

Senate Budget and Fiscal Review – Mark Leno, Chair
SUBCOMMITTEE #3 on
Health & Human Services

Chair, Senator Holly J. Mitchell

Senator William W. Monning
Senator Jeff Stone, Pharm. D.



May 21, 2015

10:00 a.m.

Room 4203, State Capitol

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(Michelle Baass)

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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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VOTE ONLY**Multiple Departments****1. Health-Related General Fund Investments**

As discussed at the March 19th and May 7th Subcommittee hearings, the Subcommittee has received multiple requests for General Fund augmentations for health-related programs.

Subcommittee Staff Recommendation—Approve. Given the state’s fiscal situation and the Senate’s desire to help lift more people out of poverty, it is recommended to approve the following General Fund augmentations and to adopt placeholder trailer bill language to effectuate these proposals:

Proposal	Description	Annual General Fund Amount (unless otherwise noted)
1. Medi-Cal: Restore Full Adult Dental Benefits	The 2009 budget eliminated several Medicaid optional benefits from the Medi-Cal program. The 2013-14 budget partially restored adult dental benefits. It is proposed to fully restore these benefits effective October 1, 2015.	\$67.5 million
2. Medi-Cal: Expand to Cover Remaining Uninsured Regardless of Immigration Status	Provide Medi-Cal coverage to undocumented immigrants.	\$40 million
3. Medi-Cal: Eliminate AB 97 Reductions for Dental Providers	Given the growing concerns of access to dental services in Medi-Cal, it is recommended to eliminate the AB 97 payment reduction for dental providers.	\$30 million

<p>4. Medi-Cal: Restore Optional Benefits</p>	<p>The 2009 budget eliminated several Medicaid optional benefits from the Medi-Cal program. These benefits were eliminated for budgetary, not policy, reasons in response to the fiscal crisis. The following benefits are proposed to be restored:</p> <ul style="list-style-type: none"> • Acupuncture • Audiology • Incontinence Cream and Washes • Optician / Optical Lab • Podiatry • Speech Therapy <p>Chiropractic services are not proposed to be restored.</p>	<p>\$15.1 million</p>
<p>5. Public Health: Hepatitis C and HIV Prevention</p>	<p>In effort to prevent Hepatitis C (HCV) and HIV, funding for the following proposals is recommended:</p> <ul style="list-style-type: none"> • State Syringe Exchange Program (\$3 million) • HCV Rapid Testing Kits (\$600,000) • HCV Linkage & Retention in Care Demonstration Projects (\$2.2 million) • Pre-Exposure Prophylaxis (PrEP) Access & Affordability Program (\$2.2 million) 	<p>\$8 million</p>
<p>6. Medi-Cal: AB 97 Payment Claw back for Distinct-Part Nursing Facilities</p>	<p>Provide one-time funding to exempt one-half of the collection of AB 97 retroactive recoupments for Distinct-Part Nursing Facilities in the budget year. Budget year recoupment amount is \$13.9 million General Fund and total retroactive recoupment from these facilities is \$114 million General Fund.</p>	<p>\$7 million (one-time)</p>
<p>7. Medi-Cal: Dental Anesthesia Rate</p>	<p>Increase the dental anesthesia rate to provide rate parity between general anesthesia and dental anesthesia providers. (The cost of equalizing facility fees and anesthesia to medical rate.)</p>	<p>\$4.3 million</p>
<p>8. Robert F. Kennedy Health Plan</p>	<p>In order to ensure the continuation of the United Farmworkers Union's Robert F. Kennedy Health Plan, it is proposed to provide one-time \$2.5 million to this plan to purchase stop-loss coverage insurance.</p>	<p>\$2.5 million (one-time)</p>

4260 Department of Health Care Services

1. Medi-Cal: Impact of President's Executive Order (DOF ISSUE 521-MR)

Budget Issue. The May Revision includes \$33.1 million (\$27.8 million General Fund) to reflect the costs of providing Medi-Cal to newly qualified individuals as a result of the President's Executive Order on immigration. However, this number has been revised by the Administration and the estimated cost for this proposal is \$41.5 million (\$33.2 million General Fund) in 2015-16 and \$206 million (\$165.2 million General Fund) on an ongoing basis. These numbers were revised to include dental and managed care carve-outs in the per member per month rate (revised from \$242.09 to \$274.54).

This issue was heard at the May 18^h Subcommittee hearing.

Subcommittee Staff Comment and Recommendation—Approve. As the LAO noted at the Subcommittee hearing, there are significant uncertainties with regard to when and if the President's actions may be implemented, how many eligible individuals will enroll in this immigration program, and then the number of these individuals who would proactively enroll into Medi-Cal. For this reason, it is recommended to approve the Administration's estimate.

2. Medi-Cal: Skilled Nursing Facility Quality Assurance Fee Extension

Budget Issue. DHCS requests trailer bill language (TBL) to:

- a. Extend the sunset date for the skilled nursing facility rate-setting methodology established under AB 1629 (Frommer), Chapter 875, Statutes of 2004, as well as the Quality Assurance Fee (QAF) and Quality/Accountability Supplemental Payment (QASP) programs, from July 31, 2015, to July 31, 2020.
- b. Specify that beginning 2015-16, the annual increase in the weighted average Medi-Cal reimbursement rate for skilled nursing facilities would be 3.62 percent. (The rate increase for 2013-14 and 2014-15 was three percent.)
- c. Set Quality Accountability Supplemental Payment Program (QASP) payments at the same level as existed for 2014-15 (approximately \$90 million per year).
- d. Extends the DHCS Administrative Procedure Act (APA) exemption through July 31, 2020, and the California Department of Public Health (CDPH) Public Contract Code exemption through December 31, 2020.

This issue was heard at the April 23rd Subcommittee hearing.

Subcommittee Staff Comment and Recommendation—Adopt placeholder trailer bill language. It is recommended to adopt the above placeholder trailer bill language and to add provisions to require

DHCS to (1) include direct care staff retention in the QASP and (2) require DHCS to report to the Legislature on the QASP, including if the level of QASP payments are adequate to sustain the program.

3. Medi-Cal: Financial Audits Workload

Budget Issue. DHCS requests 21 positions (nine permanent and 12.0 two-year limited term) and expenditure authority of \$3,094,000 (\$844,000 General Fund , \$1,544,000 federal funds and \$706,000 reimbursements) to address new audit workload associated with Intermediate Care Facilities for the Developmentally Disabled Nursing/Habilitative (ICF-DDN/H) and AB 959 (Frommer), Chapter 162, Statutes of 2006, public clinics.

This issue was heard at the March 19th Subcommittee hearing.

Subcommittee Staff Recommendation—Approve.

4. Medi-Cal: Allied Dental Professionals Enrollment

Budget Issue. DHCS proposes to include allied dental professions employed by a public health program (registered dental hygienists, registered dental hygienists in extended functions, and registered dental hygienists in alternative practice) in the Medi-Cal dental services program. A State Plan Amendment is under development to implement this change.

The May Revision assumes annual costs of \$1.6 million (\$761,850 General Fund) for the increase in dental services as a result of these professionals providing services.

This issue was heard at the March 19th Subcommittee hearing.

Subcommittee Staff Recommendation—Approve.

5. Medi-Cal: Ground Emergency Medical Transportation - Trailer Bill Language

Budget Issue. The May Revision proposes trailer bill language (TBL) to modify the existing ground emergency medical transportation (GEMT) Supplemental Reimbursement Program in order to maximize federal financial participation for public GEMT provider's services, subject to federal approval. This new mechanism would have no impact to the General Fund.

This issue was heard at the May 18^h Subcommittee hearing.

Subcommittee Staff Comment and Recommendation—Adopt placeholder trailer bill language.

6. Medi-Cal: Eliminate Cost-of-Living Adjustment for County Eligibility Administration

Budget Issue. DHCS proposes trailer bill language to suspend the county administration cost-of-living adjustment (COLA) on a permanent basis.

This issue was heard at the March 19th Subcommittee hearing.

Subcommittee Staff Recommendation—Modify Trailer Bill Language. It is recommended to modify the proposed placeholder trailer bill language by suspending the county COLA for the budget year only and not on a permanent basis. The May Revision proposes increased funding for county eligibility administration.

7. Medi-Cal: County Administration Augmentation (DOF ISSUE 515-MR)

Budget Issue. The May Revision proposes to increase Medi-Cal county administration funding by \$150 million (\$48.8 million General Fund) due to ongoing implementation issues related to the California Healthcare Eligibility, Enrollment, and Retention System (CalHEERS) information technology system built to implement the federal Affordable Care Act (ACA). This augmentation would fund county administration at the current year level for ACA-related workload at \$390 million (\$195 million General Fund).

This issue was heard at the May 18th Subcommittee hearing.

Subcommittee Staff Comment and Recommendation. Since Monday's hearing, the Administration and counties have worked to identify alternative funding sources for this workload. It is estimated that current year CalFresh caseload will be lower than anticipated and it is proposed to reappropriate this unused funding (for current year caseload) to Medi-Cal county administration in the budget year. This would provide a \$95.3 million increase for this county administration workload, including \$31 million General Fund that would be reappropriated and would be used to draw down approximately \$64.3 million in federal funds. To implement this, it is recommended to adopt the following placeholder budget bill language:

Reappropriation Item in 5180

5180-XXX – Reappropriation, Department of Social Services. Notwithstanding any other provision of law, \$31,000,000 from the General Fund for the appropriations provided in the following citations are reappropriated for expenditure pursuant to Provision 1 and are available for encumbrance or expenditure or transfer until June 30, 2016.

0001–General Fund

(1) Item 5180-141-0001, Budget Act of 2014 (Chs. 25 and 663, Stats. 2014)

Provisions:

1. For the 2015-16 fiscal year only, \$31,000,000 from the General Fund shall be reappropriated to provide funds for counties to implement the county administration efforts necessary to

implement the federal Patient Protection and Affordable Care Act P.P. 111-148). These funds shall be transferred to Schedule (1) of Item 4260-101-0001 for the purpose noted above.

Provisional Language for Item 4260-101-0001

X. For the 2015-16 fiscal year only, notwithstanding any other provision of law, pursuant to Provision 1 of Item 5810-XXX, \$31,000,000 from the General Fund in Schedule (1) of this item is available for the purpose of funding county administration efforts to support the federal Patient Protection and Affordable Care Act (P.L. 111-148).

8. CCI: Multipurpose Senior Services Program Transition Timeline

Budget Issue. Current statute authorizing the Coordinated Care Initiative (CCI) states that the Multipurpose Senior Services Program (MSSP) will transition from a federal waiver to a managed care benefit after 19 months of MSSP beneficiary enrollment into managed care. This proposal will extend the transition deadline to December 31, 2017, but would allow an earlier transition in a county or region when the MSSP sites and managed care plans mutually agree they are ready to transition and want to transition early; in addition both the MSSP sites and managed care plans would have to demonstrate that they have met readiness criteria that is developed by DHCS, California Department of Aging (CDA), MSSP providers, managed care plans and stakeholders. Additionally, the proposed trailer bill language specifies that if CCI is terminated that MSSP will revert to a waiver benefit.

This issue was heard at the May 18th Subcommittee hearing.

Subcommittee Staff Comment and Recommendation—Adopt placeholder trailer bill language.

9. Drug Medi-Cal Residential Treatment Services

Budget Issue. The May Revision includes \$47 million (\$14.8 million General Fund) for the provision of residential treatment services in Drug Medi-Cal. This estimate assumes the approval of the Drug Medi-Cal Waiver by June 30, 2015 and that 22 counties will begin providing residential treatment services in the budget year, with 11 counties starting in September.

Subcommittee Staff Comment and Recommendation—Reduce by \$5 million General Fund (and by appropriate federal funds). It is recommended to reduce this item by \$5 million General Fund because it is highly unlikely that this service will be available in 11 counties in September. The Administration's timeline does not reflect that CMS has not yet approved this waiver amendment, counties have not submitted their implementation plans (and DHCS has not approved these plans), DHCS has not developed an American Society of Addiction Medicine (ASAM) designation program, and residential treatment providers do not yet have the ASAM designation. This reduction amount reflects that some counties may be able to start in the November-December time period, which is still uncertain.

10. Pediatric Palliative Care Waiver Pilot Project Expansion

Budget Issue. DHCS proposes to expand the Pediatric Palliative Care Waiver Pilot Project. This expansion is expected to result in net savings of \$1,356,000 (\$857,500 General Fund) in 2015-16.

The Administration is proposing an expansion to the program in light of both the fiscal savings and positive satisfaction ratings found in the independent evaluation. Currently the pilot program operates in nine counties, serving approximately 150 children. This proposal is to expand the pilot to up to seven additional counties, potentially increasing caseload to approximately 270 participants.

Subcommittee Staff Recommendation—Approve.

11. Major Risk Medical Insurance Program Reconciliations Trailer Bill Language

Issue. As discussed at the April 23rd Subcommittee hearing, DHCS is in the process of reconciling Major Risk Medical Insurance Program (MRMIP) and Guaranteed Issue Pilot (GIP) actual plan expenditures and claims with what the state already paid these plans. There is currently a four-year backlog in the reconciliation process. Consequently, it is unknown how much the state may owe plans or how much plans may owe the state. The Administration estimates that on the net of both programs' reconciliations, the state would receive an increase in funding.

Subcommittee staff requested technical assistance from the Administration on methods to facilitate and expedite the reconciliation process. It is important to expedite this process, so that the state has an understanding of the true balance of the Managed Risk Medical Insurance Fund (MRMIF).

This issue was heard at the May 18^h Subcommittee hearing.

Subcommittee Staff Comment and Recommendation—Adopt placeholder trailer bill language. In order to expedite this reconciliation process, it is recommended to adopt placeholder trailer bill language that specifies the following:

- DHCS and the plans consult on the reconciliations.
- If DHCS and a plan do not reach an agreement, DHCS has the authority to provide notification to the plan of the final determined amount.
- The plan has 60 days to repay DHCS.
- If the plan does not repay in 60 days:
 - Interest begins to accrue
 - DHCS can offset the repayment amount from other payments to the plan.
 - DHCS can enter into a repayment agreement with the plan and can choose to waive interest.

Additionally, given that the Subcommittee rejected the Administration's proposed modifications to the MRMIP program, it is recommended to adopt placeholder trailer bill language to extend the period of time to reconcile payments for the GIP program from six to 18 months which is more consistent with historical timelines.

12. Suicide Prevention Hotlines – Supplemental Report Language

Issue. CalMHSA, a joint powers authority, and the County Behavioral Health Directors Association request Proposition 63 state administrative funds for suicide hotlines. These efforts are currently supported with county funding from Proposition 63. The county funding structure is coming to an end; and, consequently, counties are seeking state funding. (Nothing prohibits counties from continuing to fund these efforts.)

Subcommittee Staff Recommendation—Adopt supplemental report language. It is recommended to adopt Supplemental Report Language regarding DHCS to assess suicide hotlines in the state. The report shall cover the accessibility of suicide hotlines throughout the state, deficiencies in accessibility or quality of the hotlines, an overview of the funding history of the hotlines, and information on potential future funding strategies. In the development of this report, DHCS shall confer with the Mental Health Services Oversight & Accountability Commission, the Office of Emergency Services, and counties. This report would be due January 10, 2016.

4265 Department of Public Health

1. AIDS Drug Assistance Program (ADAP) – Increase in Federal Authority

Issue. At its May 18th hearing, the Subcommittee adopted proposals to use ADAP rebate funds to increase funding for ADAP enrollment (\$2 million for local health jurisdictions and \$1 million for the Office of AIDS). These proposals were ongoing investments.

Subsequent to this hearing, DPH and the Department of Finance identified the possibility of available federal funding for these purposes. Using these federal funds for these purposes would ensure that the state does not return unused federal funds for ADAP.

Subcommittee Staff Recommendation—Increase federal fund authority. It is recommended to augment federal fund authority for these purposes, to ensure that federal funds are used, if available, to fund these proposals before rebate special funds are used.

2. California Clinical Laboratory Testing

Issue. Stakeholders have raised a concern that changes to the federal Clinical Laboratory Improvement Amendments (CLIA) will no longer allow medical laboratories in California to use the federal quality control option known as the Equivalent Quality Control (EQC). Stakeholders have requested state law be amended to allow for EQC to be used until December 31, 2015. CLIA will prohibit EQC after January 1, 2016.

This issue was heard at the May 18th Subcommittee hearing.

Subcommittee Staff Comment and Recommendation—Adopt placeholder trailer bill language. It is recommended to adopt placeholder trailer bill language to authorize laboratories to use the federally approved quality control testing approach until December 31, 2015. Proposed placeholder trailer bill language:

Business and Professions Code Section 1220(d)(2)(B): A quality control program, may include the laboratory's use of an alternative quality control testing procedure recognized by the Centers for Medicare and Medicaid Services (CMS). The program shall meet the requirements of CLIA in Subpart K (commencing with Section 493.1201 493.1200) of Title 42 of the Code of Federal Regulations (in effect as of 2003–2014). The following alternative quality control testing procedures recognized by CMS pursuant to this section may be used:

- (i) Equivalent Quality Control procedures may be used until December 31, 2015.
- (ii) An Individualized Quality Control Plan may be used as of January 1, 2016 according to Appendix C of the State Operations manual as adopted by CMS.

3. Licensing and Certification Fee Augmentation for LTC Ombudsman Program

Budget Issue. At the May 18th Subcommittee hearing, the Subcommittee adopted the proposal to increase the licensing and certification fee for skilled nursing facilities to generate \$400,000 to support the Long Term Care (LTC) Ombudsman Program on an ongoing-basis.

Subcommittee Staff Comment and Recommendation—Adopt placeholder trailer bill language. It is recommended to adopt placeholder trailer bill language to implement this proposal and allow the revenue generated by this fee increase to be directed to the Long Term Care Ombudsman Program.

4560 Mental Health Services Oversight and Accountability Commission (OAC)

1. Competitive Bid Contracts for Mental Health Advocacy

Budget Issue. As was discussed at the April 9th Subcommittee hearing, multiple groups have requested contract augmentations for mental health advocacy using Proposition 63 state administration funds.

Subcommittee Staff Comment and Recommendation. The May Revision estimates that there could be about \$2 million in available Proposition 63 state administration funds in 2015-16. It is recommended to augment the OAC's budget by \$1 million in state administration funds for competitive bid contracts to support mental health advocacy on behalf of youth, veterans, and racial and ethnic minorities and adopt placeholder budget bill language to allow these funds to be made available provided that there is availability in the state administration cap.

4800 California Health Benefit Exchange

1. Emergency Regulations and Rulemaking Authority

Budget Issue. The California Health Benefit Exchange (Covered California) proposes trailer bill language in the May Revision to:

- a. Extend its current emergency regulations and the exchange board's rulemaking authority for an additional year until January 1, 2017, extends its ability to readopt emergency regulations until January 1, 2020 for emergency regulations adopted prior to the effective date of the Budget Act of 2015, and
- b. Provide limited statutory exemptions from the Administrative Procedure Act's (APA) rulemaking requirements for (i) standard plan designs, and (ii) separate regulations for each procurement.

This issue was heard at the May 18th Subcommittee hearing.

Subcommittee Staff Comment and Recommendation—Adopt placeholder trailer bill language.