# SUBCOMMITTEE #3:
# Health & Human Services

**Chair, Senator Mark DeSaulnier**

**Senator Elaine K. Alquist**
**Senator Bill Emmerson**

**May 24, 2012**

**Upon Adjournment of Senate Appropriations Committee**

**Room 112**

## Agenda I: Human Services

Staff: Jennifer Troia

***PLEASE NOTE:***

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

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**Agenda**

(Vote-Only Items indicated by *)

# VOTE-ONLY AGENDA

## 5180 Department of Social Services (DSS)

### CalFresh Administration Costs and County Match Waiver

**Budget Issue:** CalFresh is California's name for the national Supplemental Nutrition Assistance Program (SNAP, formerly known as "food stamps"). Californians are expected to receive a total of $7.2 billion (all federal funds) in CalFresh benefits in 2011-12, rising to $8.4 billion in 2012-13. The Governor's January budget included $1.6 billion ($540.0 million GF) for CalFresh administration costs, which are shared 50/50 federal/non-federal funds (with non-federal funds shared 35/15 by the state/counties).

The January budget also proposed a reduction of $71.9 million GF to CalFresh administration funding in 2012-13. The Administration indicated at the time that the adjustment was based on counties' expenditure patterns for the past few years. The May Revision updates that proposal, resulting instead in a reduction of $45.3 million GF (and corresponding other funds). The Administration indicates that the change is based on more recent data resulting from a survey of counties. There are two components to the proposed reduction to the base funding for FY 2012-13 that each comprise around half of its total value: 1) a proposal to permanently reduce funding by the amount that counties were able to spend in 2010-11 (excluding additional expenditures the counties accessed under an existing county "match-waiver" that is scheduled to sunset on June 30, 2012), and 2) a proposal to permanently reduce funding by the amount that the Administration estimates counties will be able to spend when compared to the total budgeted for 2011-12. Both are described further below.

**Match-Waiver:** Under the match-waiver in place for 2010-11 and 2011-12, counties can draw down a portion of the General Fund and federal fund allocations for CalFresh administration without fully matching those funds under the standard sharing ratios. The amount of General Fund resources available to the counties as a direct result of the match-waiver in 2010-11 is estimated at $22 million. When the match-waiver was enacted, the Legislature anticipated that counties would be able to raise their expenditures back up to the full amount required under the standard sharing ratios after a few years of relief during the toughest economic times of the recession (which were also resulting in dramatic caseload increases in CalFresh). The Administration's proposal instead assumes the match waiver will not continue and that based on expenditure patterns the counties will permanently expend the lower amount of matching funds – effectively lowering the total administration funding available to the program by $22 million GF and corresponding federal funds on a permanent basis. By contrast, the County Welfare Directors Association (CWDA) indicates that counties still plan to meet the original intent of bringing their expenditures back up to the full matching requirements. CWDA does, however, propose a two-year extension of the match-waiver before counties would be prepared to again reach this level of contribution.

**Reduction Related to Recent Expenditures:** The Administration estimates that counties will not spend $23 million GF (of the $583 million total GF budgeted) and proposes to lower the 2012-13 budgeted allocation by that amount. CWDA and other stakeholders oppose this change in budgeting methodology and point out that especially in the current budget climate, counties are being cautious about not overspending their allocations and this four percent of the total allocation is within the natural margin of error given that caution.

**Proposed Reversion of Funds from 2010-11 and 2011-12:** As an alternative to $23 million of the $45.3 million GF reduction assumed in the Governor's May Revision, CWDA proposes budget language to revert any unexpended General Fund resources from 2010-11 and 2011-12 earlier in the process than would normally occur.

**Staff Recommendation:** Reject the Administration's proposed reduction of $45.3 million GF and adopt a one-year extension of the county match-waiver for the 2012-13 budget year. Further, direct staff to work with the Administration, LAO, and CWDA to develop language that will achieve the early reversion of unexpended resources from prior years and any additional reduction necessary to reach a total of $23 million GF.

**Questions for the Administration:**

1) Please summarize the proposed reductions included in the May Revision and the existing county match-waiver.

## Child Welfare Services/Case Management System (CWS/CMS)

**Budget Issue:** During its May 22 hearing, the Subcommittee took action to approve the funding included in the Governor's budget for the replacement of the existing CWS/CMS. Further, the Subcommittee rejected characterization of this action as attendant to an indefinite suspension of the development of a CWS/CMS replacement system. The purpose of the funding was instead identified to be for beginning procurement planning efforts for a buy/build replacement system.

**Staff Recommendation:** To provide additional detail to the Subcommittee's recent action, staff recommends additionally **adopting the trailer bill language below**, subject to refinements in the trailer bill process:

> Funding included in the 2012-13 budget related to replacement of the Child Welfare Services/Case Management System shall be used for the next steps necessary to move forward with the recommendation of the Child Welfare Automation Study Team (CAST) to proceed toward procuring a new system, consistent with a buy/build strategy as described in the CAST report submitted to the Legislature. These next steps shall include, but not be limited to, completing,

in consultation with the counties and the County Welfare Directors Association, a Feasibility Study Report and Federal Advance Planning Document, as well as conducting other planning activities. OSI and the Department shall report the results of these activities, in addition to the key milestones and anticipated timelines for any resulting procurement process, to the Legislature by March 1, 2013 for review during budget hearings in 2013.

## 4300 Department of Developmental Services (DDS)

### Requested Staffing for the Lanterman Developmental Center

**Budget Issue:** As part of the 2010-11 budget, the Legislature and Governor approved a plan to begin the process of safely transitioning the residents of the Lanterman Developmental Center (Lanterman) to other appropriate living arrangements [as determined by their Individual Program Plans (IPP)] and then closing the facility to resident occupancy. This transition and closure process and the overall budget for Lanterman were discussed at the Subcommittee's March 26 hearing.

During that hearing, the Subcommittee held open the Governor's proposal for approximately $2.9 million ($1.6 million GF) to allow for the retention of 28 authorized positions and five temporary help positions that would otherwise be eliminated under budgeting formulas which factor the facility's resident population into the number of authorized positions. DDS indicated that this enhanced staffing is needed because of additional workload caused by the closure process and in order to prevent the remaining residents from needing to move in order to reside in units or buildings where remaining staff are assigned. The retained position authority would include 10 nursing positions, nine administration transition staff to coordinate among Regional Centers, community providers, and Lanterman employees, eight staff to provide other supports identified as necessary for residents, and one staff member to coordinate the State Staff in the Community program. The retained temporary help positions would include five occupational, physical, or speech therapy positions at a cost of $746,200 ($408,444 GF). These positions are funded under the Department's temporary help blanket authority (and do not include specific position authority).

**Staff Recommendation:** Approve the requested retention of specified staff for Lanterman.

### Proposals to Achieve $200 million GF Reduction

**Budget Issue:** The May Revision includes policy changes and corresponding trailer bill language to implement the proposed continuation of a reduction of $200 million annually that was triggered in December 2011 by lower than anticipated state revenues (pursuant to AB 121, Chapter 41, Statutes of 2011, which included a $100 million reduction for a six-month period of the 2011-12 budget year). The Subcommittee agenda for May 22 included additional details regarding these proposals and extensive public testimony regarding their content.

__Staff Recommendation:__ **Adopt the Administration's proposals and trailer bill language** in the following categories, **subject to** refinements in the trailer bill process and the changes and additions mentioned below:

**A. Maximizing Federal Funds**

**B. Implementation of SB 946**

**C. Redesigning Services for Individuals with Challenging Needs**
With the following changes and additions:

1) Limiting short-term acute crisis placements in developmental centers to six months, with the possibility of one six-month extension.

2) Authorizing the use of licensed delayed egress homes to also have secured perimeter fences, contingent on eligibility for federal funding and subject to program standards and a cap on the number of beds statewide in homes with secured perimeter fences, established by emergency regulations to be promulgated by the Department.

3) Prohibiting, effective July 1, 2012, Regional Centers from purchasing new residential services from Institutions for Mental Disease (IMD) for which federal financial participation is not available except in emergencies when alternative services eligible for federal funds are not available. In the case of emergency placements, requires a comprehensive assessment to be completed within 30 days of admission and an Individual Program Plan (IPP) meeting to be convened to plan for the transition of these consumers to the community within 6 months. Also requires comprehensive assessments of consumers currently placed in an IMD and the establishment of a transition plan and timelines for returning the consumer to the community.

4) Ensuring that the comprehensive assessments and reports for consumers residing in developmental centers on July 1, 2012 shall include input from the regional center, the consumer, and the consumer's family, legal guardian, or conservator, when appropriate, and identify the types of community based services and supports available to the consumer.

5) Requiring the Department to annually provide specified information to the policy and fiscal committees of the Legislature on the efforts to serve consumers with challenging needs, including but not limited to:

a) Data regarding developmental center admissions, including but not limited to those that occur in response to acute crises;

b) Outcome data related to the assessment process for consumers living in developmental centers on July 1, 2012;

c) Progress on the development of needed statewide specialty services and supports, including regional community crisis options;

d) Progress in reducing reliance on facilities ineligibile for federal funding and those located outside of the state; and

e) If applicable, any recommendations regarding additional rate exceptions or modifications beyond those allowed for under existing law that the Department identifies as necessary to ensure the success of these policies.

**D. Redesigning Supported Living Assessments**

With the specification that that regional centers be included, as stakeholders, in development of the assessment tool.

**E. Regional Center & Provider Rate Reduction of 1.25 Percent**

With a change to extend the 1.25 percent rate reduction for the 2012-13 budget year only.

**F. Additional Cost Savings and Efficiencies As Described in the Previous Agenda**

With the additional of trailer bill language to clearly establish that the use of technology in place of consumers' in-person court appearances or any direct services for consumers would only occur with the informed agreement of the consumer.

## Oversight Related to Access to Developmental Services

**Budget Issue:** The Senate Select Committee on Autism and Related Disorders recently held a hearing entitled "Ensuring Fair & Equal Access to Regional Center Services for Autism Spectrum Disorders (ASD)." The background materials for the hearing reviewed data on racial and ethnic disparities in mental health services and healthcare and also summarized the findings and implications of a recent four-part series published in the Los Angeles Times, including the following findings:

- For 3-6 year old children with ASD, California's developmental services system spends an average of $11,723 per child on white children, compared with $11,063 for Asian children, $7,364 on Latino children, and $6,593 on African American children.

- Anecdotal indications that underserved communities (primarily based on race/ethnicity and income levels) face formidable challenges and barriers in accessing appropriate services.

Several prior studies conducted since the early 1990s have also examined regional centers' expenditures of purchase-of-services (POS) dollars as a function of a number of variables, including client ethnicity. While the results have been varied and open to interpretation, the studies have overall shown that per capita expenditures are higher for white clients than for other racial and ethnic groups.

**Background on Organization of Developmental Services System:** The Lanterman Developmental Disabilities Services Act (Lanterman Act) establishes 21 nonprofit regional centers that contract with DDS to provide case management services, conduct assessments, and develop and implement an individual program plan (IPP) for each person determined to be eligible for regional center services under the Lanterman Act. To achieve the stated objectives of a developmental services consumer's IPP, the regional center is required to secure needed services and supports, either from an agency that receives public funds to serve all members of the general public or by purchasing the service or support from a provider using funds allocated to the regional center's POS budget. The Department, through appropriate and regular monitoring activities, is responsible for ensuring that regional centers meet their statutory, regulatory, and contractual obligations, and provide services and supports in compliance with state law.

**Staff Recommendation:** In order to allow for better statewide and local oversight of access and equity issues within the developmental services system, **adopt placeholder trailer bill language** to require the annual compilation of existing purchase of service utilization and expenditure data by regional center with respect to race and ethnicity, age of consumer, and disability. The age of consumer shall be broken down by birth to two, three to twenty-one, and twenty-two and older. Disability detail shall include the five categories defined in statute. The data reported shall also include the number and percentage of individuals broken down by race and ethnicity, age and disability for those who have been determined to be eligible for regional center services but are not receiving any services using purchase of service funds. The data shall be reported in a consistent manner and the first annual reporting of the data shall be posted publicly no later than December 31, 2012. Within 3 months of the data becoming available and annually thereafter, each Regional Center shall meet with stakeholders regarding the data.

## DISCUSSION AGENDA

## 5180 Department of Social Services (DSS)

### Overview of May Revision Proposals Related to Realignment of Human Services Programs

**Budget Issue:** The 2011 Budget included a major realignment of public safety programs, including the Child Welfare Services (CWS) and Foster Care programs listed in the chart below, as well as Adult Protective Services (APS), and a number of other health and corrections-related programs, from the state to local governments.

| Program | Description | Realignment Funds (Formerly GF) In 2011-12 Budget |
|---|---|---|
| Child Welfare Services | Services to ensure the safety of children, including emergency response to allegations of abuse or neglect | $670 million |
| Foster Care | Administration of and monthly assistance payments for out-of-home care and supervision | $433 million |
| Adoption Assistance Program (AAP) | Monthly assistance payments to families who have adopted children who meet specified criteria for special needs | $387 million |
| Adoptions Programs | Adoption-related services, oversight, and record-keeping | $64 million[1] |
| Child Abuse Prevention | Efforts to prevent abuse and neglect and increase public awareness | $13 million |

The 2011 Realignment is funded through two sources: 1) a state special fund sales tax of 1.0625 percent, and 2) a dedicated portion of Vehicle License Fees (VLF). Although the revenue stream for 2011 Realignment is ongoing, the initial program allocations were for the 2011-12 fiscal year only.

[1] These costs do not include $6 million associated with Agency Adoptions.

The Governor is proposing **constitutional protection for revenues** dedicated to the 2011 public safety realignment package and **a permanent funding structure** for base and growth funding. Among the Local Revenue Fund accounts created under the funding structure would be a Support Services Account. The Support Services Account would further contain two Subaccounts, including one for Protective Services (Child Welfare Services and Foster Care and Adult Protective Services).

The Governor proposes to allocate **program growth** on roughly a proportional basis first among the Accounts and then among the Subaccounts. Within each Subaccount, federally required programs would receive priority funding if warranted by caseload and costs. Further, CWS would be a priority for growth once base programs are established, which, over time, is anticipated to result in $200 million in additional funds.

The Governor also proposes some **flexibility** for the counties to move money among Subaccounts, including the transfer of up to 10 percent between Subaccounts within the Support Services Account. Transfers would be valid for only one year and would not increase the base of any program.

The May Revision estimates the sales tax to be $5.2 billion and the VLF to be $439.4 million in 2011-12; and the sales tax and VLF values are projected to increase to $5.4 billion and $455.1 million, respectively, in 2012-13.

**Changes to Program Allocations Since January:** The base for each of the programs included in 2011 Realignment is intended to become a "rolling base," meaning that the previous year's allocation level plus growth will equal the new base for the following year. However, the year in which the base is defined varies by program. For CWS, Foster Care, and APS programs, the base is established by 2011-12 fiscal year funding. The May Revision increases the 2012-13 allocation level for these programs by $5.5 million as compared to the Governor's January budget. This change is based on the availability of more recent caseload estimates and information related to 2011-12 funding.

The May Revision also proposes to increase the base for CWS and Foster Care by $53.9 million GF over the course of three years (the 2012-13 through 2014-15 fiscal years). These funds are intended to reflect the costs for counties to expand eligibility for foster care benefits up to age 21, as authorized by Chapter 559, Statutes of 2010 (AB 12). Funding for the implementation of this recently enacted legislation was inadvertently left out of the initial 2011 estimates related to the realignment of CWS and Foster Care.

**Staff Comment:** This is an informational item, and no action is required. The larger fiscal superstructure for the 2011 realignment will be heard and voted on during other Committee hearings.

**Question for the Administration & LAO:**

1) Please summarize the pending realignment-related proposals that would establish the fiscal and programmatic foundations for realignment of CWS, Foster Care and APS in 2012-13 and beyond.

## Child Welfare Services and Foster Care (CWS) Realignment: Programmatic Trailer Bill Language

**Budget Issue:** For the first year of the 2011 realignment, no changes were made to state law governing CWS and adoptions programs. Leading up to the May Revision of the 2012-13 budget, however, the Administration has proposed programmatic trailer bill language related to the following major themes, which, along with other issues raised by stakeholders, are discussed below:

**A. Proposed Flexibilities for Counties**

**B. Accountability & Oversight**

**C. Congregate Care Reforms & Needs Assessment**

**D. Technical Changes**

**A. Proposed Flexibilities for Counties:** The Administration's trailer bill language includes proposals for additional county flexibilities with respect to programs that were previously funded by state-only resources. In general, the proposed language makes these programs optional for counties to provide and eliminates requirements for counties to prepare and submit specified plans to the state (unless the information is required for federal reporting purposes). The 2010-11 General Fund allocations for some of these programs are identified below:

| Program | General Fund |
|---|---|
| Transitional Housing Placement Program-Plus (THP-Plus) | $35,417,000 |
| Kinship Support Services Program | $3,520,000 |
| Specialized Training for Adoptive Parents | $531,000 |
| Substance Abuse/HIV Infant Program | $1,844,000 |

The largest of these programs, **THP-Plus**, is a housing and supportive services program for emancipated foster youth from age 18 up to their 24th birthday. Young adults are currently eligible to participate for up to 24 months if there is a space in a program that accepts them. According to DSS, 53 of the state's 58 counties have THP-Plus programs.

The proposed trailer bill language would require counties that no longer intend to use the funding that was previously designated for these programs to report the rationale for their decision in their annual System Improvement Plan Updates.

The recently released trailer bill language also eliminates the requirement for the Department to approve **Specialized Care Increments** paid by counties in addition to the basic foster family home rate for the costs of meeting the additional daily care needs of a child who has a health and/or behavior problem. Those rates would still, however, be reported by the counties to the Department. Similarly, counties would no longer be required to submit notifications regarding their payments of **clothing allowances** to the Department. The trailer bill language would also eliminate references to state funding of a $100 supplemental clothing allowance and instead require that base amount to be paid for with realignment funding.

Under recently enacted legislation that extends eligibility for foster care to 18 to 20 year-old non-minor dependents (AB 12, Chapter 559, Statutes of 2010), a new foster care placement type called **THP-Plus-Foster Care** was also created for non-minor dependents. Although the trailer bill language originally released by the Administration included amendments to statutes governing this program that were combined with newly proposed county flexibility language, the Administration has since clarified that it did not intend to alter the nature of THP-Plus-Foster Care as a foster care placement type for non-minor dependents. DSS has been working with stakeholders on revisions to the proposed language that would make this placement type, like other foster care placement types, subject to statewide licensure by the Department.

Finally, the trailer bill language originally released by the Administration also appeared to eliminate a requirement that counties use an administrative procedure currently mandated in statute that ensures young people will be able to apply for **Supplemental Security Income (SSI)** in advance of emancipating from foster care. However, this language was combined with technical changes intended to alter references to state and county funds given the change to instead have counties utilize realignment funding, and the Department has since indicated that it does not intend to alter the administrative procedure.

**B. Accountability & Oversight:** The federal Administration for Children and Families (ACF) conducts Child & Family Services Reviews (CFSRs) of states' child welfare systems, which include assessments of compliance with outcome measures related to the safety, permanency, and well-being experienced by children and families who come into contact with CWS, as well as systemic factors. If the state fails to improve after implementing corrective actions, the federal government can also issue penalties. Prior to realignment, the state was at risk for the full costs of any federally imposed penalties for failure to meet CFSR requirements.

The trailer bill language proposes to give counties 100 percent responsibility for any disallowances or other financial consequences established by the federal government as a result of non-compliance with applicable laws. For **penalties** related to outcomes measured by the CFSR, the trailer bill language proposes to allow the Director of the Department to assess no more than 50 percent of the resulting cost against the county or counties whose performance contributed to the penalty issuance. Under specified circumstances, the Director may also waive the county's payment of the penalty and/or allow a county to reinvest the funds at issue. Correspondingly, counties would have the opportunity to participate in any appeals or federal administrative remedies associated with disallowances or penalties.

Under state law created by the Child Welfare System Improvement and Accountability Act (**AB 636**, Chapter 678, Statutes of 2001), there is also a statewide accountability system that became effective in 2004. It includes 14 performance indicators related to safety, permanency, and well-being. All 58 counties receive quarterly reports on their outcomes, conduct self-assessments, and develop System Improvement Plans. Counties that are not in compliance receive technical assistance from teams of state and peer-county administrators. If DSS determines that a county is "substantially failing" to comply, the department can notify the local welfare director and Board of Supervisors and allow time for corrective action. If that fails to resolve the issues, the DSS director can seek injunctive relief or take administrative actions.

The recently proposed trailer bill language also includes amendments to accountability provisions that the Department indicates are intended to strengthen its authority to establish performance targets and monitor counties' performance.

**C. Congregate Care Reforms & Needs Assessment:** The recently proposed trailer bill language includes provisions that would establish workgroups tasked with: 1) reviewing the current rate-setting system and services across the continuum of out of home care, and 2) developing an improved means of determining children's needs and identifying whether placement in group care is appropriate.

**D. Technical changes:** The Administration's trailer bill language also includes amendments to conform to 2011 realignment legislation (AB x1 16), which eliminated the requirement for county child welfare agencies to be licensed before they could provide adoption services. Finally, the language proposes to amend numerous statutory references to state and county sharing ratios from before the 2011 realignment. The Department has also deleted references to what it has identified as obsolete committees or fiscal systems.

**Other Issues Raised by Stakeholders:** In addition to input related to the provisions of the proposed trailer bill described above, stakeholders have also raised questions or concerns about:

- the need for transparency and fiscal reporting that will allow for tracking of any changes in the CWS and foster care systems that may result from realignment;

- a desire for the Department to consult with counties prior to submitting federal waivers or state plan amendments; and

- the continued implementation of the Health Care Program for Children in Foster Care (commonly known as the "foster care nurses program").

**Staff Recommendation:** Hold these issues open.

**Questions for the Administration:**

1) Please briefly summarize the key components of the programmatic trailer bill language.

2) What changes does the Administration anticipate putting forward with respect to that trailer bill language? When will any proposed changes be submitted?

3) Given the specificity of many federal requirements, how much financial and programmatic flexibility do the state and counties have in delivering child welfare services?

4) What fiscal reporting mechanisms may be appropriate to consider in light of realignment?

## CWS Realignment: DSS Children's Program Staffing

**Budget Issue:** The Department requests, in a May Revision proposal, to reduce its budget by a net 42.0 positions in response to the realignment of the Agency Adoptions program to the counties. Currently, eleven counties have expressed interest in transitioning the program to the county, resulting in a reduction of a total of 53.5 positions in the Department's Child and Family Services Division. However, the Department proposes to retain and repurpose 11.5 of those positions to meet other requirements related to its role as the single state agency responsible for implementing the state's Child Welfare Services and foster care programs. The Department indicates that the positions are needed because of recent court orders and to ensure implementation and compliance with recently enacted state and federal legislation.

**Staff Comment & Recommendation:** Hold this item open.

**Questions for Administration:**

1) Please describe the need for each of positions requested to be retained.

2) What would the consequences be if some or all of the positions proposed to be retained are not approved?