SUBCOMMITTEE #3:
Health & Human Services

Chair, Senator Bill Monning

Senator Mark DeSaulnier
Senator Bill Emmerson

April 25, 2013

9:30 a.m. or Upon Adjournment of Session

Room 4203
(John L. Burton Hearing Room)

Staff: Jennifer Troia & Brady Van Engelen

PLEASE NOTE: *Only* those items contained in this agenda will be discussed at this hearing. Please see the Senate Daily File for dates and times of subsequent hearings. Issues will be discussed in the order as noted in the Agenda unless otherwise directed by the Chair.

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ISSUES RECOMMENDED FOR VOTE-ONLY

A. 4170 Department of Aging (CDA)

1. Chronic Disease Self-Management Education (CDSME) Grant Program

CDA requests budget authority for a three-year (September 1, 2012 to August 31, 2015), $1.7 million grant from the federal Administration on Aging (including $575,000 in 2013-14). The grant funding will be focused on serving low income, ethnically diverse, limited/non-English speaking, Medi-Cal eligible adults and/or veterans, with goals of improving their health and reducing health care expenditures. In cooperation with the Department of Public Health and local entities, CDA intends to conduct outreach and enrollment activities to ensure that over 9,000 seniors and/or adults with disabilities participate. The department also proposes provisional budget language in Item 4170-101-0890 to allow carryover of funds between years. No new positions are being requested.

2. Supplemental Nutrition Assistance Program Nutrition Education Obesity Prevention Program (SNAP-Ed)

CDA requests $3.6 million in budget authority over three state fiscal years (including $1.5 million in 2013-14), and authority for a two-year limited-term aging program analyst to support nutrition education and obesity prevention activities targeted to low-income adults aged 60 and older. Pursuant to an interagency agreement with the Department of Social Services, which administers the state's SNAP program (called CalFresh and still known sometimes as "food stamps"), CDA would administer the grant and distribute local assistance funding to the statewide network of Area Agencies on Aging (AAAs). The department estimates that the AAAs would provide services to approximately 70,000 participants in 2013-14 and 2014-15. No state match is required.

3. New Freedom Transportation Grant - Request for Extension

CDA requests additional budget authority of $106,000 and a six-month extension (through December 31, 2013) of limited-term position authority for one Staff Services Manager I to complete the activities of this grant. The goal of the project is to increase awareness of transportation services and options for seniors. It was originally approved in 2011-12.

<u>Recommendation</u>: APPROVE Items 1-3.

B. 4185 California Senior Legislature

1. Budget Change Proposal for Administrative Staff

The California Senior Legislature (CSL) requests $100,000 in California Fund for Senior Citizens resources and 1.0 two-year limited-term Office Technician to perform clerical duties in support of core program activities. The resources in the Fund come from taxpayer contributions. The CSL, which supports an annual four-day model legislative session, conducted by volunteer members that results in policy proposals, and ongoing standing committees, currently has one full-time authorized position.

<u>Recommendation</u>: APPROVE Item 1.

C. 5180 Department of Social Services

1. Community Care Licensing - Fingerprinting Fees

The Governor's budget proposes to avoid $1.4 million GF annually for an additional two years by allowing the Departments of Justice and Social Services to charge fingerprinting fees (currently set at $35) to applicants for a license to operate a small community care facility (other than a foster family home) or a family day care facility. The fingerprinting is part of a criminal background check used to help ensure the safety of clients receiving care. Each year since 2003-04, the Legislature and Governor have amended the law to temporarily lift a statutory prohibition on charging the fee to the applicants.

<u>Recommendation</u>: APPROVE Item 1.

2. County Match-Waiver for CalFresh Administration

As discussed in the Subcommittee's March 21, 2013 hearing, the Governor's budget proposes to extend for one year, in 2013-14, authorization for counties to access CalFresh administration funding without requiring a county match above and beyond an existing Maintenance of Effort (MOE) requirement.

<u>Recommendation</u>: APPROVE Item 2, with the understanding that the counties will again be expected to fully fund CalFresh administration in the near future.

3. Transfer of Temporary Assistance to Needy Families Funding to California Student Aid Commission

As discussed in the Subcommittee's March 21, 2013 hearing, the 2012-13 budget redirected an unprecedented amount of California's federal Temporary Assistance to

Needy Families (TANF) block grant funding ($804 million) away from CalWORKs and to the California Student Aid Commission (CSAC), to be used for expenditures in the Cal Grants program, which provides financial aid for students obtaining a higher education. The funds were swapped, dollar-for-dollar, to redirect an equal amount of General Fund monies that would have been spent on Cal Grants to instead be spent on CalWORKs. The Governor's budget proposes to make the same swap in 2013-14, but at the even higher level of $942.9 million.

Recommendation: APPROVE the portion of the proposed TANF transfer that is necessary to meet (but not exceed) the state's required MOE level of spending. According to the Department of Finance, this amount will be determined in conjunction with the May Revision of the Governor's budget.

ISSUES FOR DISCUSSION

Public testimony will be taken for the items listed in this section.

A. 5175 Department of Child Support Services (DCSS)

<u>Department Overview</u>: The mission of the California Child Support Program is to enhance the well-being of children and the self-sufficiency of families by providing professional services to locate parents, establish paternity, and establish and enforce orders for financial and medical support. The Child Support Program is committed to ensuring that California's children are given every opportunity to obtain financial and medical support from their parents in a fair and consistent manner throughout the state.

The Department of Child Support Services is the single state agency designated to administer the federal Title IV-D state plan. The Department is responsible for providing statewide leadership to ensure that all functions necessary to establish, collect, and distribute child support in California, including securing child and spousal support, medical support and determining paternity, are effectively and efficiently implemented. Eligibility for California's funding under the Temporary Assistance to Needy Families (TANF) Block Grant is contingent upon continuously providing these federally required child support services. Furthermore, the Child Support Program operates using clearly delineated federal performance measures, with minimum standards prescribing acceptable performance levels necessary for receipt of federal incentive funding. The objective of the Child Support Program is to provide an effective system for encouraging and, when necessary, enforcing parental responsibilities by establishing paternity for children, establishing court orders for financial and medical support, and enforcing those orders.

Child Support Administration: The Child Support Administration program is funded from federal and state funds. The Child Support Administration expenditures are comprised of local staff salaries, local staff benefits, and operating expenses and equipment. The federal government funds 66 percent and the state funds 34 percent of the Child Support Program costs. In addition, the Child Support Program earns federal incentive funds based on the state's performance in five federal performance measures.

Child Support Automation: Federal law mandates that each state create a single statewide child support automation system that meets federal certification. There are two components of the statewide system. The first is the Child Support Enforcement (CSE) system and the second is the State Disbursement Unit (SDU). The CSE component contains tools to manage the accounts of child support recipients and to locate and intercept assets from non-custodial parents who are delinquent in their child support payments. In addition, it funds the local electronic data processing maintenance and operation costs. The SDU provides services to collect child support payments from non-custodial parents and to disburse these payments to custodial parties.

Department of Child Support Services 2013-14 Budget Overview

Fund Source	**2011-12**	**2012-13**	**2013-14**
General Fund	$306,590	$307,061	$312,910
Federal Trust Fund	$407,421	$468,518	$482,136
Child Support Collections Recovery Fund	$202,787	$203,869	$202,220
Reimbursements	$179	$123	$123
Total Expenditures	**916,977**	**979,571**	**997,389**
Positions	**491.5**	**593.5**	**593.5**

*dollars in thousands

1. Federal Performance Measures

Background: The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), and the Child Support Performance and Incentive Act of 1998 established defined metrics that would serve as performance measures in order to determine the level of federal incentives awarded to each state. Each state has been evaluated utilizing the same five performance metrics since Federal Fiscal Year (FFY) 2000.

2012 Federal Performance Measures

Statewide Paternity Establishment Percentage (PEP) measures the number of children born out-of-wedlock for whom paternity was acknowledged or established in the fiscal year compared to the total number of children in the state born out-of-wedlock during the preceding fiscal year. California measured 101.6 percent for Federal Fiscal Year (FFY) 2011. California's performance decreased in this measure by 5.4 percentage points from FFY 2011 to FFY 2012.

Cases with Support Orders Established measures cases with support orders as compared to total caseload. California measured 87.9 percent for FFY 2012. California's performance increased in this measure by 2.1 percentage points from FFY 2011 to FFY 2012.

Collections on Current Support measures the current amount of support collected as compared to the total amount of current support owed. California measured 61.4 percent for FFY 2012. California's performance increased in this measure by 2.8 percentage points from FFY 2011 to FFY 2012.

Cases with Collections on Arrears measures the number of cases with child support arrearage collections as compared with the number of cases owing arrearages during the federal fiscal year. California measured 63.5 percent for FFY 2012. California's performance increased in this measure by 1.9 percentage points from FFY 2011 to FFY 2012.

Cost Effectiveness for California compares the total amount of distributed collections to the total amount of expenditures for the fiscal year, expressed as distributed collections per dollar of expenditures. California measured $2.47 for FFY 2012. California's performance increased in this measure by $0.18 from FFY 2011 to FFY 2012.

Staff Comment: Informational item included for discussion.

2. Child Support Automation

Background: Federal law requires that each state create a single statewide child support automation system that meets federal certification standards. There are two components to the Child Support Automation System; Child Support Enforcement (CSE) and State Disbursement Unit (SDU). The CSE component contains tools to manage the accounts of child support recipients and to locate and intercept assets from non-custodial parents who are delinquent in their child support payments. The program also provides funding for the local electronic data processing maintenance and operation costs. SDU provides services to collect child support payments from non-custodial parents and to disburse these payments to custodial parties.

Beginning in 2008, the California Child Support Automation System was fully implemented. Total cost of the application was approximately $1.5 billion dollars and took nearly eight years to implement. Shortly thereafter, the application received its federal certification as the statewide automation system. The Department of Child Support Services is responsible for maintaining the functionality of the automation system and also responsible of ensuring the LCSAs have access to the system. Ongoing costs for the Child Support Automation System is approximately $118.79 million ($103.8 million CSE and $14.97 million SDU).

Staff Comment: Informational item included for discussion.

3. Revenue Stabilization

Background: The 2009-10 Governor's Budget proposed an augmentation of $18.7 million ($6.4 million General Fund) for local child support agencies (LCSAs) to maintain revenue generating caseworker staffing levels in order to stabilize child support collections. The Legislature approved the Department of Child Support Services (DCSS) request and directed that 100 percent of the new funds be utilized to maintain revenue generating caseworker staffing levels. DCSS issued specific claiming instructions to the LCSAs to ensure that the funds were used in compliance with legislative intent, which specified that the revenue stabilization funds should be distributed to counties based on their performance in two federal performance measures – Collections on current support and cases with collections in arrears. All LCSAs submitted plans and implementation began in 2009. Collection data for 2011-12 indicates that the revenue stabilization funding continues to have the expected positive impact on child support collections for California's families and the General Fund.

DCSS was able to maintain 234 of the 235 revenue generating caseworker staff originally retained in 2009-10 with the appropriated funds. According to DCSS, the retained staff generated a total of $2.3 million in distributed collections and the net General Fund assistance associated with retaining the caseworker staff was $9 million. The DCSS calculates that the ongoing contribution to the General Fund associated with the revenue stabilization funds appropriated in 2009 will be $2.5 million.

Staff Comment: Informational item included for discussion.

B. 5160 Department of Rehabilitation (DOR)

1. Department Overview & Changes in Appeals Process

The Department of Rehabilitation's mission is to work in partnership with consumers and other stakeholders to provide services and advocacy resulting in employment, independent living, and equality for individuals with disabilities. With a proposed 2013-14 budget of $414.3 million ($56.6 million GF), the department offers programs related to vocational rehabilitation, assistive technology, independent living, supported employment, services for individuals with traumatic brain injuries, and workforce development. Overall, around 84 percent of the Department's budget is composed of federal funding. The total number of authorized positions proposed for DOR for 2013-14 is 1,823 (no change from 2012-13).

The 2012-13 budget eliminated the Rehabilitation Appeals Board process for reviewing appeals filed by applicants for, or consumers of, DOR services. The associated responsibilities were instead transferred to impartial hearing officers through an interagency contract with the Office of Administrative Hearings. Related trailer bill language required the hearing officers to be trained regarding the vocational rehabilitation program, as well as how to protect the rights of appellants at administrative hearings, with emphasis on assisting, where appropriate, appellants represented by themselves (or an inexperienced advocate) to develop the administrative record. The department indicates that the transition in the appeals process has been effective and hearing decisions rendered pursuant to the new process have been completed within statutorily required timeframes.

Staff Comment & Recommendation: This is an informational item and no action is required.

Questions:

1. Are there any recent or pending significant changes in the department's budget or program implementation?

2. Please describe how the recent transition in the appeals process is working and whether any concerns have been raised by consumers, advocates, or other stakeholders.

3. Has the required training for impartial hearing officers, particularly with respect to assisting appellants without experienced representatives, been implemented?

2. Traumatic Brain Injury Program

Budget Issue: With approximately $850,000 in 2012-13 funding, the Department of Rehabilitation administers the Traumatic Brain Injury (TBI) program. The program's services are delivered by seven providers located throughout the state and include coordinated post-acute care, such as supported living, community reintegration, and vocational supports, to help impacted individuals lead productive and independent lives. TBI Fund revenues stem from penalties paid for various violations of California's Vehicle Code, including the seatbelt law. Recent penalty funding and corresponding TBI funds are summarized below:

TOTAL STATE PENALTY FUND AND TBI FUND REVENUE

State Fiscal Year	State Penalty Fund	TBI Fund
SFY 06-07	$ 167,589,106	$ 1,105,546
SFY 07-08	$ 167,483,359	$ 1,104,936
SFY 08-09	$ 162,260,219	$ 1,070,492
SFY 09-10	$ 157,883,929	$ 1,041,716
SFY 10-11	$ 165,532,414	$ 1,091,926
SFY 11-12 *	$ 137,101,778	$ 960,000
SFY 12-13 *	$ 46,129,679	$ 849,000

* Estimated Revenue

The Department of Rehabilitation has been administering the TBI program since it was transferred from the Department of Mental Health, pursuant to Chapter 439, Statutes of 2009 (AB 398, Monning). The legislation also directed DOR to monitor and evaluate the performance of service providers, and to establish requirements and processes for continuing participation in the program.

Background on TBI: California is home to the highest number of individuals impacted by TBI in the nation, with over 350,000 current survivors and an estimated 30,000 hospitalizations for TBI each year. Generally these injuries are caused by an external force's impact on the brain, frequently from a fall or motor vehicle accident. Symptoms resulting from TBI can include short and long-term effects that hinder the person's ability to function.

Staff Comment & Recommendation: This item is included for oversight purposes and no action is required.

Questions:

1. How has the transition of the TBI program to DOR been working? What feedback has the department heard from stakeholders?

2. How are the recent declines in TBI Fund revenues impacting the services provided through the program?

C. 5180 Department of Social Services, In-Home Supportive Services (IHSS) [& 0530 Office of Systems Integration (OSI)]

Overview: With a proposed 2013-14 budget of $6.2 billion ($1.8 billion GF) for services and administration, the IHSS program provides personal care services to approximately 420,000 qualified low-income individuals who are aged (over 65), blind, or who have disabilities. Services include tasks like feeding, bathing, bowel and bladder care, meal preparation and clean-up, laundry, and paramedical care. These services frequently help program recipients to avoid or delay more expensive and less desirable institutional care settings. The average annual cost of services per IHSS client is estimated to be around $12,000 for 2012-13.

In contrast to recent years, the Governor's budget does not include new proposals for reductions to IHSS. At the same time, as discussed below, there are several significant prior reductions that are currently enjoined as a result of ongoing litigation, for which a settlement agreement has recently been reached by the parties.

Program Structure and Employment Model: County social workers determine IHSS eligibility and perform case management after conducting a standardized in-home assessment of an individual's ability to perform activities of daily living. Based on authorized hours and services, IHSS recipients are responsible for hiring, firing, and directing their IHSS provider(s). In the majority of cases, recipients choose a relative to provide care.

In 2012, there were around 380,000 IHSS providers with hourly wages varying by county and ranging from $8.00 to $12.20 per hour. Prior to July 1, 2012, county public authorities or nonprofit consortia were designated as "employers of record" for collective bargaining purposes on a statewide basis, while the state administered payroll and benefits. Pursuant to 2012-13 trailer bill language, however, collective bargaining responsibilities in the eight counties participating in the Coordinated Care Initiative (CCI), which is also discussed below, will shift to an IHSS Authority administered by the state.

Recent Changes to IHSS: Changes to IHSS that were adopted in the past four budgets and have taken effect are summarized in the following chart.

Policy	Estimated GF Savings (in 000s, if available)[1]	Other Notes
Enhanced federal funding from Community First Choice Option	$107,000 in 2013-14	2012-13 savings were $201 million, but are expected to decline under fed. rule changes.
Requirement for health care provider to certify need	$63,500 in 2013-14	
Across-the-board cut of 3.6% of authorized service hours in 2010-11 through 2012-13	$60,000 in 2012-13	Governor's budget sunsets reduction as scheduled on 7/1/13.
Increases to out-of-pocket costs for some consumers	$45,000	
Program integrity measures (background checks, criminal exclusions, training, etc.)		
Reductions in administrative funding		

1. Recent Settlement of Litigation Related to Prior Reductions

<u>Budget Issue</u>: As summarized in the chart below, several reductions to the IHSS program made in the last four state budgets were enjoined by federal courts from taking effect.

Policy	Est. GF Savings in First Year (in 000s)	Name of Lawsuit Under Which Policy Is Enjoined from Taking Effect
Loss of eligibility for individuals with assessed needs below specified thresholds	$92,000	*Oster (V.L.) v. Lightbourne, et al. (Oster I)*
Across-the-board cut of 20% of authorized hours, with exceptions (impacts about 300,000 recipients)	$243,000	*Oster (V.L.) v. Lightbourne, et al. (Oster II)*
Reduction in state participation in provider wages (from maximum of $12.10 to $10.10 per hour)	$65,500	*Dominguez v. Schwarzenegger, et al.*

In March 2013, the Administration and plaintiffs in those cases (labor unions and disability rights advocates) announced that they had reached a comprehensive settlement agreement.

[1] Savings are annual in the first year of implementation, unless otherwise specified.

The agreement, which has received preliminary approval from the presiding federal judge, requires that the Administration and plaintiffs support passage of legislation, no later than May 24, 2013, to codify its tenets, which include the repeal of the reductions described above and replacement with the policies described in the chart and summary that follows.

Policy Included in Settlement	Est. GF Savings in First Year (in 000s)	Effective Dates
Across-the-board cut of 8% (no exceptions, so impacts all recipients)	$160,100	12 months after it takes effect, with a target date to begin July 1, 2013
Across-the-board cut of up to 7% (no exceptions, so impacts all recipients)	$158,800	Upon expiration of the 8% cut and in any future years that it is not "triggered off" (see below)

As referenced above, the settlement agreement also includes a provision to "trigger off" the ongoing reduction of up to seven percent–in whole or in part–as a result of enhanced federal funding received pursuant to an "assessment" (likely a fee or tax) on home care services, including IHSS. The proposed legislation stemming from the agreement includes no additional details regarding the assessment mechanism beyond a requirement for the Department of Health Care Services (DHCS) to submit a proposal for its implementation to the federal government by October 2014.

<u>Background on Prior Sales Tax on Support Services</u>: In 2010-11, the budget also included savings[2] that would have resulted from enhanced federal funding obtained as a match on revenues the state expected to receive and use to fund IHSS from extending the sales tax to support services, including IHSS. IHSS providers would have received a supplemental payment equal to the amount of their new tax liability. DHCS submitted its plan to implement this funding mechanism to the federal government, but the state has still not received a formal response and as a result, the law has not yet been implemented.

<u>Appeals and Reassessments Under the Settlement</u>: Under the proposed legislation to codify the settlement, if an IHSS recipient appeals the eight or seven percent reductions on their face, his/her request can be administratively denied. At the same time, the settlement agreement reiterates that IHSS recipients retain their rights under existing law to request a reassessment of service hours based on a change in personal circumstances. The department estimates that in response to the eight percent reduction proposed for 2013-14, ten percent of IHSS recipients will appeal the reduction itself and have their requests administratively denied. The department estimates that an additional 25 percent will request reassessments and that around 19 percent will receive additional authorized hours that will make up for some or all of the reduction.

[2] The last estimate from the department indicates that, if authorized, this policy would result in an estimated $95.5 million GF in the first year.

<u>Relationship of Proposed Reductions to Existing 3.6 Percent Reduction</u>: The settlement agreement intends to avoid any time lapse between the elimination of an existing 3.6 percent reduction that is scheduled to sunset on June 30, 2013 and implementation of the 8 percent reduction. In effect, the agreement intends for recipients to experience an additional 4.4 percent reduction on top of the existing 3.6 percent reduction implemented in 2012-13 (and two prior years) for a total eight percent reduction beginning July 1, 2013. Similarly, from the perspective of recipients, the seven percent reduction would implement an additional 3.4 percent reduction on top of the existing 3.6 percent reduction (or at that time, a one percent restoration from the reduction of eight percent).

<u>Staff Comment & Recommendation</u>: Staff recommends holding this item open.

<u>Questions</u>:

1. Please briefly summarize the prior reductions at issue and the terms of the settlement agreement.

2. When can we expect to hear more details about the "assessment" on home care services included as part of the settlement agreement? How might it work?

2. Community First Choice Option (CFCO)

<u>Budget Issue</u>: The Governor's budget includes savings of $168 million GF in 2013-14 due to the state's continued operation of the IHSS program under the Community First Choice Option (CFCO) waiver that was created by passage of the Affordable Care Act (federal health care reform). CFCO provides states with an additional six percent in federal funding for services and supports provided to individuals who are at risk of out-of-home placement. This is a reduced amount of savings when compared with the implementation of CFCO in 2012-13 because the federal government has clarified that, effective July 1, 2013, the eligibility requirements for the waiver are narrower than the criteria the state originally used in developing its plan. In its pending application to the federal government regarding how to implement the changes, the department proposes to include recipients who meet specified eligibility criteria for intermediate and skilled nursing levels of care. The department estimates that this includes approximately 41 percent of IHSS recipients.

The Administration additionally requests, in an April Finance Letter, $381,000 ($190,000 GF) and authority for three permanent positions to handle workload associated with new CFCO quality assurance/quality improvement requirements. The department indicates that the requested staff would have responsibility for: 1) training and technical assistance, 2) monitoring (including visits), and 3) enhanced analysis and reporting.

<u>Staff Comment & Recommendation</u>: Staff recommends that the Subcommittee approve the April Finance Letter.

Questions:

1. Please briefly describe the CFCO waiver, the criteria for eligibility beginning in 2013-14, and the need for the requested positions.

2. To the extent that the CFCO waiver created new service-related requirements (e.g., for back-up planning or training of recipients) which were implemented across-the-board under the state's initial waiver application, will all IHSS recipients continue to receive those benefits once the new, narrower CFCO eligibility criteria is applied?

3. Coordinated Care Initiative (CCI)-Related Changes to IHSS

Budget Issue: As discussed in greater detail during the Subcommittee hearing on April 4, 2013 (background materials available online at: http://sbud.senate.ca.gov/subcommittee3), the Governor's budget includes continuation of the Coordinated Care Initiative (now called Cal MediConnect), which is intended to integrate medical, behavioral, long-term supports and services (LTSS), and home- and community-based services through a single health plan for persons eligible for both Medicare and Medi-Cal (dual eligibles) in eight demonstration counties. Approximately 65 percent of IHSS recipients reside in the demonstration counties.

Related to CCI, a 2012-13 budget trailer bill (SB 1036, Chapter 45, Statutues of 2012) created IHSS Maintenance of Effort (MOE) funding requirements for counties, which replaced the previously existing county share of non-federal funding of 35 percent. As a result, the Governor's budget for 2013-14 includes increases of $17.5 million GF in 2012-13 and $47.1 million GF in 2013-14 to reflect costs estimated to shift from counties to the state.

SB 1036 also shifted collective bargaining responsibilities from local county public authorities (PAs) or non-profit consortia in the demonstration counties to a new California IHSS Authority (Statewide Authority), with specified members and an advisory committee. The department anticipates that this shift will begin in February 2014 and be complete in January 2015. Subcommittee #5 is additionally reviewing a budget change proposal that includes $563,000 GF and authority for permanent positions for the Department of Human Resources (CalHR) to implement the state's new collective bargaining responsibilities.

Finally, the Governor's budget includes a request for $884,000 ($442,000 GF) and seven limited-term positions at DSS (through 2014-15), to address workload associated with CCI. DSS states that these positions will allow the department to certify agency providers, create an appeal process, establish a fee structure, review and approve contracts, oversee the counties' activities associated with CCI, and engage with stakeholders.

Related Request to Extend Timeframe for Developing New PA Funding Methodology: The California Association of Public Authorities (CAPA) is requesting an extension to trailer bill language originally enacted in 2011 that requires DSS to work with the PAs (via CAPA) on a new rate methodology for PA administrative funding. The current language requires the new methodology to take effect with the 2013-14 year. Given the intersection with CCI and other priorities related to the IHSS program, however, the new methodology is not yet developed.

Staff Comment & Recommendation: Staff recommends amending the statutory language regarding the revision of public authority rates so that it does not include a specified timeframe. While changes continue to be necessary, especially in light of shifting responsibilities between the state and counties under the Cal MediConnect demonstration, the exact timing of those changes in demonstration counties and/or statewide is evolving. Staff also recommends approving the requested resources and limited-term positions at DSS.

Questions:

1. Please briefly summarize the recent changes to IHSS financing and collective bargaining and the impacts of those changes in 2013-14.

4. Draft Federal Labor Regulations That Could Impact IHSS

Budget Issue: The United States Department of Labor (US-DOL) has proposed draft amendments to regulations interpreting the Fair Labor Standards Act (FLSA) that may impact the applicability of federal labor laws, including those governing overtime requirements, to the IHSS program. The Administration estimates that application of the proposed rules in their current publicly available form could create upwards of $300 million (approximately half GF) in new IHSS-related costs unless IHSS program rules were amended in response.

Background: The Fair Labor Standards Act (FLSA) is the primary federal statute dealing with minimum wage, overtime pay, child labor, and related issues. Under current law and regulations, the provisions of the FLSA do not apply to certain employees. One such exemption is the "Companionship Services Exemption" for domestic service employees who: 1) provide babysitting services on a casual basis, or 2) provide "companionship services" to individuals who are unable to care for themselves. The term "companionship services" is defined in federal regulation to mean services that provide fellowship, care, and protection for a person who, because of advanced age or physical or mental disability, cannot care for his or her own needs. These services may include household work, such as meal preparation, bed making, washing of clothes, and other similar services that can be provided through IHSS. General housework may also be included, subject to some limitations. Current regulations also exempt employees of third-party agencies and live-in domestic service employees who provide companionship services from coverage.

The U.S. Department of Labor (US-DOL) has recently proposed to repeal both the companion-care and live-in exemptions for workers employed by third-party employers. The last public draft of the regulatory changes would also substantially narrow the activities exempted for families who employ companion care providers directly. Under the proposed rules, employers would either need to newly pay covered overtime costs or make changes in scheduling to reduce or eliminate overtime costs that would be incurred.

On January 15, 2013, the US-DOL filed its proposed rule changes with the Office of Information and Regulatory Affairs [a division of the Office of Management and Budget (OMB)]. The regulations are confidential until the OMB completes its review. The OMB cannot amend a rule; their authority only allows them to finalize/publish the regulation or return it back to the sponsoring department. The timing of the OMB's pending decisions with respect to these regulations is unknown.

Staff Comment & Recommendation: This is an informational item and no action is necessary.

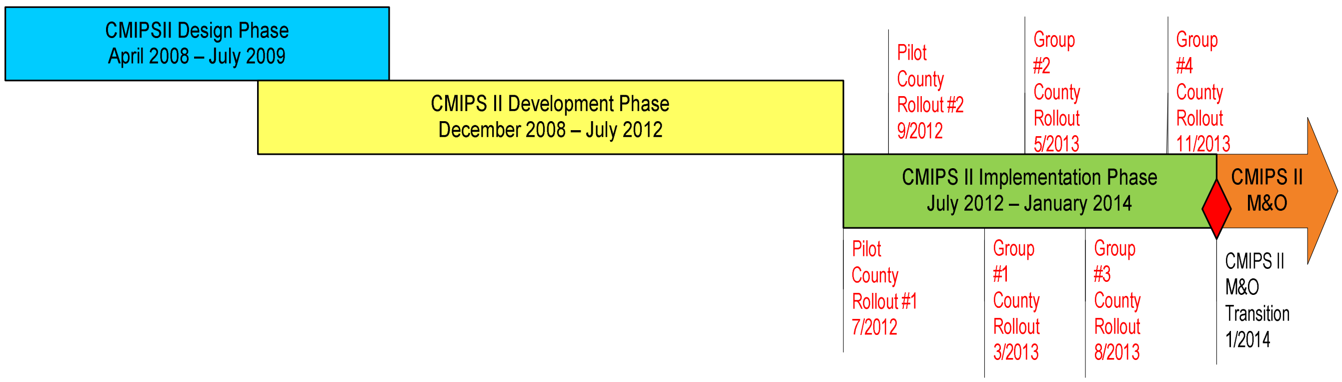
Questions:

1. Please briefly summarize the potential impacts of the pending regulations and any additional information regarding the anticipated timing of information regarding their status.

5. Case Management, Information & Payrolling System (CMIPS) II

Budget Issue: The Governor's budget proposes $510,000 ($255,000 GF) and the two-year extension of authority for four existing, limited-term positions at DSS to work with the Office of Systems Integration (OSI), the vendor, and the counties to support the continued roll-out, and then maintenance of, the Case Management, Information, and Payrolling System (CMIPS) II. Total proposed funding for combined DSS and OSI CMIPS II staffing of 36 positions in 2013-14 includes $3.4 million ($1.7 million GF).

Background on CMIPS II & Rationale for Position Requests: CMIPS is the automated, statewide system that handles payroll functions for all IHSS providers. The current vendor (formerly Electronic Data Systems, now Hewlett Packard) has operated the CMIPS system since its inception in 1979. The state has been in the process of procuring and developing a more modern CMIPS II system since 1997. The CMIPS II system will provide, according to the department, an enhanced, efficient, and more user-friendly Interface system to support the IHSS programs, as well as hold approximately 30 percent more data. The anticipated schedule for the CMIPS II roll-out is summarized in the chart below:



The Administration indicates that the requested position extensions are needed to ensure a smooth transition from the existing Legacy CMIPS to the CMIPS II replacement system. As the new system is implemented across the state, these staff would also maintain CMIPS II by providing ongoing technical assistance and support services (e.g., oversight and maintenance of governmental interfaces for sharing of information, enhanced data extraction, and change management and configuration management activities).

Staff Comment & Recommendation: Staff recommends that the Subcommittee approve the requested resources and position extensions.

Questions:

1. Please briefly describe the need to continue the requested positions.

2. The initial counties implementing CMIPS II experienced some significant challenges associated with the transition. Please summarize what those challenges were, how they have been addressed, and whether there are continuing concerns.

D. 5180 Department of Social Services, Community Care Licensing (CCL)

1. Overview

Budget Issue: With a total proposed budget of about $104 million (approximately $24 million GF), CCL oversees the licensure or certification of approximately 78,000 facilities, and has responsibility for protecting the health and safety of the individuals served by those facilities. The facilities licensed by CCL include child care centers; family child care homes; foster family and group homes; adult residential facilities; and residential care facilities for the elderly. CCL does not license skilled nursing facilities (licensed by the Department of Health Care Services) or facilities that provide alcohol and other drug treatment.

Additional Background: DSS is required to conduct pre- and post-licensing inspections for new facilities (including when a previously licensed facility changes hands). In addition, the department must conduct unannounced visits to licensed facilities under a statutorily required timeframe. Prior to 2003, these routine inspection visits were required annually for all facilities except family child care homes (which received at least triennial inspections). In 2003, a human services budget trailer bill (AB 1752, Chapter 225, Statutes of 2003) reduced the budget for CCL by $5.6 million and reduced the frequency of these inspections. As a result, CCL must visit a small number of specified facilities and conduct random, comprehensive visits to at least 10 percent of the remaining facilities annually. Ultimately, the Department must visit all facilities at least once every five years (which is less frequently than is required in most states). In addition, there is a “trigger” by which annually required inspections increase if citations increase by 10 percent from one year to the next. Finally, CCL is required to respond within 10 days to complaints and may conduct related onsite investigations.

After the 2003 changes and because of other personnel reductions, CCL fell significantly behind in meeting the new requirements for several years. The department indicates that currently, they are able to respond to and investigate complaints within the required 10-day timeframe 99 percent of the time and to comply with annually required inspections 91 percent of the time, as well as random inspection requirements 86 percent of the time.

Staff Comment & Recommendation: This is an informational item and no action is necessary.

Questions:

1. Please briefly summarize the mission of CCL and how the division is doing with respect to meeting its required duties.

2. To what do you attribute recent improvements in the division's performance of those duties?

2. Budget Change Proposal Related to Tracking Registered Sex Offenders

Budget Issue: The Governor's budget requests $470,000 ($385,000 GF) and authority for four permanent positions (two investigators, one assistant government program analyst and one staff information systems analyst) to implement a matching and investigations system intended to detect and remedy the illegal presence of registered sex offenders in DSS-licensed facilities that serve children or adults. The department indicates that this workload is currently being performed by redirected staff, but that this is not sustainable given the other critical licensing activities and investigations CCL is responsible for conducting.

Background: The Bureau of State Audits (BSA) published a report in 2008, and a subsequent report in July 2011, that concluded that the department can and should do more to ensure that licensees and county child welfare services (CWS) agencies prevent registered offenders from inappropriate contact with minors and adults residing in licensed facilities. In 2011, the BSA found over 1,000 addresses in the Department of Justice Sex Offender Registry that matched addresses of DSS or county-licensed homes of children in the CWS system. According to the department, the current rate of validated matches is around four percent of those initially identified (or 40 registered offenders).

Staff Comment & Recommendation: Staff recommends that the Subcommittee approve the requested resources and positions.

Questions:

1. Please briefly summarize the need for the requested positions.

E. 4170 Department of Aging

1. Overview & Sequestration

Department Overview: With a proposed 2013-14 budget of $196.2 million ($32.2 million GF) and 115.5 authorized positions, the California Department of Aging (CDA) administers programs that serve older adults, adults with disabilities, family caregivers, and residents in long-term care facilities throughout the State. The department administers funds allocated under the federal Older Americans Act, the Older Californians Act, and through the Medi-Cal program.

The department contracts with the network of Area Agencies on Aging, who directly manage a wide array of federal and state-funded services that help older adults find employment, support older adults and individuals with disabilities to live as independently as possible in the community, promote healthy aging and community involvement, and assist family members in their caregiving. CDA also contracts directly with agencies that operate the Multipurpose Senior Services Program through the Medi-Cal home and community-based waiver for the elderly, and certifies Community Based Adult Services centers for the Medi-Cal program.

Sequestration: According to the department, the four largest and most critical programs that are supported by federal funding and affected by the recent sequestration reductions are the: 1) Congregate Nutrition, 2) Home Delivered Nutrition, 3) Supportive Services, and 4) Long Term Care Ombudsman programs. The Congregate and Home Delivered Nutrition programs provide meals to individuals aged 60 and older at congregate meal sites, or at home for those who are homebound due to illness, disability or isolation. Supportive Services programs are designed to provide assistance to keep individuals in the community. Services include assistance with care-management, chore, personal care and transportation. The Long Term Care (LTC) Ombudsman, through its 35 local programs, investigates and resolves complaints made by, or on behalf of, individual residents in long-term care facilities (nursing homes and residential care and assisted living facilities for the elderly) and advocates for the rights of all residents of long-term care facilities.

The department estimates that sequestration may reduce the federal funding for these critical programs for Federal Fiscal Year (FFY) 2013 as follows:

Program	Estimated Reduction	Percent
Congregate Nutrition	3,533,757	8.1
Home Delivered Nutrition	936,436	4.3
Supportive Services	1,782,516	5.2
LTC Ombudsman	109,347	5.2

Staff Comment & Recommendation: This is an informational item, and no action is required.

Questions:

1. Please briefly summarize the department's most critical roles and programs.

2. How is the department implementing reductions due to federal sequestration?

2. Multi-Purpose Senior Services Program (MSSP)

Budget Issue: The budget proposes $40.5 million ($20.2 million GF) for local assistance and $2.6 million ($1.2 million GF) for state operations related to the MSSP program. The budget also continues to assume that MSSP, along with other long-term care supports and services, will be integrated into Medi-Cal managed care as a part of the Coordinated Care Initiative (CCI) or Cal MediConnect.

Background on MSSP: MSSP provides care management services for frail, elderly clients who wish to remain in their own homes and communities. Clients must be age 65 or older, eligible for Medi-Cal, and certified (or certifiable) as eligible to enter into a nursing home. Teams of health and social service professionals assess each client to determine needed services and then work with the clients, their physicians, families, and others to develop an individualized care plan. Services that may be provided with MSSP funds include, but are not limited to: care management, adult social day care, housing assistance, in-home chore and personal care services, respite services, transportation services, protective services, meal services, and special communication assistance. CDA currently oversees operation of the MSSP program statewide and contracts with local entities that directly provide MSSP services to around 12,000 individuals. The program operates under a federal Medicaid Home and Community-Based, Long-Term Care Services waiver.

MSSP As Part of the CCI: As discussed in greater detail during the Subcommittee hearing on April 4, 2013 (background materials available online here: http://sbud.senate.ca.gov/subcommittee3), the Governor's budget includes CCI, which is intended to integrate medical, behavioral, long-term supports and services (LTSS), and home- and community-based services through a single Medi-Cal health plan for persons eligible for both Medicare and Medi-Cal (dual eligibles) in eight demonstration counties. Additionally, CCI will integrate LTSS into Medi-Cal managed care for individuals eligible for Medi-Cal, but not Medicare.

For recipients in non-demonstration counties, the MSSP program's current eligibility process and programmatic requirements will continue without changes. In the eight participating counties, the demonstration sites (through managed care plans) are expected, under the state's Memorandum of Understanding (MOU) with the federal government, to contract with existing MSSP sites to provide care coordination to the plans' enrollees until March 31, 2015 or 19 months after the commencement of beneficiary enrollment into a participating plan, whichever is later. During this period, the plans must allocate to MSSP providers the same level of funding those providers would have otherwise received under their MSSP contract with CDA. Beneficiaries enrolled in MSSP in seven counties with passive enrollment will have an effective enrollment date no sooner than October 1, 2013. Los Angeles County will instead enroll all MSSP beneficiaries January 1, 2014. Passive enrollment based on MSSP status supersedes the county-specific phase-in detailed above.

The MSSP Site Association recommends that the beginning date for enrollment of MSSP beneficiaries into the demonstration be delayed by three months so that these particularly frail recipients would not be among the first to be enrolled. The Association further recommends that requirements related to the provision of person-centered care coordination to enrollees in the demonstration who are not MSSP recipients, but who have similar needs, be defined to be consistent with the current MSSP model.

Staff Comment & Recommendation: Staff recommends holding this item open pending the May Revision.

Questions:

1. How will the transition to receiving LTSS through managed care work for current MSSP clients and those currently awaiting services?

2. How is the Administration engaging MSSP sites and staff as the Coordinated Care Initiative is being implemented?

3. Looking ahead a few years, does the Administration intend for MSSP to continue to be budgeted as a separate LTSS program? Would CDA maintain its programmatic oversight role? Who would authorize MSSP services? How would federal funding potentially change?