



## CDCAN REPORT

**#019-2010 JANUARY 20, 2010 – WEDNESDAY**

**CALIFORNIA DISABILITY COMMUNITY ACTION NETWORK**

**ADVOCACY WITHOUT BORDERS: ONE COMMUNITY –  
ACCOUNTABILITY WITH ACTION**

*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:**

## **Schwarzenegger Administration Releases Proposed Budget Legislative Language To Implement Medi-Cal Reductions**

***Trailer Bill Language Includes Proposal to Implement \$750 Million In Reductions to Medi-Cal Program; Eliminate Medi-Cal Funding for Adult Day Health Care***

SACRAMENTO, CALIF (CDCAN) [Updated 01/20/10 09:20 PM (Pacific Time)] - The Schwarzenegger Administration released today proposed budget special session legislative language that, if approved by the Legislature, would eliminate all Medi-Cal funding for Adult Day Health Care (about \$104 million in State general fund money), and implement other permanent reductions – called “cost containment strategies” of over \$750 million in State general fund spending to the Medi-Cal program, and reductions impacting family planning services, and Medi-Cal benefits to newly qualified legal immigrants and other legal immigrants legally residing in the State.

The Governor’s proposed special session budget reductions to the Medi-Cal program, if approved by the Legislature, would total nearly \$1 billion in State general fund spending

The proposed special session budget legislative language contain required changes to existing State laws in order to implement reductions that are authorized in the main budget bill (or revised budget bill), which only contains funding line items. The budget legislative language – called budget “trailer bill language” – because these bills follow or trail the main (or revised) budget bill.

Budget “trailer bill” language dealing with Department of Health Care Services budget issues to implemented later in the 2010-2011 State Budget year that begins July 1, 2010

and to be considered during the regular or “normal” State budget process, will be released later.

### **Major Impact On People With Disabilities, the Blind & Seniors**

The proposals related to Adult Day Health Care and, depending on how the specifics are developed, the proposed Medi-Cal “cost containment strategies” would have major impact on people with disabilities, mental health needs, the blind, low income seniors, persons with traumatic brain and other injuries and others who receive Medi-Cal services and benefits.

The proposals – if approved by the Legislature and depending on how the details of the Medi-Cal “cost containment strategies” are developed – would also have impact on people with developmental disabilities who receive community-based services through the 21 non-profit regional centers or from developmental centers and 1 other smaller facility operated and staffed by the Department of Developmental Services.

### **Impact on Section 1115 Waiver Proposal Not Certain**

It is not certain how these proposals will impact the development of the proposed Medicaid Section 1115 Waiver renewal that the Department of Health Care Services will soon be submitting to the federal government for approval. That waiver seeks to renew and expand an existing waiver – set to expire August 2010 – that would include measures to contain Medi-Cal spending, but, according to the Department of Health Care Services, maintain and even improve the quality of Medi-Cal services for people with disabilities, mental health needs, the blind and low income seniors.

Advocates, including those represented on a stakeholder advisory committee, have raised major concerns about the details and proposed implementation of the waiver to be submitted. See separate CDCAN Report on the CDCAN website at [www.cdcan.us](http://www.cdcan.us) regarding this issue.

### **No Specifics On Medi-Cal “Cost Containment” Proposal**

While the proposed budget legislative language that would eliminate all Medi-Cal funding for Adult Day Health Care centers is specific, the proposed budget language that would authorize the steps to implement over \$750 million in reductions in State general fund spending to the Medi-Cal program does not provide details on what changes or reductions would be made to eligibility, benefits or other services under the Medi-Cal program.

The proposed trailer bill would authorize the Department of Health Care Services – the state agency that oversees the State’s Medicaid program (called “Medi-Cal”) to develop those details, and to the extent allowed by federal law, implement those reductions beginning in the 2010-2011 State Budget year that begins July 1, 2010 through the release of “All County Letters” or notices or emergency state regulations.

The propose budget language would authorize the Department of Health Care Services to develop and implement “cost containment strategies” that can include (but not limited to)

utilization controls (meaning use of Medi-Cal benefits and services) including limits on certain services; increases in existing co-payments and cost sharing (premiums) or creation of new co-payments and cost-sharing (premiums), and adjustments to Medi-Cal provider rates.

### **Proposals Part of Governor's Proposed Budget Released Earlier**

The Governor on January 8<sup>th</sup> released his proposed 2010-2011 State Budget for the budget year that begins July 1, 2010, and also proposals for mid-year major reductions to the current State budget year that ends June 30, 2010 and declared a "fiscal (budget) emergency" that called the Legislature into special session to consider his proposals that require immediate action before March 1. Other proposed reductions and policy changes by the Governor will be considered by the Legislature during the normal state budget process that usually commences with budget subcommittee hearings beginning in March and running through early May.

### **Budget Process On Fast and "Normal" State Budget Tracks**

- The State budget process is on two tracks – as it has been in recent years – in order to make changes and reductions to the current State budget – and also to consider proposals for the next budget year that begins July 1, 2010. \
- The first track are proposals by the Governor – which can be changed or replaced completely by the Legislature – that call for reductions and changes to policies that need to take effect before the end of the current State budget year (that ends June 30, 2010). These proposals will be considered in the next several weeks in the Legislature's special session that the Governor hopes will be approved before March 1, 2010. The reason for that date is to allow enough time for the State to get any necessary approvals from the federal government and also to allow enough time for any required notification to people receiving services and to organizations and individuals providing services that face reductions or elimination. The special session runs concurrently – at the same time – as the regular session of the Legislature.
- The second track is the "normal" State budget process, where the Legislature holds budget subcommittee hearings between early March through early May to consider the Governor's proposals that are meant to be implemented sometime during the next State budget year – in this case, the 2010-2011 State budget year that begins July 1, 2010.

### **NEXT STEPS: Legislative Budget Hearings Set (To Date)**

The Medi-Cal related budget legislative (trailer bill) language will be reviewed by both the Assembly and State Senate in the coming weeks, though as of late Wednesday evening (January 20) only the Senate Budget and Fiscal Review Committee, chaired by Sen. Denise Ducheny (Democrat – San Diego) has scheduled a hearing dealing with Med-Cal and other health special session budget issues.

The Assembly Budget Committee, chaired by Assemblymember Noreen Evans (Democrat – Santa Rosa) has scheduled a joint informational oversight hearing on January 27 (Wednesday) with the Senate Budget Subcommittee #3 on Health and Human

Services, chaired by Sen. Mark Leno (Democrat – San Francisco) to review the implementation of various changes to the In-Home Supportive Services (IHSS) program that went into effect November 1, 2009. The Senate Budget and Fiscal Review Committee has scheduled an informational budget hearing on human services related special session budget reductions proposed by the Governor, including IHSS, for February 2. See separate CDCAN report (or go to CDCAN website) for latest list of those and other budget hearings.

IHSS is almost entirely matched with Medi-Cal funding, and the Governor included in his January 8<sup>th</sup> proposed State budget proposals that would significantly narrow eligibility and reduce State funding toward IHSS worker wages. “Trailer bill” language dealing with those reductions will be released by the Department of Social Services – the state agency that oversees the IHSS program.

Here is the current list of legislative budget hearings that directly impact Medi-Cal (and other health issues) or relates to that issue:

JANUARY 26, 2010 (TUESDAY)

SENATE BUDGET AND FISCAL REVIEW COMMITTEE

1:00 to 4:00 PM

State Capitol – Room 4203

Budget Informational Hearing – Subject: Overview of the Governor’s Budget Proposals for Health, Developmental Services, Mental Health, and the AIDS Drug Assistance Program

PUBLIC TESTIMONY: Yes – limited and brief (written letters and comments can always be submitted before, during and after the hearing)

CDCAN Comment: Includes Medi-Cal, mental health, Healthy Families, developmental services (regional centers/developmental centers). Public Health issues are not, at this point, on the agenda for this hearing. The proposed trailer bill language dealing with Medi-Cal released by the Department of Health Care Services will likely be reviewed at this hearing.

PRIORITY: **VERY HIGH**

JANUARY 26, 2010 (TUESDAY)

JOINT HEARING SENATE HUMAN SERVICES AND SENATE HEALTH  
SUBCOMMITTEE ON AGING AND LONG-TERM CARE

1:30 to 5:00 PM

State Capitol – Room 112

Informational Hearing – Subject: The Future of Long-Term Care

CDCAN Comment: While not specifically reviewing the Governor’s budget proposals, the discussion of the future of long term care is directly linked to many of the Governor’s proposals impacting health and humans services, including Medi-Cal and the on-going process to renew and expand the Medicaid Section 1115 Waiver, set to expire August 2010.

PRIORITY: **HIGH**

FEBRUARY 3, 2010 (WEDNESDAY)

ASSEMBLY BUDGET COMMITTEE

1:00 PM – State Capitol – Room 4202

Informational Hearing – Subject: Proposition 58 Special Session Overview

Public Testimony Taken: Not certain – though if allowed, would be very brief

CDCAN Comment: Proposition 58 refers to the voter approved amendment to the State Constitution that authorizes the Governor to declare a “fiscal emergency” that requires the Legislature to consider the Governor’s proposals to address that emergency and to respond in special session with passage of a bill or bills dealing with that emergency

PRIORITY: Important

### **PROPOSED BUDGET TRAILER BILL LANGUAGE**

The Department of Health Care Services, the State agency that is responsible for the State’s Medicaid programs – called Medi-Cal in California – released the following four proposed budget “trailer bill” language impacting the Medi-Cal program (copies of the proposed language can be viewed or downloaded from the CDCAN website at [www.cdcan.us](http://www.cdcan.us) )

All proposals require approval by the Legislature and are meant to be considered during the current special session, for passage on or before March 1, 2010:

### MEDI-CAL COST CONTAINMENT STRATEGIES

- Proposed Medi-Cal Cost Containment Strategies – reduction of \$750 million in State general fund spending beginning July 1, 2010 and to the extent allowed by federal law, through implementation of utilization controls and limits on specific services (not defined yet), increased cost sharing through establishment or increase of co-payments, increased cost sharing through establishment or increase of premiums, and adjustment to Medi-Cal provider rates.
- The proposed legislative language would authorize the Department of Health Care Services – the to develop the specifics of these reductions, and would include authorization to seek all necessary changes to the State’s existing Medicaid State Plan, existing Medicaid waivers or other approvals need from the federal government, in order to implement the reductions and other changes to the Medi-Cal program to reduce spending by \$750 million in State general funds.
- Proposed Trailer Bill Language (2 pages – copy can be viewed or downloaded from CDCAN website at [www.cdcan.us](http://www.cdcan.us) ):

*Add Welfare and Institutions Code section 14100.55 as follows:*

- a). The Legislature finds that Medi-Cal costs continue to rise primarily due to increased caseload and increased costs of services. The Legislature further finds that this rising General Fund impact cannot be sustained, especially in the current fiscal climate.*
- b). Based upon the findings in subdivision (a), the Department of Health Care Services shall design methods for containing costs in the Medi-Cal program similar to methods being adopted or utilized in other state Medicaid programs.*
- c). The cost-containment methods implemented pursuant to this section may include, but are not limited to, any or all of the following methods:*
  - (1) utilization controls, including limits on particular services.*

(2) increased cost-sharing through the establishment or increase of co-payments to the extent allowed by federal law,

(3) increased cost-sharing through the establishment or increase of premiums to the extent allowed by federal law, and

(4) adjustment of provider rates.

d). In implementing the cost-containment methods required by this section, the department shall achieve General Fund savings of \$750 million dollars in 2010-11 and annually thereafter.

e). This section shall be implemented only if and to the extent that it complies with applicable federal law. To the extent that state plan amendments, waivers, or other administrative actions are necessary to obtain federal approval, the department shall seek approval for these methods as soon as possible.

f). No less than thirty days prior to implementing the cost-containment methods developed pursuant to this section, the department shall provide the Joint Legislative Budget Committee with a description of the methods that will be employed and an estimate of the associated General Fund savings.

g). Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of title 2 of the Government Code, the department shall implement this section, and any strategy employed pursuant to this section, by means of all-county letters, all-plan letters, provider bulletins or similar instructions. Thereafter, to the extent regulations would be required absent this subdivision, the department shall adopt such regulations.

h). Any adoption of regulations implementing this section shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, and safety or general welfare. The regulations shall become effective immediately upon filing with the Secretary of State.

#### ADULT DAY HEALTH CARE – PROPOSED ELIMINATION OF ALL MEDI-CAL FUNDING

- Proposed Elimination of All Medi-Cal Funding of Adult Day Health Care – reduction of \$104 million in State general fund money for approximately 34,000 seniors, including seniors with disabilities (including developmental), beginning 90 days after Legislature approves the required legislation during the special session (the Governor’s proposal assumes passage of the legislation authorizing the elimination by March 1, 2010, with implementation (after required notification to those receiving and providing the Adult Day Health Care services) on June 1, 2010.
- The Department of Health Care Services, in the summary that was included with the proposed “trailer bill” language dealing with Adult Day Health Care, noted that “*the State is experiencing an increasingly severe financial crisis. As a result, the Department of Health Care Services must make difficult decisions in order to decrease Medi-Cal expenditures. These decisions are made in an effort to result in the least amount of impact on medically necessary services. This proposal will eliminate Adult Day Health Care (ADHC) as an optional benefit within the Medi-Cal fee-for-service program and the benefit will not be available in any facility type, including Federally Qualified Health Centers.*”
- Proposed Trailer Bill Language (1 page – copy can be viewed or downloaded from CDCAN website at [www.cdcan.us](http://www.cdcan.us) )

*Section 14131.11 is added to the Welfare and Institutions Code as follows:*

*(a) Notwithstanding any other provision of law relating to the Medi-Cal program or to adult day health care, in order to implement changes in the level of funding for health care services, adult day health care is excluded from coverage under the Medi-Cal program.*

*(b) This section shall only be implemented to the extent permitted by federal law/*

*(c) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement the provisions of this section by means of all-county letters, provider bulletins, or similar instructions, without taking further regulatory action.*

*(d) This section shall be implemented on the first day of the month following 90 days after the operative date of this section.*

#### **NEWLY QUALIFIED LEGAL IMMIGRANTS & OTHER IMMIGRANTS RESIDING LEGALLY IN CALIFORNIA – ELIMINATION OF FULL SCOPE MEDI-CAL BENEFITS**

- Proposed Elimination of Full Scope Medi-Cal Services for “PRUCUL” Individuals (Persons Residing Under Color of Law) and Newly Qualified Legal Immigrants Residing in California – Proposed reduction of \$118 million in State general funds impacting about 74,000 legal immigrants would eliminate full scope Medi-Cal benefits but maintain certain limited services for those eligible.
- Proposed trailer bill language: Go to CDCAN website at [www.cdcan.us](http://www.cdcan.us) to view or download the 12 page proposed budget legislative (trailer bill) language dealing with this reduction.

#### **FAMILY PLANNING SERVICES PROPOSED MEDI-CAL REDUCTION**

- Proposed Reduction of Medi-Cal Reimbursement Rates for Family Planning providers – proposed reduction of about \$14 million in State general funds resulting from rolling back rate increase that went into effect January 1, 2008.
- Proposed budget legislative (trailer bill) language: Go to CDCAN website at [www.cdcan.us](http://www.cdcan.us) to view or download the 1 page proposed budget legislative (trailer bill) language dealing with this reduction.

***URGENT!!!!***

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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 the Easter Seals, California Association of Adult Day Health Centers, 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 Sacramento (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