application with the Social Security Administration (SSA). Federal criteria are used to determine eligibility and a qualified SSI recipient is automatically qualified for SSP. To be eligible

for SSI and maintain eligibility, a person must meet certain income and resource requirements.

Caseload. The SSI/SSP caseload has continued to grow at a rate of less than 1 percent each year since 2011–12. The budget estimates that about 1.3 million individuals and couples will receive SSI/SSP grants in 2016–17, an increase of 0.8 percent over 2015–16. The Department of Social Services (DSS) has provided the following caseload breakdown for the SSI/SSP population. [Note: "Couples" cases include two individuals, so the 1.3 million figure representing cases is actually lower than the real number of separate "individuals" served throughout the caseload.]

	FY 2015-16		FY 2016-17	
	Percentage of Total	**Caseload**	**Percentage of Total**	**Caseload**
Aged	**43.2%**	**561,972**	**43.2%**	**561,972**
Recipients who came in as aged	27.8%	361,667	27.6%	362,095
Recipients who came in as disabled and now are aged as well	15.4%	200,305	15.6%	204,463
Blind	**1.4%**	**18,376**	**1.4%**	**18,212**
Recipients who came in as blind	1.0%	12,552	0.9%	12,440
Recipients who came is as blind and are now aged as well	0.4%	5,824	0.4%	5,772
Disabled	**55.4%**	**720,819**	**55.4%**	**726,312**
Recipients who came in as disabled	55.4%	720,819	55.4%	726,312
Total SSI/SSP	**100.0%**	**1,301,167**	**100.0%**	**1,311,082**

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

Grants and COLAs: History and Current Levels. The maximum amount of aid is dependent on the following factors: (a) whether one is aged, blind, or disabled; (b) the living arrangement; (c) marital status; and, (d) minor status.

The SSA applies an annual cost-of-living adjustment (COLA) to the SSI portion of the grant equivalent to the year-over-year increase in the Consumer Price Index (CPI). As part of the 2009-10 Budget agreement, state COLAs for SSI/SSP beneficiaries were indefinitely suspended, and depend upon future statutory authorization. This occurred after many years of COLA suspension, whereby SSI/SSP grants were reduced to minimal levels. As part of the 2011-12 Budget, the state chose to reduce the SSP standard of the SSI/SSP program to the federally required MOE level of the 1983 payment standards for individuals only. Prior actions had reduced the grant levels for couples to the MOE floor, leaving some margin on the grants for individuals given their level of poverty. The MOE refers to a federal provision that limits the reduction a state can make to their SSP benefit levels without penalty. If a state were to reduce its SSP benefit levels below MOE levels, it would lose federal funding for Medi-Cal.

The chart directly below from the Legislative Analyst's Office (LAO) displays the maximum monthly SSI/SSP grant for individuals and couples in 2007–08, as compared to grant levels in 2015–16. Reflecting SSP grant reductions and the suspension of the state COLA, the combined SSI/SSP maximum monthly grant for individuals and couples declined significantly as a percentage of FPL over the nine-year period. After adjusting for inflation, the maximum combined SSI/SSP grant for 2015-16 for individuals represents roughly $85 (9.8 percent) less purchasing power than was provided in 2007–08 and for couples represents roughly $204 (13.4 percent) less purchasing power than was provided in 2007–08.

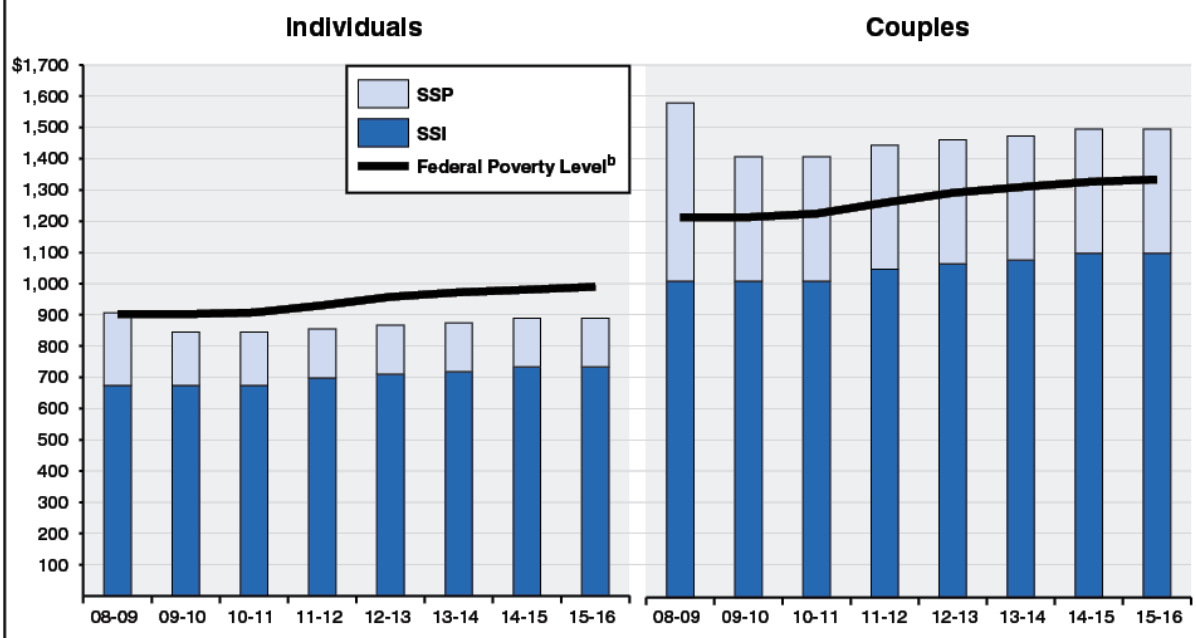
SSI/SSP Maximum Monthly Grants Pre– and Post–Recession

	2007–08	2015–16
Maximum Grant—Individuals		
SSI	$637	$733
SSP	233	156
Totals	**$870**	**$889**
Percent of FPL	102.3%	90.7%
Maximum Grant—Couples		
SSI	$956	$1,100
SSP	568	396
Totals	**$1,524**	**$1,496**
Percent of FPL	133.6%	112.7%
FPL = federal poverty level.		

The graphic below from the LAO is helpful in illustrating the current grant levels' status against the official poverty measure.

Figure 2

Maximum SSI/SSP Grants for Individuals and Couples[a] Compared to Federal Poverty Level[b]



[a] The maximum monthly grants displayed refer to those for aged and disabled individuals and couples living in their own households, effective as of January 1 of respective budget year.

[b] Federal Poverty Level as established by U.S. Department of Health and Human Services, effective as of January 1 of respective budget year.

Governor's Budget Proposal: One-Time Provision of a State COLA. The Governor's Budget includes $40.7 million General Fund for a cost-of-living adjustment (COLA) increase to the SSP portion of the grant equivalent to the increase in the California Necessities Index (CNI), which is estimated to be 2.96 percent. The increase would be effective January 1, 2017 and would add to an expected 1.7 percent federal COLA to the SSI portion of the grant that would take effect the same day.

This one-time investment does not restore an on-going statutory SSP COLA. The effect of the combined COLA in January 2017 would increase maximum SSI/SSP monthly grant levels by $17 ($4.63 is the dollar amount for the state COLA investment) and $31 ($11.73 is the dollar amount for the state COLA investment) for individuals and couples, respectively. The table on the next page illustrates the effect of the additional General Fund investment proposed in the Governor's Budget.

SSI/SSP Maximum Monthly Grants

	2016 Current Law Grant Levels	2017 Governor's Proposal	Difference
Individuals*			
SSI	$733.00	$745.46	$12.46
SSP	$156.40	$161.03	***$4.63***
Totals	**$889.40**	**$906.49**	**$17.09**
Federal Poverty Level	*$990.00*	*$990.00*	
Percent of Poverty**	**90%**	**92%**	
Couples***			
SSI	$1,100.00	$1,118.70	$18.70
SSP	$396.20	$407.93	***$11.73***
Totals	**$1,496.20**	**$1,526.63**	**$30.43**
Federal Poverty Level	*$1,335*	*$1,335*	
Percent of Poverty**	**112%**	**114.3%**	

* Individuals category refers to aged or disabled individuals living independently in his/her own household.

** Compares grant level to federal poverty guideline from the U.S. Department of Health and Human Services in 2016.

*** Couples category refers to aged or disabled couples living in their own household.

Grants and Housing Costs. The California Budget & Policy Center released information in February 2016 on the status of SSI/SSP grants related to housing costs. "In every county, the "Fair Market Rent" (FMR) for a studio apartment exceeds 50% of the maximum SSI/SSP grant for an individual. Moreover, the studio FMR is higher than the entire SSI/SSP grant in 16 counties, including Alameda, Los Angeles, Orange, and San Diego. People are at greater risk of becoming homeless when housing costs account for more than half of household income." The full fact sheet can be found at http://calbudgetcenter.org/wp-content/uploads/Due-to-State-Cuts-SSI-SSP-Grants-Lose-Ground-to-Housing-Costs-02232016.pdf

LAO Comment. The LAO provides the following comments, "The Governor's budget estimates that the CNI will be 2.96 percent, using partial data. Our review of the actual data—published after the release of the Governor's budget—indicates that the January 2017 CNI is 2.76 percent (we expect this to be the final CNI). Using the updated CNI, we estimate the proposed January 1, 2017 SSP COLA would cost the General Fund $38 million in 2016–17, a decrease of $3 million below the Governor's January estimate. The Governor's budget estimates that the CPI–W that the federal government will use to adjust the SSI portion of the grant will be 1.7 percent, but our estimate of the CPI–W is slightly lower, at 1.39 percent. (The actual CPI–W will not be known until the fall.) As a result of these downward estimates of the CNI and CPI–W, we estimate that monthly SSI/SSP grants would increase by $14.51 for individuals and $26.23 for couples under the Governor's proposal."

ADVOCATES' PROPOSALS

Bringing Individual Grants to 100 Percent FPL. Many advocates have weighed in with the Subcommittee and the administration in past years to advocate for an increase to the SSI/SSP grants. The Western Center on Law and Poverty (WCLP), which represents California's poorest residents on issues of public benefits, affordable housing, and health care, writes to advocate for the following:

- First, increase the base SSP amount this year and in future years until the maximum individual SSI/SSP grant is above 100 percent of the federal poverty level. "Recipients have to pay for housing, food and all other living expenses entirely from the SSI grant amount and many are struggling to stay housed."

  WCLP states, "Due to the cuts, more than 1 million Californians are now living below the poverty line. Another way to appreciate the inadequacy of the SSI/SSP grants in California is to compare it to the cost of housing. In 2015, the Fair Market Rent in California for a studio apartment was $915 a month. The National Low Income Housing Coalition calculates in their annual report "*Out of Reach*" that an income of $36,603 is needed to afford a rent payment of $915 a month. But the maximum SSI/SSP grant of $889 a month results in an annual income below $11,000 a year. It is clear from [this] data that many SSI/SSP recipients are living on the edge of homelessness. Even a modest rent increase can cause recipients to go hungry, not have the money to pay for medicines or become homeless…"

- Second, once the SSI/SSP grant is above the federal poverty level the state should provide cost of living increases by restoring the prior statute for an SSI/SSP cost of living adjustments that was repealed in the 2009-10 budget. This will ensure that the grants never drop below the poverty level again.

Expand SSI Advocacy for GA/GR Recipients. Additionally, WCLP urges a strategy that will aid a segment of the 130,000 people in California reliant on General Assistance/General Relief in their county, which provides an average monthly grant of just $221 a month. This is a county-funded and operated program. WCLP suspects that many GA/GR recipients could be eligible for SSI and asserts that more than 80 percent of the SSI grant is provided by the federal government. "It is in California's interest to maximize the number of persons receiving SSI. The eligibility process for SSI, however, is flawed in that it denies most applicants when they first apply and it is only upon an appeal that many eligible applicants finally get assistance. This process can take upwards of two years to navigate. Meanwhile, the person must subsist on GA/GR at 100 percent county expense. During this time the person may be homeless and may have to rely on emergency services and hospitalizations at a high cost to the local and state governments. The state should take steps to make the SSI application process more efficient. One way to do that is by providing case management of applications to ensure that the applicant's disability and medical condition are

adequately documented. By doing so, the prospects increase for a faster approval of benefits."

WCLP sites that Los Angeles County is operating two highly successful SSI advocacy projects. "One is aimed at persons discharged from public hospitals due to chronic health or behavioral conditions. The other program is focused on disabled and elderly persons who are in the county General Relief program. When the county engages with these recipients it offers immediate housing assistance so that they are not homeless. This makes it easier for the case management team to keep the SSI application on track by ensuring the recipients make doctor appointments and receive needed services while the application is pending. The cost for the housing comes from two sources. $100 comes from the recipients GR grant and the county provides up to $400. The county contracts with a non-profit housing provider who rents housing from private and non-profit providers. In most cases the person lives in a shared housing arrangement. When the SSI application is eventually approved, the person receives a retroactive benefit check from the day of the initial application. The county takes a portion of this amount to reimburse the housing assistance provided while the application was pending. This allows the county to then use the reimbursed funds to assist another person waiting for SSI application approval."

STAFF COMMENTS

Growing senior poverty has drawn significant concern and has been a priority for the Assembly over the last several years. Since the recovery, there have been many efforts to increase the grants for both individuals and couples by a modicum of support ($5 or $10 additional per month) or to reinstitute the annual COLA. Efforts to increase the grants more meaningfully in one year have resulted in costs too massive to be effectuated in a single budget (i.e. an effort to raise grants for individuals resulted in a $2.5 billion estimate).

Meanwhile, the grants remain at pre-recession levels and at the floor of what they can be reduced to at the state's discretion. Now, the Governor has provided a one-time small state COLA. Though not insignificant, it's the smallest theoretical increase that can be provided in the range of options, but can be built on with a further investment.

The LAO will present options in the hearing on how to phase in a grant increase over time, to bring the grants for individuals, which have been below the federal poverty guideline, to meet it and keep it there as inflation rises in future years. This will allow for a phase-in of the dollar investment and for the state to make progress in rebuilding the grants for California's aged, blind, and disabled community.

Staff Recommendation:

Staff recommends holding the SSI/SSP issues open.

As the Assembly continues to look at this issue, staff recommends the following:

- A request that LAO continue to collaborate with DSS and with advocates on developing viable options for a phase in of the grant increase for individuals, and for the grants for both individuals and couples to keep pace with inflation on an on-going basis.

- A request that LAO look at information on possible expansions of the SSI Advocacy program, working with advocates and DSS, and consult back with the Subcommittee prior to the May Revision.

ISSUE 2: IN-HOME SUPPORTIVE SERVICES (IHSS) PROGRAM –OVERSIGHT OVER IMPLEMENTATION OF OVERTIME POLICY – PROBLEMS AND ISSUES

PANEL

- Will Lightbourne, Director, and Eileen Carroll, Deputy Director, Adult Programs Division, California Department of Social Services
    - As background information on IHSS is included in the agenda, please begin by presenting on the implementation of the Federal Labor Standards Act (FLSA) overtime policy for the IHSS program. What is your general timeline, what issues are you resolving and how, and what is your forecast as May 1 approaches? **The section on Overtime starts on page 16 of this agenda.**

- Cathy Senderling, County Welfare Directors Association of California
    - Please present on the problems and issues raised by the IHSS Coalition. What have been the administrative challenges and what are your most pressing concerns moving forward?

- Deborah Doctor, Disability Rights California
    - Please present on the problems and issues from the consumer perspective.

- Olivia Ceballos-Cardona, IHSS Provider, Placer County
    - Please present on the problems and issues from the provider perspective.

- Phuong La, Department of Finance
    - Please present on the DOF perspective given the current conversation on problems and issues.

- Callie Freitag, Legislative Analyst's Office
    - Please present on the LAO perspective given the current conversation on problems and issues.

- Reaction from Department of Social Services and Department of Finance
    - How is the administration responding to the problems and issues raised?

- Public Comment

PROGRAM BACKGROUND

Program Description. The IHSS program provides personal care and domestic services to low–income individuals to help them remain safely in their own homes and communities. In order to qualify for IHSS, a recipient must be aged, blind, or disabled

and in most cases have income below the level necessary to qualify for SSI/SSP cash assistance. The recipients are eligible to receive up to a maximum of 283 hours per month of assistance with tasks such as bathing, dressing, housework, and meal preparation. Social workers employed by county welfare departments conduct an in-home IHSS assessment of an individual's needs in order to determine the amount and type of service hours to be provided. The average number of service hours that will be provided to IHSS recipients is projected to be approximately 102 hours per month in 2016–17. In most cases, the recipient is responsible for hiring and supervising a paid IHSS provider, oftentimes a family member or relative.

Costs. For nearly all IHSS recipients, the IHSS program is delivered as a benefit of the state–federal Medicaid health services program, known as Medi–Cal in California, for low–income people. The IHSS program is subject to federal Medicaid rules, including the federal medical assistance percentage reimbursement rate for California of 50 percent of costs for most Medi–Cal recipients. For IHSS recipients who generally meet the state's nursing facility clinical eligibility standards, the federal government provides an enhanced reimbursement rate of 56 percent referred to as Community First Choice Option. The nonfederal costs of the IHSS program are paid for by the state and counties, with the state assuming the majority of the nonfederal costs.

County MOE. Budget–related legislation adopted in 2012–13 created a county maintenance-of-effort (MOE) for IHSS. The county MOE generally sets counties' contributions to IHSS at their 2011–12 levels, and increases the contributions annually by 3.5 percent for inflation, plus a share of any wages and benefits subsequently negotiated at the county level. Under the county MOE financing structure, the state General Fund assumes all nonfederal IHSS costs above counties' MOE expenditure levels. In 2016–17, the Governor's budget estimates the total county MOE to be about $1.1 billion, an increase of $37 million above the estimated county MOE for 2015–16.

Overall Governor's Budget. The budget proposes $9.2 billion (all funds) for IHSS expenditures in 2016–17, which is an approximately $700 million (8.3 percent) net increase over estimated expenditures in 2015–16. General Fund expenditures for 2016–17 are proposed at nearly $3 billion, a net increase of $32 million, or 1.1 percent, above the estimated expenditures in 2015–16. Subcomponents of the Governor's Budget that affect IHSS are discussed in Issue 2 of this agenda as a separate item.

Caseload. Caseload growth and wage increases for IHSS providers continue to be two primary drivers of increasing IHSS service costs. The Governor's budget assumes the average monthly caseload for IHSS in 2016–17 will be about 490,000, an increase of 5.7 percent compared to the estimated 2015–16 average monthly caseload. Provider wage increases also contribute to increasing IHSS service costs. The Governor's budget includes $70 million General Fund ($150 million total funds) for a full–year impact of the state's minimum wage increase from $9 to $10 per hour that began on January 1, 2016. In addition, the budget reflects wage increases negotiated at the county level for IHSS providers.

LAO Comment. The LAO notes that the Governor's budget does not take into account wages negotiated after September 2015, including a county–negotiated wage increase from $10 to $11 for Los Angeles County IHSS providers effective February 1, 2016. The Los Angeles County wage increase is expected to cost the General Fund approximately $70 million in 2016–17. The Governor's revised estimates released in May will account for this and other negotiated wage increases that occurred after the development of the Governor's budget, but are set to take effect in 2016–17.

The following updated wage chart has been provided by DSS.

IHSS WAGES AND BENEFITS Rate Changes Effective February 1, 2016							
County	**Approved Rate**	**Wages**	**Tax**	**Health Benefits**	**Other Benefits**	**Admin**	**Effective Date**
ALAMEDA	$14.67	$12.50	$1.39	$0.72	$0.00	$0.06	Nov-14
ALPINE	$10.83	$10.00	$0.83	$0.00	$0.00	$0.00	Jan-16
AMADOR	$12.06	$10.00	$0.93	$0.60	$0.00	$0.53	Jan-16
BUTTE	$11.56	$10.00	$0.90	$0.60	$0.00	$0.06	Jan-16
CALAVERAS	$12.26	$10.00	$0.93	$0.54	$0.01	$0.78	Dec-15
COLUSA	$11.58	$10.00	$0.72	$0.00	$0.00	$0.86	Jan-16
CONTRA COSTA	$14.27	$11.50	$1.07	$1.31	$0.13	$0.26	Jun-10
DEL NORTE	$10.88	$10.00	$0.73	$0.00	$0.00	$0.15	Jan-16
EL DORADO	$12.02	$10.00	$0.90	$0.60	$0.00	$0.52	Jan-16
FRESNO	$12.19	$10.25	$0.99	$0.85	$0.00	$0.10	Oct-08
GLENN	$11.52	$10.00	$0.90	$0.00	$0.00	$0.62	Jan-16
HUMBOLDT	$11.10	$10.00	$0.90	$0.00	$0.00	$0.20	Jan-16
IMPERIAL	$11.74	$10.30	$0.94	$0.43	$0.00	$0.07	Feb-16
INYO	$11.77	$10.25	$0.95	$0.00	$0.00	$0.57	Oct-15
KERN	$11.74	$10.35	$1.20	$0.00	$0.00	$0.19	Feb-14
KINGS	$11.54	$10.25	$0.93	$0.00	$0.00	$0.36	Aug-15
LAKE	$11.26	$10.00	$1.06	$0.00	$0.00	$0.20	Jan-16
LASSEN	$11.02	$10.00	$0.76	$0.00	$0.00	$0.26	Jan-16
LOS ANGELES	$13.07	$11.00	$1.10	$0.92	$0.00	$0.05	Feb-16
MADERA	$11.37	$10.35	$0.94	$0.00	$0.00	$0.08	Apr-14
MARIN	$18.49	$13.35	$3.99	$0.82	$0.00	$0.33	Feb-16
MARIPOSA	$12.33	$10.61	$0.95	$0.00	$0.00	$0.77	Oct-15
MENDOCINO	$12.81	$11.00	$1.38	$0.00	$0.00	$0.43	Jan-16
MERCED	$11.88	$10.00	$1.80	$0.00	$0.00	$0.08	Jan-16
MODOC	$11.78	$10.25	$1.04	$0.00	$0.00	$0.49	Jan-16
MONO	$11.84	$10.00	$0.41	$0.00	$0.00	$1.43	Jan-16
MONTEREY	$14.73	$12.00	$2.16	$0.44	$0.00	$0.13	Sep-15
NAPA	$13.39	$12.10	$1.10	$0.00	$0.00	$0.19	Nov-14

IHSS WAGES AND BENEFITS Rate Changes Effective February 1, 2016							
NEVADA	$12.22	$10.00	$1.05	$0.60	$0.00	$0.57	Jan-16
ORANGE	$11.53	$10.20	$0.66	$0.60	$0.00	$0.07	Feb-16
PLACER	$11.92	$10.50	$1.05	$0.08	$0.00	$0.29	Sep-15
PLUMAS	$12.22	$10.00	$1.05	$0.60	$0.00	$0.57	Jan-16
RIVERSIDE	$13.29	$11.50	$0.92	$0.60	$0.00	$0.27	Jul-15
SACRAMENTO	$12.66	$10.80	$0.99	$0.80	$0.00	$0.07	Jan-14
SAN BENITO	$12.42	$10.90	$0.89	$0.20	$0.00	$0.43	Oct-14
SAN BERNARDINO	$11.35	$10.00	$0.80	$0.38	$0.00	$0.17	Jan-16
SAN DIEGO	$11.65	$10.00	$1.10	$0.34	$0.00	$0.21	Jan-16
SAN FRANCISCO	$16.18	$12.25	$1.32	$2.51	$0.00	$0.10	May-15
SAN JOAQUIN	$12.10	$10.00	$1.19	$0.74	$0.00	$0.17	Jan-16
SAN LUIS OBISPO	$12.96	$11.45	$1.03	$0.20	$0.00	$0.28	Jan-16
SAN MATEO	$15.18	$12.65	$1.27	$0.80	$0.28	$0.18	Apr-15
SANTA BARBARA	$12.59	$11.30	$0.91	$0.00	$0.00	$0.38	Jul-15
SANTA CLARA	$18.28	$13.00	$1.12	$3.87	$0.22	$0.07	Feb-16
SANTA CRUZ	$13.82	$11.90	$1.49	$0.20	$0.00	$0.23	Jan-14
SHASTA	$11.33	$10.00	$1.20	$0.00	$0.00	$0.13	Jan-16
SIERRA	$12.22	$10.00	$1.05	$0.60	$0.00	$0.57	Jan-16
SISKIYOU	$10.99	$10.00	$0.75	$0.00	$0.00	$0.24	Jan-16
SOLANO	$14.52	$11.50	$2.13	$0.60	$0.00	$0.29	Apr-08
SONOMA	$13.50	$11.65	$0.91	$0.60	$0.13	$0.21	Oct-13
STANISLAUS	$11.26	$10.20	$0.92	$0.00	$0.00	$0.14	Jul-15
SUTTER	$11.35	$10.00	$0.90	$0.00	$0.00	$0.45	Jan-16
TEHAMA	$10.89	$10.00	$0.75	$0.00	$0.00	$0.14	Jan-16
TRINITY	$10.82	$10.00	$0.72	$0.00	$0.00	$0.10	Jan-16
TULARE	$11.39	$10.30	$0.94	$0.00	$0.00	$0.15	Jul-15
TUOLUMNE	$10.75	$10.00	$0.75	$0.00	$0.00	$0.00	Jan-16
VENTURA	$13.31	$12.10	$1.09	$0.00	$0.00	$0.12	Jul-15
YOLO	$13.12	$11.02	$1.00	$0.60	$0.00	$0.50	Jan-16
YUBA	$12.30	$10.00	$1.43	$0.60	$0.00	$0.27	Aug-09

Note: Wages and benefits effective through February 1, 2016.

IHSS in the CCI. DSS was asked to provide an update on how IHSS is faring in the implementation of the Coordinated Care Initiative (CCI). The following information was provided as a quarterly summary.

"Each month, CDSS Adult Programs collects data from the seven CCI counties related to manage care organization (MCO) performance on 12 measures related to care coordination teams, MCO referrals to In-Home Supportive Services (IHSS), transition

from institutionalized settings to home and community based services (HCBS) and IHSS reassessments performed/IHSS hours authorized as a result of MCO requests.

Care Coordination Teams (CCTs): Care coordination teams (CCTs) were prescribed by the Legislature in Senate Bill (SB) 1036 (Chapter 45, Statutes of 2012) as an interdisciplinary approach to care management, including assessment, care planning, authorization of services and transitional care issues. MCOs reported to CCI counties that they convened a total of 564 CCTs during the second quarter of 2015-16.

Health Plan Referrals to IHSS: As a result of health risk assessments (HRAs) conducted by the MCOs, appropriate referrals are made to county IHSS programs. This will become a more integrated process when the Universal Assessment Tool is implemented. A total of 1,622 referrals to IHSS were made by MCOs in the CCI counties during the second quarter of the current fiscal year.

Health Care Certificates Signed Due to MCO Involvement: Welfare and Institutions Code §12309.1 mandates that applicants for IHSS submit to the county a health care certificate form (SOC 873), signed by a licensed health care provider. During the second quarter of the fiscal year, four of the seven CCI counties reported that some health care certificates were signed due to MCO involvement.

Transition of Consumers from Institutional Settings to HCBS: During the second quarter of 2015-16, MCOs in the seven CCI counties reported that they successfully transitioned 32 consumers from institutional settings [skilled nursing facilities (SNFs) and other short- and long-term care facilities] to home and community based settings in accordance with the mandates of the *Olmstead* decision.

Total Expedited Assessments Followed by CCI Liaison: During the second quarter of 2015-16, MCOs in the seven CCI counties reported 181 CCI liaison follow-ups to expedited IHSS assessments.

MCO Reassessment Requests and Increased IHSS Hours: When MCOs conduct HRAs among plan members who are already receiving IHSS, the plans may find that additional services are needed in order for members to remain safely in their own homes. In that case, the MCO would request that the county conduct an IHSS reassessment.

- During the second quarter of 2015-16, MCOs in the seven CCI counties reported a total of 173 reassessment requests that actually resulted in an increase in the plan member's authorized IHSS hours.
- MCOs reported to the counties that IHSS recipients' authorized service hours were increased by a total of 2,422 (and decreased by only 295) as a result of MCO reassessment requests during the quarter."

OVERTIME IMPLEMENTATION

The following chart has been provided by DSS on the implementation of the overtime policy. DSS has been asked to present on the pending implementation and the identification of problems and issues.

Completion Date	Milestone	State/County Activities
February 1, 2016	**Implementation of overtime**	**Implementation of Federal Labor Standards Act (FLSA) requirements – SB 855 and SB 873 workweek and overtime provisions.** • CDSS released ACL 16-01 to provide counties with instructions, including the policies and procedures for implementation of the overtime, workweek requirements, (pursuant to SB 855 and SB 873). These included the revised forms and notices (including the workweek agreements for providers and recipients).
		Timesheets and Travel Claim Form - Timesheet (SOC 2261) and CMIPS modifications were made to accommodate the payment of overtime implemented on February 1, 2016 as well as claiming of travel time.
Feb 9, - Feb 26, 2016	**Training Sessions**	**Training-for-Trainer (T4T) sessions commenced February 9, 2016, and concluded February 26, 2016.** • CDSS conducted the training sessions statewide to approximately 320 trainers at the counties, Public Authorities (PAs), and labor organizations.
February 21, 2016	**Overtime Exemption 1**	**Overtime Exemption 1: Live-In Family Care Provider Overtime Exemption.** • CDSS released ACL 16-07 to provide counties with information for implementing Overtime Exemption 1. IHSS providers who want to qualify for Overtime Exemption 1 must submit the completed SOC 2279 to CDSS by April 1.
Currently in process	**Overtime Exemption 2**	**Overtime Exemption 2: Extraordinary Circumstances.** • CDSS is developing a second exemption to allow IHSS providers to work beyond a recipient's maximum weekly hours or beyond the 66-hour workweek limitation.
April 15, 2016	**Forms and Workweek Agreements**	**Deadline for <u>completed forms</u> SOC 846, SOC 2256 and SOC 2255 to be returned (completed) to counties for processing**
May 1, 2016	**Violations**	**Violations (Non-Compliance with Workweek and Overtime Requirements) -** Grace period ends. Violations for non-compliance with workweek and overtime requirements will be formally enforced beginning May 1, 2016.

Overtime in IHSS. As shown in the figure below, the 2016–17 budget includes full-year funding ($850 million total funds, $395 million General Fund) to comply with federal labor regulations that became effective in 2015–16. The new regulations require states to (1) pay overtime compensation, at one-and-a-half times the regular rate of pay, to

IHSS providers for all hours worked that exceed 40 in a week, and (2) compensate IHSS providers for time spent waiting during medical appointments and traveling between the homes of IHSS recipients.

Budget-related legislation passed in 2014 generally restricts IHSS providers to work no more than 66 hours per week. Although these federal regulations were issued in 2013, legal challenges in the federal courts halted implementation. In anticipation of a federal court decision requiring implementation sometime in 2015, the 2015-16 budget included partial-year funding to implement the regulations, contingent on the courts' validation, but did not specify an implementation date. Following a federal court decision in August 2015 that affirmed the validity of the rules, the state set an implementation date of February 1, 2016 for the new regulations to take effect in IHSS.

IHSS Costs to Comply With New Federal Labor Regulations (In Millions)

	2015–16 Estimates (February 1, 2016 Implementation)			2016–17 Governor's Proposal (Full–Year Cost of Compliance)	
	General Fund	Total Funds		General Fund	Total Funds
Overtime premium pay	$164	$356		$218	$475
Newly compensable work activities	117	247		172	366
Administration	25	50		2	5
Changes to time sheet and payrolling system (CMIPS II)	6	11		2	4
Totals	**$312**	**$664**		**$395**	**$850**

CMIPS II = Case Management, Information and Payrolling System.

LAO Comment. The 2015–16 budget assumed that the new federal labor regulations would be implemented on October 1, 2015. Since then, the administration has established an implementation date of February 1, 2016. Rather than reduce the 2015–16 IHSS budget by an estimated $120 million General Fund to account for the implementation delay, the administration has indicated that it made the decision to keep this funding in the budget to provide for any unforeseen costs associated with the new regulations. The LAO notes that the methodology the administration used to estimate 2015–16 expenditures related to implementation of the new rules already provided contingency funding to account for some level of uncertainty. As a result, the LAO states that IHSS may be overbudgeted by around $120 million General Fund in 2015–16.

Hours Limitations Part of Overtime Implementation. The 2016–17 budget includes a full year of funding for IHSS provider overtime and newly compensable work activities. This estimate reflects the statutory caps adopted in 2014, before federal courts placed a temporary hold on implementation, generally limiting the number of hours an IHSS provider can work to 66 hours per week. When multiplied by roughly four weeks per month, this weekly limit is about equal to the maximum number of service hours that

may be allotted to IHSS recipients per month. The Governor's budget estimates that 28 percent of providers typically work more than 40 hours per week, and that most of these providers generally work less than the new 66 hour per week cap. The legislation establishing the caps also limits the amount of time an IHSS provider who works for multiple recipients can spend traveling between the homes of recipients to seven hours per week. DSS estimates that of the approximately 18 percent of IHSS providers who serve more than one recipient, most spend under seven hours per week traveling between recipients. These limitations will be enforced by a tiered penalty system developed by DSS. Providers can be terminated if they violate these limitations on multiple occasions.

Limited Exceptions Policies Developed. After the 2016–17 Governor's budget was released, DSS issued guidance to counties establishing two exemptions to the overtime cap: (1) an exemption for live–in family care providers, and (2) a temporary exemption for extraordinary circumstances. Current law does not provide specific authority for these exemptions, but the conventional understanding is that the administration will be seeking statutory authority for these exemptions through the budget process.

The first exemption is for IHSS providers who are related to, live with, and work for two or more IHSS recipients. For these providers, the overtime cap is extended to 90 hours per workweek (not to exceed 360 hours per month). In 2015–16, it is estimated that approximately 760 IHSS providers met this criteria. For the second exemption related to extraordinary circumstances, DSS (in consultation with the Department of Health Care Services), is in the process of establishing criteria for temporarily exempting IHSS providers from the 66–hour workweek limit in situations where the limit would place IHSS recipients at risk of out–of–home institutionalized care. At this time, the Governor's budget does not include funding to account for either of the two exemptions.

Based on the number of providers estimated to meet the live–in family care provider exemption in 2015–16, the LAO estimates that this exemption could result in General Fund costs in the low millions of dollars annually. Until more guidance is issued about how the extraordinary circumstances exemption may be applied, it is difficult to estimate potential costs.

Three–Month Grace Period. The legislation that enacted the overtime and travel time limits for IHSS providers also established a grace period for the first three months of implementation, now spanning February 1 through May 1, 2016. During this grace period, providers will not accrue penalties if they violate the overtime and travel time limits. County social workers, however, may work with IHSS providers found violating the limits and inform them of the violation without penalty during this time.

Ongoing Implementation Monitoring. DSS states that it will continue to provide training sessions and monthly data, and counties will provide technical assistance and coaching to providers on how to fill out time studies properly. In addition, the Department will provide data in quarterly reports starting six months after implementing the FLSA that will include data on the number of timesheets with overtime, number of

exemptions, payroll stats, etc. This is in addition to the requirement for a study that was included in SB 855 of 2014, the statute that codified the overtime policy. Welfare and Institutions Code section 12300.41 requires a study to be completed after a two-year period of implementation after the grace period, in consultation with stakeholders, and reported to the Legislature.

COUNTY AND ADVOCATES' PROPOSALS

The IHSS Coalition, comprised of a group of 50 advocacy organizations, including County Welfare Directors Association, California Association of Public Authorities, Disability Rights California, Service Employees International Union, UDW/AFSCME, Congress of California Seniors, California Council of the Blind, and The Arc, has submitted a letter identifying multiple problems and issues with the pending implementation of the IHSS overtime policy. Due to the complex and interconnected nature of these concerns, the contents of the full letter is included here for review by the Subcommittee and the public.

"The undersigned organizations respectfully request your consideration of necessary statutory changes to support the implementation of the Fair Labor Standards Act (FLSA) as it applies to the In-Home Support Services (IHSS) Program. These changes are needed to enable IHSS consumers and providers to comply with the new mandates and reduce possible harm that may result absent these changes.

We have serious concerns with the current policy, which places undue pressure on IHSS consumers and providers to navigate a complex myriad of new rules and procedures for overtime and travel time. Despite our collective efforts to educate IHSS consumers and providers on the new rules, we believe the current rules are unmanageable and a set up for failure. Several aspects of implementation are simply too cumbersome to properly implement. This places IHSS consumers in jeopardy of losing their providers and worse, potentially risks their health and safety.

To prevent unintended and undesired harmful consequences to IHSS consumers, we have identified several changes necessary to enable both IHSS consumers and providers to comply with FLSA requirements. Below we identify specific areas of needed changes and these changes are presented in order of what we believe are the priority areas to be addressed:

1. **Extend the Grace Prior to September 1, 2016 before Violations Begin to Toll:** The current grace period for providers, before violations begin to toll, begins May 1, 2016. Given the significant changes in the program and challenges in recruiting additional IHSS providers, this grace period should be extended, to September 1, 2016, before consequences for violating overtime and travel time limits become effective. This will give additional time to make programmatic changes necessary to comply with FLSA.

2. **Ensure that consumers can continue to receive services to remain safely at home:** A small number of IHSS providers care for more than one consumer with highly specialized needs. The overtime limit means that they cannot continue to provide that care if the consumers' combined hours exceed 66 per week. These providers are parents with more than one child with disabilities, an adult caring for two parents with dementia, an adult caring for a spouse and a child, both with disabilities. There may not be a suitable additional provider available to avoid an overtime situation. When no other provider is available, the consumer cannot receive the services which were authorized as needed for safety in their homes.

   The California Department of Social Services (CDSS) has recognized this issue and is attempting to address this administratively. However, statutory protections are needed to allow for situations when a provider can work above the CDSS cap of 66 hours/week in certain, limited situations, including:

   - Providers who are the parent, step-parent, grandparent or legal guardian of two or more children (including providers approved after Jan 31, 2016);
   - Spouses, domestic partners, adult children caring for parents, adult siblings, and adult grandchildren, when no other suitable provider is available; and
   - Individual consumer situations when there is no other suitable provider is available, the recipient would be at risk of out-of-home placement, or the recipient[1]s health (including physical, psychiatric or emotional) or safety would be at risk.

   In addition, statute should allow some providers to work over 90 hours/week in limited situations based on individual consumer needs when there is no other suitable provider is available, the recipient would be at risk of out-of-home placement, or the recipient[1]s health (including physical, psychiatric or emotional) or safety would be at risk.

3. **Align IHSS Authorized Hours with FLSA Policy:** Current law requires a monthly authorization of hours, yet FLSA requires consumers and providers to track their hours by the week. When counties perform assessments, the majority of tasks are assessed at a weekly amount, then converted to a monthly amount. By overlaying FLSA requirements, consumers now have to take an *additional* step of converting back to a weekly amount. These extra steps are not only unnecessary, but can easily lead to errors in the calculation, which may result in a provider working more than s/he is permitted. This can increase costs to the IHSS program and could result in violations, and eventual termination, of the provider. The following changes are needed to align FLSA implementation with the IHSS Program:

   - **Pay Providers on a bi-weekly basis in 26 equal pay periods:** Currently the IHSS program pays providers twice per month (1-15th and 16-30/31st day of each month). SB 855 now requires recipients/providers to track hours worked per week (Saturday through Sunday). Because a workweek

can break across two different months, this makes tracking time worked and overtime difficult and inconsistent with SB 855. Aligning the pay period to the SB 855 workweek will require a one-time programing change to the CMIPS Payrolling System and align the IHSS pay schedule with the FLSA work week.

- **Create equitable caps in overtime for IHSS Providers:** CDSS has created two different caps for providers: providers serving one consumer may be compensated for hours worked up to 70.75 hours per week, while providers serving multiple consumers may be compensated at 66 hours per week. This is unfair to consumers and creates new challenges to Public Authorities to recruit additional registry providers for clients. This policy should be revised to allow providers with multiple consumers to receive compensation up to the 70.75 hour weekly cap.

- **Authorize all IHSS tasks by the week:** Most tasks are already assessed according to a workweek except for Domestic Services, which is assessed up to 6 hours per month, and under this proposal, would be assessed up to 1.5 hours per week to align with all other IHSS tasks.

- **Retain current flexibility in the IHSS program:** Consumers have fluctuating needs for services based on their health needs, and the IHSS program has always provided flexibility to adjust hours to the consumer's needs, so long as the total hours remained within their monthly authorization. Consumers should be able to retain this flexibility to move hours without having to contact the county to seek permission.

4. **Pay for Certain Services in Arrears to Align with FLSA:** FLSA requires payment for travel time between consumers on the same day and SB 855 allows travel time to be paid in arrears after the travel is incurred, up to 7 hours per week. The travel time is not taken from the consumers' authorized hours, it is an addition. FLSA also now requires payment for wait time at medical appointments. However, wait time is deducted from authorized hours. Therefore, consumers with the highest need, who are already at or near the 195/238 monthly authorization cap are prevented from actually claiming this new service. This puts them in jeopardy of either not having their provider to assist them at medical appointments, or if the provider claims those wait time hours, they do so at the cost of not providing other needed services. It is also difficult to accurately predict wait time since doctor's appointments can vary.

   In addition, other services occur infrequently, at irregular intervals, or cannot be easily assessed for time until after the tasks are rendered. For example: yard hazard abatement, ice/snow removal, heavy cleaning and teaching and demonstration, are services that occur infrequently but are often critical in maintaining the safety of the recipient in their home and community, and should be paid in arrears.

5. **Permit Waiver Clients to Access Public Authority Registry Services:** Currently Public Authorities are only allowed to provide access to registry services to IHSS consumers. Yet, consumers of Waiver Personal Care Services (WPCS) are excluded from registry services, even though WPCS consumers use IHSS-like services (and often use both IHSS and WCPS services) and are also subject to the new FLSA rules. This proposal would simply allow WPCS consumers to also contact the registry to help them identify in-home providers.

The advocates anticipate that these changes will reduce confusion to IHSS consumers and providers as they try to comply with the new overtime rules. While we are still developing a fiscal estimate for these changes, but ultimately, we believe these changes will result in marginal new costs for additional overtime paid during the grace period and expansion of service hours. There are one-time costs associated with changes to the CMIPS system to convert to a bi-weekly pay period. We believe there will also be offsetting savings as a result of reduced county workload to address provider violations and helping consumers to find new providers and back-up providers, and potential savings in hospitalizations and other institutional care settings by avoiding unintentional harm to consumers and providers. Once we have additional information regarding the overall fiscal impact we will provide that to the Committee and staff."

STAFF COMMENTS

IHSS will undergo an enormous, complicated systems change as FLSA overtime rules continue to take effect and post May 1, once the grace period ends. For cases on the margin, where a provider cares for a person with high hours and acute needs or for more than one consumer, there needs to be careful attention paid to the possible disruption of services. Guidance from the federal government urges states to comply with the Americans with Disabilities Act and the *Olmstead* decision while states at the same time seek to implement the overtime rules. Promotion of the "most integrated settings" and preventing "unjustified segregation of persons with disabilities" is urged to be accomplished by states in their planning, service system design, funding choices, or service implementation practices.

Where simplified, presumptive exemptions can be offered to avoid harm for provider-consumer relationships that appear fragile, these are worthwhile to secure consumers' continued support to live in their homes and communities and avoid institutionalization. DSS has approaches on exemptions that they presumably will seek to codify in trailer bill, through which the Legislature can influence as compassionate and efficacious an approach as possible to avoid adverse consequences for the frail, disabled, and elderly who are reliant on the program.

Staff also urges consideration and questions to the Administration by the Subcommittee of the following ideas:

- ☐ **Consideration and Costs of Expanding the Grace Period.** What would it cost to expand the grace period until September 1, 2016 or for some time before then? What are the particular automation and instruction challenges associated with this and what would their cost ranges be?

- ☐ **County Readiness.** What are the benchmark metrics to determine if counties are ready to implement the violations policy in a fair way for providers and consumers? Are the registries positioned and capable of providing potential new providers to consumers? What happens if they're not?

- ☐ **Consumer and Provider Readiness and Understanding.** Are workweek agreements being completed correctly? Are timesheets being completed correctly? Do consumers and providers understand the hours calculations and the consequences of erroneous accounting?

- ☐ **Protection of Vulnerable Classes.** When will the exceptions processes be finalized? Will and how will the program be noticed about the finalized policies? Will DSS target outreach to the possible affected consumers,? What will be the internal checks to assure that the process or processes are understood and are working?

- ☐ **Continuing Problem Identification and Oversight.** How will DSS identify issues and provide progress report information to the Legislature, stakeholders, and the public? On what time basis will this occur?

Staff Recommendation:

Staff recommends the following regarding FLSA implementation in IHSS:

- A request to DSS to examine the cost and programmatic effects of expanding the grace period beyond May 1 and to provide an analysis to the Subcommittee by March 31 as this discussion continues.

- A request to DSS to work closely with the IHSS Coalition to ascertain the full magnitude and severity of the issues they raise and to consider options to ameliorate future issues with implementing overtime, providing needed exceptions, and implementing the violations policy fairly after the grace period ends.

Aside from these requests, staff recommends that the FLSA issues in IHSS be held open.

ISSUE 3: IHSS – ADDITIONAL PROPOSALS IN THE GOVERNOR'S BUDGET

PANEL

- Will Lightbourne, Director, and Eileen Carroll, Deputy Director, Adult Programs Division, California Department of Social Services
    - Please present on each of the three proposals in the Governor's Budget for IHSS as outlined in the agenda.

- Phuong La, Department of Finance
    - Please present on each of the three proposals in the Governor's Budget for IHSS as outlined in the agenda.

- Callie Freitag, Legislative Analyst's Office
    - Please present on each of the three proposals in the Governor's Budget for IHSS as outlined in the agenda.

- Public Comment

BUDGET PROPOSALS

DSS, DOF, and LAO will review these components of the 2016-17 proposed Governor's Budget for IHSS as part of their testimony.

1. **Restoration of the 7 Percent Service Hours Reduction.** The Governor's Budget had proposed to continue the restoration of the 7 percent across-the-board reduction in IHSS authorized hours of service in the 2016-17 budget year, funded with resources generated through the Governor's Managed Care Organization (MCO) tax proposal. The cost to restore the 7 percent is estimated to be $236 million in 2016-17. In 2015–16, the service hours were restored through the use of the General Fund on a one–time basis, with the intent that an alternative funding source would be used in future years. The 7 percent restoration relates to terms of an IHSS settlement agreement, adopted by the Legislature, which resolves two class-action lawsuits stemming from previously enacted budget reductions.

2. **Contract Mode Adjustments to Maintenance of Effort Trailer Bill Language.** DSS proposes to clarify in existing law that counties are responsible for paying the entire nonfederal share of any IHSS cost increase exceeding the maximum amount of the State's participation, and that the counties' share of these expenditures are included in the county IHSS maintenance of effort (MOE). DSS states, "Beginning July 1, 2012, all counties in California were required to have a county IHSS MOE which would be in lieu of paying the nonfederal share of IHSS costs. Statute specified that the county's IHSS MOE would be based on expenditures from 2011-12 and would be adjusted by an inflation factor of 3.5 percent annually beginning July 1, 2014. In addition, the county IHSS MOE would be adjusted for the

annualized cost of increases in provider wages and/or health benefits that were locally negotiated, mediated, or imposed prior to the Statewide Authority assumption of its responsibilities. If CDSS approved a rate or benefit increase, the state would be responsible for 65 percent of the nonfederal share of the costs while the county would be responsible for the remaining 35 percent with a limit for the state of up to $12.10 per hour for wages and health benefits. The proposal seeks to clarify and affirm the intent of existing law that the increased costs to the contract mode are shared by the counties, consistent with the IHSS MOE."

3. **IHSS Case Management, Information and Payrolling System (CMIPS II) Maintenance and Operations (M&O) Budget Change Proposal (BCP).** The Governor's Budget requests staff resources (2.0 positions) totaling $232,000 ($117,000 General Fund) to ensure the state's ability to address a substantial new and ongoing workload of the CMIPS II project for the Universal Assessment Tool (UAT). The CMIPS II IT system stores IHSS case records, provides program data reports, and processes IHSS provider payments. The UAT is a product of AB 664 (Chapter 367, Statutes of 2015), introduced in February 2015, and will be implemented in 2016-17. Existing law requires the three main Home and Community-Based Services (HCBS) programs – IHSS, Community-Based Adult Services, and Multipurpose Senior Services Program – to perform their own eligibility determinations and service assessments. The bill establishes the UAT to create a single HCBS assessment record to improve care coordination and data collection between the HCBS programs.

STAFF COMMENTS

Staff comments for each of the three proposals are as follows:

1. **Restoration of the 7 Percent Service Hours Reduction.** The MCO package adopted by the Legislature on February 29, 2016 did not include the 7 percent restoration on an ongoing basis, however the understanding is that the Governor's commitment to restoration stands with the use of General Fund. It is expected that the May Revision will include the funding for the ongoing restoration of the full 7 percent and the staff recommendation below is that the Subcommittee approve this with accompanying trailer bill changes to repeal the 7 percent cut.

   Many advocates, including many members of the IHSS Coalition, have written in support of the on-going restoration of the hour reduction, citing the harm and adverse impacts on the whole IHSS community of the recessionary cut. Assemblymember Cheryl Brown, Chair of the Assembly Committing on Aging and Long-Term Care, has also written in support of this request.

2. **Contract Mode Adjustments to Maintenance of Effort Trailer Bill Language (TBL).** Extensive feedback has been received by the California State Association of Counties (CSAC), County Welfare Directors Association of California (CWDA), and

the California Association of Public Authorities (CAPA). An excerpt of their letter is below:

"The Administration's proposed TBL would adjust a "contract mode" county's IHSS MOE for ALL increases in the cost of the contract, not just those cost increases associated with locally negotiated provider wage or health benefit increases. The contract costs that are not associated with provider wages and health benefits are comparable to other IHSS costs that are already covered by the 3.5 percent inflation factor and do not result in the calculation of a separate IHSS MOE adjustment in addition to that 3.5 percent. The proposed TBL is inconsistent with the existing statutory framework for how counties' IHSS MOEs are to grow over time. That framework for growth was part of the original IHSS MOE agreement between the Administration and counties when the IHSS MOE was put into place. The proposed TBL would, in effect, result in a county being charged twice for those contract cost increases that are beyond provider wages and health benefits, once as a part of the 3.5 percent inflation adjustment and again in the separately calculated IHSS MOE adjustment.

CSAC and CWDA are not opposed to TBL that would clarify that county IHSS MOEs should be increased for the county's share of contract provider wage or health benefit increases resulting from local negotiations, consistent with the IHSS MOE adjustment made for locally negotiated wage or health benefit increases for all other IHSS providers. The proposed TBL is currently much broader than that. Therefore, we respectfully request that you either reject the proposed TBL or adopt a modified version that is consistent with current law."

Given this feedback, staff will continue to look closely at the TBL and ask DSS for its reaction to the stakeholders' points.

3. **CMIPS II BCP.** Staff submitted the following question to DSS and received some responses just as this agenda was being finalized. Staff will review the responses and advise the Subcommittee once these have been more thoroughly considered.
    - What was the original timeframe for the UAT?
    - Please describe the purpose of this at a simplified level? How will CMIPS II be enhanced? Provide examples.
    - How does this relate to overtime implementation at all?
    - Is the UAT one tool for all programs (which ones?) for everyone?
    - What are the objectives of the stakeholder workgroup?

Staff Recommendation:

Staff recommends that the Subcommittee approve the continued, on-going restoration of the 7 percent across-the-board hours reduction, with accompanying placeholder trailer bill changes to reflect the repeal of the hours cut.

Apart from this action, staff recommends holding all other issues in IHSS open.

ISSUE 4: IHSS – ADVOCATES' PROPOSALS

PANEL

- Deborah Doctor, Disability Rights California
  - Please present on the Share of Cost Buy-Out restoration proposal. (Please note that Deborah Doctor of Disability Rights California is available for questions on this item as well.)

- Kim Rutledge, UDW/AFSCME Local 3930
  - Please present on the CMIPS II Reprogramming for Additional Hours in the CCI proposal.

- Will Lightbourne, Director, and Eileen Carroll, Deputy Director, Adult Programs Division, California Department of Social Services
  - Please provide any technical feedback or thoughts on the two proposals being heard by the Subcommittee.

- Phuong La, Department of Finance
  - Please provide any technical feedback or thoughts on the two proposals being heard by the Subcommittee.

- Callie Freitag, Legislative Analyst's Office
  - Please provide any technical feedback or thoughts on the two proposals being heard by the Subcommittee.

- Public Comment

ADVOCATES' PROPOSALS

1. **Restoration of the IHSS Share of Cost (SOC) Buy-Out.** The Subcommittee is in receipt of a proposal from the IHSS Coalition requesting reversal of a reduction made as part of the 2009 Budget that eliminated what is known as the "share of cost buy-out" for IHSS consumers. The advocates state that the 2009 repeal of the IHSS share of cost buy-out left some IHSS consumers, who have income above the SSI amount (currently $889.40 for an individual) with substantially less than the inadequate SSI level income to live on. "To receive IHSS, they must spend down to $600, the Medically Needy amount. Having only $600 to live on leaves these consumers at more risk for institutionalization, and makes it more difficult if not impossible for some people to leave nursing homes, faced with the prospect of living on $600 a month.

   An IHSS consumer with a SOC must make an out–of–pocket monthly payment

towards the receipt of IHSS services. Most IHSS consumers qualify financially for Medi-Cal and IHSS because they are on SSI. Those consumers do not have to pay a SOC. Some consumers with income higher than SSI may qualify for Medi-Cal and IHSS through other programs, without a share of cost or with a share of cost which brings their income to the SSI level. However, an individual IHSS consumer with a countable income above $1,211, who does not qualify for one of the other programs, must pay a share of cost which leaves the consumer with only $600 a month to live on – the Medically Needy Income Level. This means that some seniors and people with disabilities with a modest Social Security or private retirement benefit end up with less than someone who depends on SSI. [For example:] If an IHSS consumer has SSI of $889.40, no share of cost is required. If an IHSS consumer has countable monthly income of $1,300, that consumer must pay $700 towards IHSS services, leaving $600 to meet all housing and food and other expenses."

2. **CMIPS II Reprogramming for Additional Hours in the CCI.** Several organizations, including UDW/AFSCME, SEIU California, California Association of Public Authorities for IHSS, Congress of California Seniors, and Disability Rights California have written to urge the Subcommittee to consider an action to require the reprograming of the the Case Management Information and Payrolling System (CMIPS) II to allow managed care plans to pay IHSS providers for additional hours authorized through the Coordinated Care Initiative.

   "The Coordinated Care Initiative (CCI) was established in 2012 to integrate all aspects of health care and long-term care services, including IHSS, into managed care for dual eligibles (individuals who have both Medicare and Medi-Cal) and other Medi-Cal beneficiaries in seven pilot counties. The CCI statute includes the provision for managed care plans providing services in CCI to authorize and pay for extra homecare services beyond what an IHSS social worker has authorized for a consumer enrolled in CCI. However, the managed care plans are prohibited by statute from paying an individual provider of homecare services directly. Further, there is no mechanism in current statute to pay an individual provider to provide these extra homecare services that are authorized and funded by the managed care plans. In order to maintain the continuity of care necessary for IHSS consumers enrolled in CCI, we are requesting the State to reprogram CMIPS II, the current IHSS payroll system, to receive payment from managed care health plans for the additional personal care service hours. Now that the State has indicated that the CCI will continue for the foreseeable future, giving the health plans a mechanism to pay individual homecare providers for additional services will allow CCI consumers to receive all of the care they need in order to continue residing safely in their own homes as opposed to being forced into more costly institutions."

STAFF COMMENTS

Both proposals from the advocates have merit for further consideration by the Subcommittee. Staff offers the following questions that advocates, the administration, and LAO can play a role in helping to answer as advocacy on these issues proceeds:

1. **Restoration of the IHSS Share of Cost (SOC) Buy-Out.** What was the General Fund savings when this reduction was made? Advocates raise other questions regarding the Health Care Deposit Fund that need to be resolved. What would it cost to reinstitute a SOC buy-out for IHSS and how many consumers would be affected? What could be the off-setting savings of providing this buy-out?

2. **CMIPS II Reprogramming for Additional Hours in the CCI.** What is the cost of making this change and how could this work with other systems changes planned and anticipated in the CMIPS II system? What has this inability done to promote opt-out among IHSS consumers in the CCI? How would this change improve the condition of IHSS consumers participating in the CCI?

Staff Recommendation:

Staff recommends holding these issues open.

ISSUE 5: ADULT PROTECTIVE SERVICES – BUDGET AND PROGRAM REVIEW AND TRAINING PROPOSAL

PANEL

- Will Lightbourne, Director, and Eileen Carroll, Deputy Director, Adult Programs Division, California Department of Social Services
    - Please present on current situation for the APS program, particularly how it has changed since it was realigned in 2011.

- Chi Lee, Department of Finance
    - Please provide any other comments on the APS program from the DOF perspective.

- Sara Stratton, APS Supervisor, San Francisco County Human Services Agency
    - Please present on the APS Training proposal before the Subcommittee.

- Callie Freitag, Legislative Analyst's Office
    - Please provide any feedback on the APS Training proposal.

- Public Comment

PROGRAM OVERVIEW

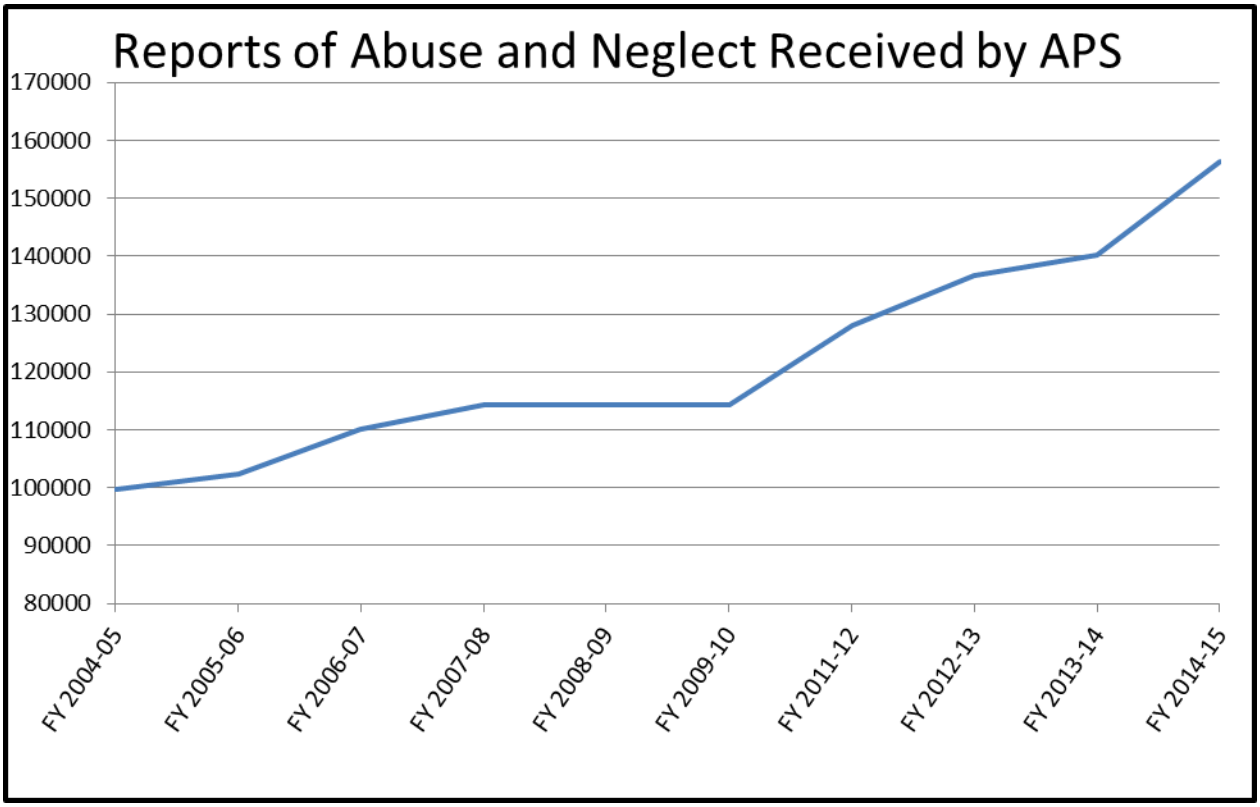
Background on APS. California's Adult Protective Services (APS) programs provide 24/7 emergency response to reports of abuse and neglect of elders and dependent adults. APS social workers deliver critical, often life-saving, services in a variety of abuse and neglect situations, including financial abuse. These social workers conduct in-person investigations on complex cases, often in coordination with local law enforcement, and leverage other system supports on behalf of victims including legal aid programs, the judiciary, and long-term care services. APS social workers must be adept at helping victims and their families to navigate other systems such as conservatorships and to local aging programs for needed in-home services. Their efforts often enable elders and dependent adults to remain safely in their homes and communities, thus avoiding costly institutional placement into nursing homes.

APS Funding and Training Today. The APS program was primarily a state-funded program until 2011, when the program was realigned and counties now have 100 percent fiscal responsibility for the program. However, DSS retained program oversight and regulatory and policy making responsibilities for the program. This included responsibility for funding and supporting the statewide training of APS workers in order to ensure consistency. DSS currently contracts with local universities to deliver this training. Unfortunately, training for county APS workers has not kept up with caseload and demand, and as a result, training for APS workers and their partner agencies is woefully underfunded. Currently only $88,000 State General Fund ($176,000 total

funds) is allocated to DSS for statewide APS training. This funding has not been increased for the past 11 years, despite the fact that APS reports statewide have risen by 90 percent between 2000-01 and 2014-15. As a point of comparison, APS and CWS workers protect equally vulnerable populations who suffer from abuse and neglect, yet APS workers receive less than 1 cent for every 1 dollar of state- and federally-funded training that is provided to CWS workers. At the current funding level, it is not possible to provide adequate training for APS staff – leaving workers often under-prepared as they go into the field to protect vulnerable seniors and dependent adults.

The following information has been recently provided by DSS on APS. APS investigates over 150,000 reports of elder and dependent adult abuse per year in California, at an annual total cost of approximately $126 million for 2013-14. The program's mandate is to investigate and provide remediation to any elderly and disabled person living in the community who is alleged to be experiencing abuse, neglect or exploitation. Cases range from simple situations such as providing food for a person who has lost their wallet to extremely complex situations of financial abuse involving property transfers and money laundering through multiple accounts. It is common for a simple case to become complex when the client is found to have a dementing condition which makes it unsafe for him/her to continue to live alone or handle his/her own affairs.

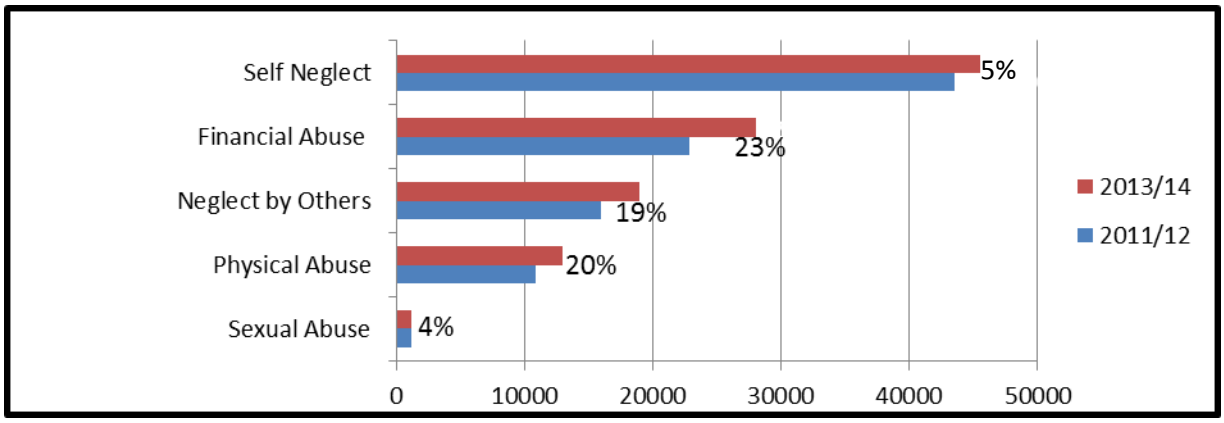
- Cases closed in less than 30 days.....51% of all closed cases
- Cases closed in 30 days or more, but less than 60 days.....29% of all closed cases
- Cases closed in 60 days or more, but less than 90 days.....10% of all closed cases
- Cases closed in 90 days or more, but less than 180 days.....7% of all closed cases
- Cases closed in 180 days or more.....3% of all closed cases



Source: APS and County Services Block Grant Monthly Statistical Report.

Changes in Abuse Findings by Type since Realignment. The most prominent change in abuse findings has been a 23 percent increase statewide in inconclusive and confirmed findings of financial abuse between 2011 and 2014. These investigations are some of the most time consuming and complex cases that APS investigates and therefore they represent a large increase in workload for APS programs. The chart below shows the changes in the number of findings by abuse type and the percentage of that change.

Changes in Numbers of Confirmed /Inconclusive Findings of Abuse by Type from 2011-12 to 2013-14



Changes in Expenditures for APS since Realignment. Due to the implementation of 2011 Realignment, the Local Revenue Funds (LRF) for the APS program are part of each county's Protective Services Account that gives each county the flexibility to fund the various Child and Adult Protective Services programs based on the county's individual service needs. The APS expenditures reported by the counties have increased 5 percent statewide from 2011-12 ($119 million) to 2013-14 ($126 million). The chart on the next page displays the county specific APS expenditures for 2011-12 and 2013-14 by county size (large, medium, small and very small).

Chart 1
Changes in Total Expenditures for APS since Realignment
(Counties listed by size categories)

COUNTIES	FY 2011-12 Expenditures*	FY 2013-14 Expenditures*	Amount Changed	Percentage Changed
Large Counties**				
ALAMEDA	$6,286,835	$7,181,284	$894,449	14.23%
CONTRA COSTA	$1,931,055	$2,650,380	$719,325	37.25%
FRESNO	$1,926,870	$1,925,529	($1,341)	-0.07%
KERN	$1,164,687	$1,494,678	$329,991	28.33%
LOS ANGELES	$31,066,160	$29,156,041	($1,910,119)	-6.15%
ORANGE	$5,797,692	$6,475,793	$678,101	11.70%
RIVERSIDE	$3,603,405	$4,549,445	$946,040	26.25%
SACRAMENTO	$5,294,030	$6,145,970	$851,940	16.09%
SAN BERNARDINO	$2,661,326	$2,969,144	$307,818	11.57%
SAN DIEGO	$5,336,953	$6,829,243	$1,492,290	27.96%
SAN FRANCISCO	$19,800,011	$19,278,278	($521,733)	-2.64%
SAN JOAQUIN	$913,073	$954,494	$41,421	4.54%
SANTA CLARA	$9,774,744	$10,830,493	$1,055,749	10.80%
TULARE	$500,757	$737,484	$236,727	47.27%
Medium Counties**				
BUTTE	$762,766	$716,444	($46,322)	-6.07%
EL DORADO	$224,929	$298,440	$73,511	32.68%
HUMBOLDT	$821,524	$823,553	$2,029	0.25%
IMPERIAL	$400,476	$364,833	($35,643)	-8.90%
KINGS	$189,311	$220,453	$31,142	16.45%
MADERA	$227,160	$275,190	$48,030	21.14%
MARIN	$1,471,315	$1,316,336	($154,979)	-10.53%
MENDOCINO	$829,878	$846,828	$16,950	2.04%
MERCED	$544,680	$494,921	($49,759)	-9.14%
MONTEREY	$1,601,002	$1,644,061	$43,059	2.69%
NAPA	$439,624	$523,871	$84,247	19.16%
PLACER	$1,934,522	$1,500,075	($434,447)	-22.46%
SAN LUIS OBISPO	$659,833	$402,870	($256,963)	-38.94%
SAN MATEO	$2,298,509	$2,440,823	$142,314	6.19%
SANTA BARBARA	$955,429	$1,150,327	$194,898	20.40%
SANTA CRUZ	$403,027	$588,775	$185,748	46.09%
SHASTA	$728,654	$708,002	($20,652)	-2.83%
SOLANO	$1,298,039	$1,423,971	$125,932	9.70%
SONOMA	$1,729,716	$2,620,761	$891,045	51.51%
STANISLAUS	$694,469	$812,610	$118,141	17.01%
SUTTER	$132,032	$116,079	($15,953)	-12.08%
VENTURA	$2,361,915	$2,366,100	$4,185	0.18%
YOLO	$361,264	$266,061	($95,203)	-26.35%
YUBA	$170,359	$176,364	$6,005	3.52%
Small Counties**				
CALAVERAS	$161,383	$193,159	$31,776	19.69%
DEL NORTE	$111,259	$119,688	$8,429	7.58%
LAKE	$144,871	$317,602	$172,731	119.23%
NEVADA	$313,457	$292,965	($20,492)	-6.54%
SAN BENITO	$110,113	$146,528	$36,415	33.07%
SISKIYOU	$62,153	$148,137	$85,984	138.34%
TEHAMA	$274,140	$384,320	$110,180	40.19%
TUOLUMNE	$142,119	$74,062	($68,057)	-47.89%
Very Small Counties**				
ALPINE	$95,674	$80,827	($14,847)	-15.52%
AMADOR	$49,826	$105,301	$55,475	111.34%
COLUSA	$36,925	$140,189	$103,264	279.66%
GLENN	$66,911	$105,085	$38,174	57.05%
INYO	$133,331	$138,364	$5,033	3.77%
LASSEN	$108,694	$120,301	$11,607	10.68%
MARIPOSA	$200,902	$156,918	($43,984)	-21.89%
MODOC	$89,323	$83,227	($6,096)	-6.82%
MONO	$90,010	$79,234	($10,776)	-11.97%
PLUMAS	$48,231	$39,099	($9,132)	-18.93%
SIERRA	$50,802	$53,796	$2,994	5.89%
TRINITY	$148,977	$214,627	$65,650	44.07%
Total APS Expenditures	**$119,737,132**	**$126,269,433**	**$6,532,301**	**5.46%**

*The expenditures only capture the non-federal share that is comprised of Local Revenue Fund (LRF) and county share since 2011 Realignment shifted the funding from the state to the local governments.

**In conjuction with County Welfare Directors Association (CWDA) counties are divided into size categories based on overall caseload.

TRAINING PROPOSAL

The County Welfare Directors Association of California (CWDA), California Elder Justice Coalition and California Commission on Aging respectfully request consideration of a budget item to increase statewide capacity in the APS program to protect and serve seniors and dependent adults who are victims of abuse, neglect and exploitation. Specifically, we request your consideration to provide additional resources for a statewide training system for APS staff. Assemblymember Cheryl Brown, Chair of the Assembly Committing on Aging and Long-Term Care, has also written in support of this request.

APS social workers require specialized skill sets unlike those of other programs such as Child Protective Services (CPS), in which the state invests exponentially more resources. Adults are self-determining, meaning they have the ability to refuse services and make their own decisions. An APS social worker must be adept at helping victims understand what has happened in order to collaborate in the investigation and accept needed services. APS social workers must have the necessary skillset to advocate to protect the victim, and this can be a challenge when working with adults with disabilities who are dependent upon others for their care, along with the growing population of seniors with dementia and Alzheimer's disease.

In addition, APS social workers must have the skills sets to address multiple, complex abuse and neglect cases, including the growing number of financial abuse cases. Financial abuse is the predominant form of abuse by others, comprising 30 percent of abuse investigations, and is often accompanied by mental/psychological abuse, physical abuse and neglect. Training for APS workers in identifying and intervening quickly in financial abuse cases is critical in protecting elders and dependent adults from a devastating and permanent financial loss which can be both extremely destructive and life-threatening. To protect abuse and neglect victims and strive to keep elders and dependent adults in the least restrictive, community-based setting, county APS often works with the county public guardian/conservator/administrators (PA/G/C), and given the significant overlap often between the APS and PA/G/C programs, additional training coordination and support between these programs is necessary.

Nationally, the passage of the Elder Justice Act calls for the creation of a structure for administering national and state elder justice programs. California's over age 65 population is projected to grow significantly, increasing from 4.3 million in 2010 to 6.3 million by 2020 and will double to 8.6 million by 2030. The oldest demographic, those 85 and older, will grow by over 71 percent between 2010 and 2030.

High quality training for APS social workers is necessary to ensure consistent and competent services throughout the State, increased protection of both victims and workers, who often find themselves in very unsafe situations, and a reduced level of the risk of liability arising from poor or even dangerous actions taken by inadequately

trained employees. For these reasons, the advocates urge your support for $5 million to build a strong training infrastructure.

APS in the 2014 and 2015 Budgets. The 2014 Budget included on-going funding for one staffing position under DSS to assist with APS coordination and training. In 2015, the advocates requested that the Legislature codify the responsibilities for this staff person to include engagement with county APS and other elder and dependent adult justice stakeholders to develop policies and guidelines that support local APS programs in meeting existing mandates, respond to opportunities to build APS infrastructure and expand resources, and promote optimal outcomes for seniors and dependent adults. This trailer bill language was adopted as part of the 2015 Budget.

STAFF COMMENTS

The information presented on the APS program since 2011 Realignment was recently provided by DSS and will be taken into careful consideration as context to the training proposal. In total, DSS has $176,000 in training funds that have not been realigned. In light of the disturbing trends of reports, the advantages of an investment for APS training and cost avoidance/recovery should be carefully thought through.

Staff Recommendation:

Staff recommends holding this issue open.