

SUBCOMMITTEE #3: Health & Human Services

Chair, Senator Bill Monning

Senator Mark DeSaulnier
Senator Bill Emmerson



May 23, 2013

Upon Adjournment of Appropriations

Room 4203
(John L. Burton Hearing Room)

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Agenda Part I

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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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ISSUES RECOMMENDED FOR VOTE-ONLY

A. 4300 Department of Developmental Services (DDS)

1. Regional Center Payments for Out-of-Pocket Health Insurance Costs

As discussed in the Subcommittee agenda for April 11, 2013, the Governor’s budget includes increases of \$15 million GF in 2012-13, and \$9.9 million GF in 2013-14, to support payments by regional centers of health insurance co-pays and co-insurance payments tied to accessing services identified as necessary in the consumer’s Individual Program Plan (IPP). The administration also proposes trailer bill language to specify the conditions under which regional centers would be authorized to make such co-payments going forward, and prohibits payment by regional centers of insurance deductibles.

Recommendation: Approve the proposed resources and trailer bill language, subject to the changes mentioned below, and any additional refinement in the trailer bill process:

- 1) Clarify that the trailer bill language is intended to cover co-insurance, as well as co-pays;
- 2) Clarify that the use of the word “parent” also includes guardians or caregivers; and
- 3) Include placeholder language to require data collection related to coverage by regional centers of co-payments and co-insurance.

2. Proposal to Eliminate Sunset Date for Annual Family Fee

As discussed in the Subcommittee agenda for April 11, 2013, the administration proposes trailer bill language to eliminate the sunset date on the required payment of annual fees of \$150 or \$200 by families with children under the age of 18, living at home, who receive services from regional centers beyond eligibility determination, needs assessment, and service coordination. As under existing law, the fees would only apply under specified circumstances. The department has also indicated that it is working with regional centers to increase implementation of the existing requirements.

Recommendation: Approve the proposal to make the annual family fee permanent. Additionally, direct the department to continue to work with each regional center to ensure that the fee will be implemented as intended, and to update the Subcommittee on those efforts.

3. Additional Trailer Bill Language Proposals

As discussed in the Subcommittee agenda for May 20, 2013, Disability Rights California has proposed trailer bill language to:

- 1) Clarify that restrictions on the use of Institutions for Mental Disease (IMDs), that were adopted in trailer bill language last year, were intended to apply irrespective of the age of the individual with a developmental disability.
- 2) Clarify that comprehensive assessments of the needs of developmental center (DC) residents that regional centers are required to conduct, under existing law, should specifically identify community-based services and supports that would enable the individual to move to a community-based setting (including specification that those services and supports should be considered for development in Community Placement Plans, if they are not already available), along with a requirement for regional centers to submit those assessments to the court and other parties to specified hearings, in response to the request of an adult who is seeking release from a DC;
- 3) Require notification of clients' rights advocates when placements in IMDs are made; when the required assessments of DC residents' needs are being shared at Individual Program Plan team meetings in which the team will be identifying the least restrictive placement setting that can meet a consumer's needs; and when courts are holding specified hearings in response to the request of an adult who is seeking release from a DC, along with clarification that the clients' rights advocate may attend those hearings; and
- 4) State that these requirements shall be construed in a manner that "affords an adult requesting release all rights under Welfare and Institutions Code section 4502, including the right to treatment and habilitation services and supports in the least restrictive environment and the Americans with Disabilities Act of 1990 (P.L. 101-336), as amended in 2008 (P.L. 110-325), including the right to receive services in the most integrated setting appropriate."

Recommendation: Approve placeholder trailer bill language, consistent with the proposals described above.

B. 5180 Department of Social Services

1. Proposed Changes Related to State Hearings

As discussed in the Subcommittee agenda for March 21, 2013, the Governor's budget requested \$3.4 million (\$1.3 million GF) to establish 21 new, permanent state staff positions to handle an increased state hearings caseload. The General Fund resources are proposed to be redirected from the payment of penalties for late hearing decisions. The department indicates that these late decisions are a result of caseload growth and that the amount of penalties has increased since 2006, totaling \$1.1 million for 2011-12, and is projected to be as high as \$1.8 million yearly over the next three years. Correspondingly, the Governor proposes trailer bill language to limit, for a period of three years, the department's exposure to those court-mandated penalties. Advocates have expressed concern with the administration's proposal to have the Legislature and Governor make those changes to the penalty structure, rather than having the parties propose any potential changes to the court that continues to retain jurisdiction over the litigation which established the penalty structure.

As discussed in the Subcommittee agenda for May 20, 2013, the May Revision additionally proposes an increase of \$9.8 million (\$3.5 million GF) for administration costs associated with anticipated state hearings workload related to proposed across-the-board reductions in In-Home Supportive Services (IHSS) hours. The proposed \$176.4 million GF savings related to the reduction in 2013-14 is already net of these anticipated costs, which the administration indicates could be used to fund up to 24, temporary administrative law judge positions and corresponding support staff.

Recommendation: In response to the Governor's January and May proposals, approve funding and authority for 24 new, permanent administrative law judges, and corresponding funding for 17 administrative support staff. The fiscal effect of this action should be determined by the administration, after consultation with Subcommittee staff. Additionally, defer, to a court-based process related to the underlying litigation that established the penalty structure, the potential for funding, through temporary penalty relief, state hearings resources necessary to get to timely decisions.

2. CalWORKs Early Engagement Proposal

As discussed in greater detail in the Subcommittee agenda for May 20, 2013, the May Revision requests an increase of \$48.3 million GF in 2013-14, to improve early engagement and barrier removal processes and supports within the CalWORKs program, and to expand subsidized employment opportunities for CalWORKs Welfare-to-Work participants. The increased funding is intended to allow counties to perform more robust appraisals in order to identify the services that can best benefit program participants, which could include family stabilization services, barrier removal services, and employment services. Correspondingly, with respect to the subsidized employment component of the proposal, the Administration proposes trailer bill language to expand the number of slots available to participants. Finally, the administration proposes a one-time increase of \$600,000 GF to support necessary

automation changes associated with the proposal.

Recommendation: Approve the overall amount of funding associated with the administration's proposal and adopt the administration's subsidized employment-related language, as placeholder language, subject to refinement. Additionally, adopt placeholder trailer bill language to: 1) require the statewide use of the proposed tool for conducting more robust appraisals, 2) provide a framework and add specificity regarding the services that will be available as family stabilization services, and 3) make related changes to existing law regarding the flow of welfare-to-work services.

3. Human Services Realignment Proposals Associated with Health Care Reform

As discussed in greater detail in the Subcommittee agenda for May 20, 2013, the administration is proposing that over time, as the state assumes more responsibility for health care, counties will take on more financial responsibility for certain human services programs. The administration estimates that \$300 million in 2013-14, \$900 million in 2014-15, and \$1.3 billion in 2015-16 in 1991 realignment funding will shift from local health programs to local human services programs. The administration indicates that the actual amount shifted would, however, be based on each county's experience with implementing the optional expansion of Medi-Cal. The administration has not yet provided detailed trailer bill language outlining the fiscal and/or programmatic changes being proposed.

Recommendation: Reject the programmatic aspects of the administration's human services realignment proposal. To the extent that the Senate takes actions with respect to health care reform that result in an amount of 1991 realignment funding that could become available to offset General Fund, adopt instead a fiscally-based transaction (e.g., tied to funding for CalWORKs grants, CalFresh administration, or other programs).

4. Temporary Assistance for Needy Families (TANF) Transfer to Student Aid Commission

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 an even higher level (\$924.2 million in the May Revision). This would mean that more than half of the Cal Grants program would be supported by federal TANF funding.

Recommendation: Consistent with the prior action of this Subcommittee, reduce the TANF transfer to CSAC to eliminate any amount of the transfer that is tied to the creation of excess Maintenance of Effort (MOE) funding. The final amount of the change should be determined by the administration, after consultation with Subcommittee staff and the LAO. This will also require making conforming, technical

changes to replace a corresponding amount of TANF funds, previously budgeted under CSAC, with General Fund. The overall budget impact of the change should be neutral to the General Fund at the statewide level.

5. Trailer Bill Language Related to Implementation of AB 6 (Chapter 501, Statutes of 2011)

As discussed in greater detail in the agenda for the Subcommittee hearing on May 20, 2013, the May Revision proposes trailer bill language intended to more closely align state law established by AB 6 with federal requirements regarding eligibility reporting and Low-Income Home Energy Assistance Program (LIHEAP) policies, and to make other changes regarding the deductions available to recipients. Advocates have additionally suggested these two changes to the administration's proposed language:

1) On page 2, subsection (c), amend to read:

"(c) ...In the event a complete certificate is not received by the 15th day of the month in which the certificate is due, a personal contact shall be made with the family by a county worker, and the certificate shall then be completed with the assistance of the eligibility worker, if needed..."

2) On page 6, strike subdivision (b)(2) of section 11265 to align CalWORKs and CalFresh requirements with the denial of a federal waiver related to CalFresh policy.

Recommendation: Adopt the administration's proposed trailer bill language, along with the changes recommended by advocates, as placeholder language, subject to refinement in the trailer bill process.

6. Coordinated Care Initiative – Statewide Authority

As discussed in the Subcommittee agenda for May 20, 2013, the administration is requesting an increase of \$518,000 (\$259,000 GF and \$259,000 reimbursements) and four positions (two permanent and two limited-term) to support the creation and implementation of the California In-Home Supportive Services Authority (Statewide Authority) and Statewide Advisory Committee. The Statewide Authority is the entity required to assume In-Home Supportive Services (IHSS) provider collective bargaining responsibilities from counties that transition IHSS benefits to managed care plans under the Coordinated Care Initiative.

Additionally, stakeholders propose the following trailer bill language intended to make technical changes to the budget trailer bill from last year (SB 1036, Chapter 45, Statutes of 2012) that established the Statewide Authority:

Section 110032 of the Government Code is amended to read:

110032. After the applicable mediation procedure has been exhausted, factfinding has been completed and made public, and no resolution has been reached by the parties, the Statewide Authority may declare an impasse and implement any or all of its last, best, and final offer. Any

proposal in the Statewide Authority's last, best, and final offer that, if implemented, would conflict with existing statutes or require the expenditure of funds shall be presented to the Legislature for approval. The unilateral implementation of the Statewide Authority's last, best, and final offer shall not deprive a recognized employee organization of the right each year to meet and confer on matters within the scope of representation, whether or not those matters are included in the unilateral implementation, prior to the adoption of the annual budget or as otherwise required by law.

Recommendation: Approve the requested resources and positions, and adopt placeholder trailer bill language as clean-up to SB 1036.

7. Foster Family Home and Small Family Home Insurance (FSH) Fund

As discussed in the Subcommittee agenda for April 11, 2013, the Administration proposes, in a Spring Finance Letter, to reduce the previously proposed 2013-14 funding for the FSH Fund by \$140,000 GF. The letter also proposes a one-time transfer of \$2.3 million from the FSH Fund to the General Fund to return excess surplus funds, as identified by the administration, that have accumulated because recent expenditures have been lower than budgeted.

Recommendation: Approve the requested adjustments.