



CDCAN REPORT

CALIFORNIA DISABILITY COMMUNITY ACTION NETWORK

ADVOCACY WITHOUT BORDERS: ONE COMMUNITY

REPORT #305-2009 NOVEMBER 4, 2009 – WEDNESDAY

California Disability Community Action Network Disability Rights News goes out to over 50,000 people with disabilities, mental health needs, seniors, traumatic brain & other injuries, veterans with disabilities and mental health needs, their families, workers, community organizations, including those in Asian/Pacific Islander, Latino, African American communities, policy makers and others across California.

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California Budget Crisis:

- **ASSEMBLY BUDGET COMMITTEE IHSS HEARING**
- **SET FOR THURSDAY AT 9 AM STATE CAPITOL**
- **GOVERNOR'S OFFICIALS WON'T BE AT HEARING**
- **OLMSTEAD ADVISORY MEETING ALSO THURSDAY**

Schwarzenegger Administration Senior Officials Responsible for IHSS Program Won't Be At Hearing As Tensions Increase & Crisis Grows Worse - Health & Human Services Secretary Belshe Says Written Update On Implementation of IHSS Program Changes Will "Serve As the Administration's testimony" – Follow-up Hearing Comes In the Wake of SB 69 Failing To Pass State Senate After Passing Assembly and on Same Day Of Olmstead Advisory Committee Meeting

SACRAMENTO, CALIF (CDCAN) [Updated 11/04/09 11:00 AM (Pacific Time) - Citing major health and safety issues impacting over 462,000 children and adults with disabilities, the blind and seniors in the In-Home Supportive Services (IHSS) program, the Assembly Budget Committee, chaired by Assemblymember Noreen Evans (Democrat – Santa Rosa) will hold a follow-up informational hearing Thursday morning (November 5th) at 09:00 AM at the State Capitol in Room 4202 focusing on the implementation of new requirements for IHSS workers (providers) that went into effect at the beginning of this month. The informational hearing comes in the wake of SB 69 failed to pass the State Senate late last night, falling four votes short of passage. The bill, which passed the Assembly late Monday evening by a bi-partisan vote of 68 to 0, would have delayed the November 1st implementation of the new IHSS requirements for workers that counties and disability and senior advocates say is causing widespread "chaos" and "confusion and panic" to IHSS recipients and workers.

The new requirements included mandatory fingerprinting and background checks, in person orientation and new worker (provider) enrollment forms for all IHSS workers. Counties have said they have not received clear directions and guidance or the time needed to implement the new rules by the November 1st effective date and that their offices have been "flooded" with calls, in person visits from people who are scared or in a panic about their services. Advocacy groups and counties have reported more and more calls and problems as a result of the implementation of the new requirements because of delays or confusions of new IHSS workers who cannot be "enrolled" (and paid) to provide services.

It is not certain what happens next with counties saying it cannot comply in implementing the new IHSS worker requirements because, they claim, the State has not provided in time, clarification on questions, translated materials, clear directions or guidance on implementation, and released the funding for counties to hire and train the staffing needed to implement the new requirements. Counties – representing over 86% of the 462,000 people with disabilities, mental health needs, the blind and low income seniors in the IHSS program, and disability and senior advocates say without a delay in the November 1st implementation, widespread “panic and confusion” will grow worse across the state resulting in people losing workers or not having new workers available so they can remain safely in their own homes.

Schwarzenegger Administration officials last week said that the State either sent out or was preparing to send out final or clarified instructions that should resolve many of the concerns or issues raised.

Senior Schwarzenegger Administration Officials Won't Be At Assembly Hearing

In a sign of growing tension on the issue between the Schwarzenegger Administration and the Legislative budget committees controlled by the Democrats, the hearing set for tomorrow, which was previously announced at last week's sometimes contentious initial hearing on the issue, will include an update from the Administration on how the implementation of IHSS program changes is proceeding – though senior officials in charge of overseeing the statewide program will not be at the hearing.

In a terse letter to Assemblymember Evans, Kim Belshe, Secretary of the California Health and Human Services Agency – the agency that oversees the Department of Social Services which in turn oversees the IHSS program statewide that the counties administer locally – said a written update would be provided in advance of tomorrow's hearing and will “...serve as the Administration's testimony...” and indicated that neither she or the department's two top officials who have direct oversight over IHSS will be at the hearing. Both officials – John Wagner, director of the department and Eva Lopez, deputy director of the Adult Programs Division – were at last week's informational hearing and faced committee members – including the committee chair - who were clearly angry about the Administration's response on the implementation of the new IHSS worker requirements. The absence of any senior department or agency officials from the Schwarzenegger Administration is unusual at such a hearing by the Legislature, with some seeing it as open defiance of legislative oversight.

Belshe, who along with Wagner and other senior Administration officials, have appeared and testified at numerous legislative hearings over the years, most prominently on the unsuccessful efforts pushing health care reform, did say in her letter to Evans that a lower level department staffer would be available to present the update to the Assembly Budget Committee and to answer questions – an offer that any legislative committee chair would likely find insulting. Some in the Administration however were likely as angry about what they perceived as insulting treatment of the senior department officials last week. Counties and advocacy groups however have pointed out a previous good working relationship with the Department of Social Services that – with the recent implementation of the new IHSS program changes including the new worker requirements – have deteriorated completely, claiming a lack of communication, information and outreach. The Department of Social Services however says it is working under

a tight deadline imposed by the Legislature when it passed the revised budget and budget related bills.

While legislative committees cannot force any person – or Administration officials to testify – barring a rarely used subpoena power that the full Legislature would have to approve – it is unusual that senior officials from this or previous Administrations would outright refuse to appear when requested by the committee. The absence of any senior Administration officials at the Assembly Budget Committee hearing Thursday will likely significantly raise tensions even higher on the crisis of how the IHSS requirements are being implemented.

In Belshe's brief letter to Assemblymember Evans, she wrote:

Dear Assembly Member Evans:

I am not able to attend the second hearing regarding implementation of the In-Home Supportive Services program changes agreed to by the Governor and Legislature as part of the revised 2009-10 Budget. The Department of Social Services (DSS) will provide the update you requested on the status of implementation in writing and in advance of the hearing. Director Wagner and Deputy Director Lopez will not be at the hearing; the written update will serve as the Administration's testimony. The DSS Legislative Coordinator, Patricia Huston, will attend and be available to present the written testimony at the hearing should you so desire.

Sincerely,

Kimberly Belshe, Secretary [California Health and Human Services Agency]

Secretary's Olmstead Advisory Committee Meeting On Same Day of Budget Informational Hearing

Though not mentioned in the letter, is a meeting of the "Olmstead Advisory Committee" that Belshe, along with senior department officials including Wagner and other department directors under the Health and Human Services Agency, normally attend and provide updates to, which is scheduled on the same day of the hearing, Thursday morning at 10:00 AM, at the Department of Rehabilitation office building at 721 Capitol Mall, Room 242 in Sacramento.

Belshe has attended and participated in every meeting, except for one, of the advisory committee since its creation – as have nearly every department director or deputy director and other senior department officials under the California Health and Human Services Agency.

The Olmstead Advisory Committee, originally created under an executive order by the Governor in 2005 (this was revised last year to give the secretary of the California Health and Human Services Agency the discretion to convene such an advisory committee) advises Secretary Belshe on the state's implementation of the landmark 1999 US Supreme Court "Olmstead Decision".

That decision, named after the former head of the Georgia State health and human services agency in a suit filed on behalf of two women with developmental and other disabilities – Lois Curtis and Elaine Wilson - required the states to take steps to avoid the unnecessary or unjustified institutionalization of persons with disabilities, mental health needs and seniors.

The November 5 Thursday morning meeting, open to the public to physically attend and make comments, also has a toll free call in number for persons not able to be present

Toll free Phone Number for 11/05/09 Olmstead Advisory Committee meeting: **1-888-232-0362**

Passcode **785453**

The agenda for the advisory committee indicates opportunities for the public to provide brief comments to the committee throughout the agenda. The complete agenda below is NOT the agenda for the Assembly Budget Committee informational hearing scheduled to begin on the same day, but at 09:00 AM:

OLMSTEAD ADVISORY COMMITTEE MEETING

MEETING NOTICE AND AGENDA

NOVEMBER 5, 2009: 10 AM – 4 PM

Department of Rehabilitation, Room 242

721 Capitol Mall, Sacramento, California

Toll-Free Call-In Number: 1-888-232-0362 Passcode: 785453

OLMSTEAD ADVISORY COMMITTEE AGENDA

(public comment time between each item)

1. Welcome and Introductory Remarks: Brenda Premo, Committee Chair

2. Secretary's Update: Secretary Kim Belshe

3. Data Subcommittee: Budget Impacts and Data Needs

Members will discuss concepts for studying the Olmstead-related impacts associated with reductions in the Budget Act of 2009.

4. Legislative Discussion

Members will review legislation that has been introduced with Olmstead implications. Dave Lucas, Washington D.C. Office Representative will also be available to discuss issues of interest at the federal level.

5. Working Lunch: Discussion of Workgroups and Olmstead Priorities

Members will discuss methods to advance recommended priorities of the Olmstead Advisory Committee through workgroups and initiative advisory capacity

6. Factors in Nursing Facility Transition

Kate Wilber and Kathryn Thomas will present a study of factors that increase the likelihood for individuals transitioning to the community after having 90-day and longer residence in nursing facilities.

7. Medi-Cal Hospital Waiver Renewal

The Department of Health Care Services (DHCS) is requesting input from members on the Concept Paper for California's proposed section 1115 Medicaid waiver. This waiver presents the best opportunity for advancing the goals of ABx4 6 to (1) strengthen California's healthcare

safety net; (2) maximize opportunities to reduce the number of uninsured individuals; (3) increase federal participation; (4) promote long-term, efficient and effective use of state and local funds; (5) improve healthcare quality and outcomes; and (6) promote home and community-based care.

DHCS will review the concept and review major points from the public discussion being held on November 2. Information about that meeting can be accessed via the following link.

<http://www.dhcs.ca.gov/provgovpart/Documents/Waiver%20Renewal/Director%20Message10-19-09.pdf>

8. Newly Funded Olmstead Initiatives

Members will hear from panelists about recently-funded home and community based service initiatives. The Department of Rehabilitation has announced their intent to award roughly \$650,000 through ARRA in support of Olmstead initiatives for education and awareness, technical assistance and training, and peer mentoring programs. The State Independent Living Council was recently awarded an Aging and Disability Resource Center (ADRC) grant. And as previously reported, DHCS was awarded a Hospital to Home/ADRC Enhancement grant. The OAC has members on several project advisory committees, but the committee as a whole can also serve to apply their perspective and collective expertise to related projects while being updated on progress and project outputs. We would also like input on ways to keep these initiatives coordinated to maximize outcomes.

9. California Community Choices

The report is in final stages of review and the Choices project Advisory Committee will be prioritizing recommendations from this report. The OAC might also offer prioritization of the Study's recommendations relative to advancing existing Olmstead initiatives and workgroup efforts. An upcoming briefing session will be discussed as well as a survey process to garner your input.

10. Closing Remarks

In consideration of attendees who are sensitive to environmental odors created by chemicals and perfumes, please restrict the use of fragrances at this meeting. If disability-related accommodations are required for your attendance or you need materials in alternate formats, please contact Megan Juring at (916) 654-0662, TTY (916) 558-5807, or at mjuring@chhs.ca.gov at least seven (7) days prior to the meeting date. Please note: The order in which the agenda items are considered may be subject to change. Opportunities for public comment will be provided throughout the agenda.

REMEMBERING THE LIVES OF EDWARD M. KENNEDY, EUNICE KENNEDY SHRIVER, JOAN B. LEE, DONALD ROBERTS, ADAM MARSHAL & BILL YOUNG.

**URGENT!!!!
PLEASE HELP CDCAN CONTINUE ITS WORK!!!**

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To continue the CDCAN website, the CDCAN News Reports. sent out and read by over 50,000 people and organizations, policy makers and media across California and to continue the CDCAN Townhall Telemeetings which since December 2003 have connected thousands of people with disabilities, seniors, mental health needs, people with MS and other disorders, people with traumatic brain and other injuries to public policy makers, legislators, and issues.

Please send your contribution/donation (make payable to "CDCAN" or "California Disability Community Action Network):

CDCAN

1225 8th Street Suite 480 - Sacramento, CA 95814

paypal on the CDCAN site is not yet working – will be soon.

MANY, MANY THANKS TO **VALLEY MOUNTAIN REGIONAL CENTER**, Toward Maximum Independence, Inc (TMI), Friends of Children with Special Needs, UCP of Los Angeles, Ventura and Santa Barbara Counties, Southside Arts Center, San Francisco Bay Area Autism Society of America, Hope Services in San Jose, FEAT of Sacraento (Families for Early Autism Treatment), RESCoalition, Sacramento Gray Panthers, Easter Seals of Southern California, Tri-Counties Regional Center, Westside Regional Center, Regional Center of the East Bay, UCP of Orange County, Alta California Regional Center, Life Steps, Parents Helping Parents, Work Training, Foothill Autism Alliance, Arc Contra Costa, Pause4Kids, Manteca CAPS, Training Toward Self Reliance, UCP, California NAELA, Californians for Disability Rights, Inc (CDR) including CDR chapters, CHANCE Inc, , Strategies To Empower People (STEP), Harbor Regional Center, Asian American parents groups, Resources for Independent Living and many other Independent Living Centers, several regional centers, People First chapters, IHSS workers, other self advocacy and family support groups, developmental center families, adoption assistance program families and children, and others across California