

SUBCOMMITTEE NO. 3

Health & Human Services

Agenda

Chair, Senator Mark DeSaulnier

Senator Elaine K. Alquist
Senator Bill Emmerson



September 2, 2011

1:00 PM or Upon Adjournment of Session

Room 4203

Discussion and Oversight of
Administration's Transition Plan for Adult Day Health Care Services

(Panel Discussion and Public Comment)

I. Presentation of Administration's Transition Plan for Services

- Secretary Diana Dooley, California Health and Human Services Agency
- Toby Douglas, Director, Department of Health Care Services
- Eileen Carroll, Deputy Director of the Adult Programs Division, Department of Social Services
- Ed Long, Deputy Director of Long-Term Care and Aging Services Division, Department of Aging
- David Maxwell-Jolly, Under Secretary, CA Health and Human Services Agency

2. Discussion and Comment on Administration's Transition Plan

- John F. Grgurina Jr. , Chief Executive Officer, San Francisco Health Plan
- Lydia Missaelides, Executive Director, California Association for Adult Day Services
- Cathy Davis, Executive Director, Bayview Hunters Point Multipurpose Senior Services

- David Friedman, Vice President State Health Programs, Health Net
- Debbie Toth, Chief Program Officer, Rehabilitation Services of North California
- Robert E. Edmonson, Chief Executive Officer, On Lok

3. Public Comment

Public Testimony is welcomed but may need to be limited by the Chair to accommodate all parties. Written comments are also encouraged.

PLEASE NOTE:

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling 916-324-9335. Requests should be made one week in advance whenever possible. Thank you.

A complete package of materials for this hearing is available in the hearing room (Room 4203 of the State Capitol) as well as in the Senate Budget and Fiscal Review (SBFR) Committee office (Room 5019 of the State Capitol).

The Senate Budget and Fiscal Review Committee has posted its background materials on its website and the participating State Departments are encouraged to post their materials on their respective websites.

Senate Budget & Fiscal Review,

**Subcommittee #3
On Health and Human Services**



Senator Mark DeSaulnier, Chair

**Discussion and Oversight of Administration's Transition Plan for
Adult Day Health Care Services**

Subcommittee Background Materials

(Diane Van Maren)

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I. Summary of Actions Leading to the Need for a Transition Plan

A. Budget Actions: Funding, Vetoes, and State Statutory Changes.

Through extremely difficult budget deliberations from January through June, due to California's continuing fiscal crisis, Adult Day Health Care Services, considered an Optional Medicaid Benefit under federal law, is designated to be phased-out as of December 1, 2011.

In lieu of the Governor's original January proposal to eliminate services by June 1, 2011, the Legislature negotiated an appropriation of \$170 million (\$85 million General Fund) for the transition of Medi-Cal enrollees from receiving Adult Day Health Care services to other related supportive services. The Governor sustained this appropriation in the Budget Act and made a commitment to continue the \$170 million (\$85 million General Fund) as an on-going baseline appropriation within the Medi-Cal Program.

The Legislature sent three ADHC-related trailer bills to the Governor for signature—AB 97 (Omnibus Health Trailer), SB 91 (ADHC Licensure), and AB 96 (Keeping Adults Free from Institutionalization).

AB 97, Statutes of 2011 was enacted as of March 24, 2011. With respect to ADHC services, this legislation (1) provides for the cessation of the Optional Medicaid Benefit upon approval of the federal Centers for Medicare and Medicaid (CMS); and (2) authorizes the DHCS to contract with public or private entities to assist individuals receiving ADHC services to transition to other Medi-Cal services, social services, and respite programs, or to provide social activities and respite assistance for individuals who were receiving ADHC services at the time the services were eliminated. This broad contracting authority was provided to the DHCS by the Legislature to assist in ensuring a smooth transition of individuals to other appropriate services. (See Member's Binder.)

SB 91 (ADHC Licensure), Statutes of 2011, delinks the requirement for Adult Day Health Care Centers to have Medi-Cal certification as a condition of their license. Thus, some centers could continue to operate if they are able to identify third-party payment sources (other than Medi-Cal).

Other trailer bill legislation—AB 96, as amended on June 8, 2011—was *vetoed* by the Governor. This legislation would have provided for the creation of the Keeping Adults Free from Institutions (KAFI) Program under a federal Waiver to utilize licensed Adult Day Health Centers to provide a well-defined scope of specified services for Medi-Cal enrollees who have been assessed to be at significant risk of institutionalization. Both the legislation and the Governor's veto message are contained in the Member's Binder.

B. Status of California Offering ADHC Optional Benefit in Medi-Cal Program

Cessation of ADHC Services as a Medi-Cal Benefit. As authorized in AB 97, Statutes of 2011, signed by the Governor in March, the DHCS submitted a State Plan Amendment to the federal CMS in May 2011 to eliminate the Optional Medicaid Benefit of ADHC services. A State must obtain federal CMS approval when it modifies its Medicaid (Medi-Cal) program. The federal CMS approved California's State Plan Amendment for cessation of ADHC services in July 2011 with an effective date of September 1, 2011.

However, the DHCS has administratively extended continuation of the Medi-Cal ADHC services benefit through November with a *revised elimination date of December 1, 2011* to facilitate the transition of Medi-Cal enrollees using ADHC services to other appropriate, publically provided services as referenced in the Administration's *Transition Plan* (Member's Binder) and as discussed further below.

ADHC Services for Individuals Accessing Regional Center Services. The Budget Act provides about \$32 million (\$16 million General Fund) to continue to provide ADHC services for individuals with developmental disabilities enrolled in the Regional Center system and administered by the State Department of Developmental Services. Individuals receiving services through the Regional Centers have an entitlement to services contingent upon appropriation. This budget estimate assumes there are about 4,000 individuals who will continue to receive services through the developmental services system.

Litigation. Class action litigation has been filed against the State which contends the State cannot legally eliminate the Medi-Cal Optional benefit of Adult Day Health Care Services *without first ensuring that an adequate transition plan is in place*, including that ADHC consumers will receive adequate, appropriate and uninterrupted replacement services necessary to prevent their institutionalization.

The original July 26th hearing date has been moved to November 1, 2011 as requested by the State (defendants) since elimination of the Medi-Cal Optional benefit of Adult Day Health Care Services is now scheduled for December 1, 2011. This revised elimination date is the result of administration action taken by the Director of the DHCS.

II. Key Issues to Consider with Administration's Transition Plan

A. Administration Intends Transition Plan to be Responsive and Dynamic

The Administration has convened two stakeholder meetings in Sacramento (May and August), along with other scheduled regional meetings, and has released a *Transition Plan*. (See Member's Binder and DHCS website.)

The Department of Health Care Services (DHCS) states that dialog on the *Transition Plan* and process is *ongoing* and will evolve to determine the best methods for delivery of care to individuals transitioning from ADHC services to other services. Further, the Administration notes the *Transition Plan* and process will be based on consumer's needs and is to take into account regional service delivery considerations and costs.

DHCS contends that considerable groundwork and planning has occurred and is continuing. Among other things, the Administration specifically notes the following:

- A *Transition Outreach Plan* has been developed which articulates the different aspects of ADHC consumer notifications (letters) and other related items. (See Member's Binder and DHCS website.)
- A *Transition Monitoring Plan* framework has been developed, with further details to follow, to monitor the transition of ADHC consumers over a two-year period. (See Member's Binder and DHCS website.)
- DHCS and the California Department of Aging (CDA) have reviewed over 8,000 Individual Plans of Care (IPC) for existing ADHC consumers who receive four to five days of ADHC services per week (i.e., high acuity consumers). This review has assisted the Administration in identifying the most prevalent diagnoses and range of services and is to be used by them to help identify the resources that may provide alternative services.
- Various Home and Community-Based Services are available for transitioning ADHC consumers, along with enrollment for case management and care coordination services (available in Medi-Cal Managed Care and through APS Health).
- DHCS to provide assistance to facilitate coordination between ADHC Providers and Medi-Cal Managed Care Health Plans.
- A smooth transition for ADHC consumers to other services is of key importance to the Brown Administration and multiple departments are engaged in its efforts.

Subcommittee Staff Comment—Provide Implementation Updates. Subcommittee staff would encourage the Administration to provide the Legislature and interested parties with an implementation update in September complete with key milestones and key activities which are pending completion and have been completed. Any geographic or regional service delivery adjustments should also be articulated in the suggested update. This information could be *updated periodically* as needed through-out the transition and posted on the DHCS website for easy access.

B. Key components and Processes to the Administration's Plan

The Administration's *Transition Plan* contains many components. Key aspects are briefly highlighted and discussed below. (See Member's Binder for *DHCS Schematic*, Administration's *Transition Plan*, and *DHCS Hearing Hand Out* for more detail).

- **1. ADHC Consumer Discharge Planning.** Discharge planning is a required component of the existing ADHC program. As part of the Transition Plan, the DHCS is to facilitate consumer discharge planning and will be working closely with ADHC Providers.

Key aspects of the discharge planning process are to (1) assess the consumer's needs; (2) identify appropriate services to meet the transitioning consumer's needs; (3) identify appropriate providers in the geographic service area; and (4) link consumers to services based on need, availability and consumer choice.

ADHC Providers are to receive *additional* reimbursement for each discharge plan completed as part of the transition.

Questions. Details of this process are being developed by the Administration and further refinement is forthcoming. Questions include the following:

- What specific proactive steps is the Administration taking to ensure successful discharge planning?
 - What will the additional reimbursement amount be for ADHC Providers?
 - How will the Discharge Planning process be linked to assessments or reassessments required for other services, such as In-Home Supportive Services (IHSS)?
 - How is the Administration going to monitor the Discharge Planning process?
- **2. Enrollment in Medi-Cal Managed Care and Use of Care Management Company.** A key aspect of the Administration's *Transition Plan* is a focus on case management and care coordination through the enrollment of transitioning ADHC consumers into Medi-Cal Managed Care where applicable, or enrollment with APS Healthcare (a DHCS contractor).

DHCS states that each ADHC consumer will be enrolled into Medi-Cal Managed Care as applicable, contingent upon their county of residence (i.e., Two-Plan Medi-Cal Managed Care counties, County Organized Health System (COHS) counties, Geographic Managed Care counties, or rural county), and whether *the ADHC consumer chooses to actively "opt-out"* of being enrolled into Medi-Cal Managed Care.

Under this “opt-out” enrollment process, if the ADHC consumer does not respond regarding enrollment into a Medi-Cal Managed Care health plan, then the DHCS will automatically enroll the ADHC consumer.

If an ADHC consumer chooses to “*opt-out*” of enrollment into a Medi-Cal Managed Care health plan, *or* later decides at any time to dis-enroll in the Medi-Cal Managed Care health plan, *or* lives in a rural area where Medi-Cal Managed Care is not available (about 675 consumers), *then* case management and care coordination would be conducted by APS Healthcare.

DHCS will be providing reimbursement to Medi-Cal Managed Care plans and APS Healthcare for their services. DHCS has stated that *initial* reimbursement to Medi-Cal Managed Care Plans is to be a *supplement of \$60 per ADHC consumer enrollee* but that this reimbursement amount is to be further analyzed by the Administration and needs to be calculated by its actuaries and approved by the federal CMS. As such, this initial supplemental \$60 reimbursement amount most likely will be adjusted.

DHCS notes that this supplemental reimbursement is in addition to the “per member per month” Medi-Cal Managed Care reimbursement that is paid to Health Plans for people who are enrolled into Managed Care. DHCS states that all Medi-Cal reimbursement rates are to be actuarially based.

Questions. Questions regarding this aspect of the Administration’s Transition Plan include the following:

- How will ADHC consumers be informed of their choices for Medi-Cal Managed Care enrollment or APS Healthcare enrollment?
- How may the DHCS utilize its existing Health Care Options contractor (Maximus) *or* the Health Insurance Counseling and Advocacy Program (HICAP) administered under the Department of Aging to facilitate ADHC consumer choice of plans and enrollment?
- Since 82 percent of ADHC consumers are “dual eligibles” (enrolled in Medicare as their primary plan and Medi-Cal as their secondary plan) and the DHCS is also embarking on a “Dual Eligible Pilot Project in Medi-Cal Managed Care” under the State’s 1115 Medicaid Waiver, how may the Administration’s Transition Plan for ADHC consumers interface with this pilot project?
- When may the reimbursement level be further clarified?
- How is the DHCS to monitor this aspect of the *Transition Plan*?

- **3. Comprehensive Health Care Assessment Process.** Under the Administration's Transition Plan, once an ADHC consumer is enrolled in *either* a Medi-Cal Managed Care health plan *or* with APS Healthcare, a comprehensive health care assessment is to be completed *within* 45-days of enrollment.

Questions. Questions regarding this aspect of the Administration's *Transition Plan* include the following:

- Can the involved Health Plans ensure this timely access to a comprehensive health care assessment? Are there any health network capacity concerns?
 - Is the intent of this comprehensive health care assessment to also address the need for other services, such as IHSS, or will additional assessments be necessary as well?
 - How may the DHCS monitor this aspect of the *Transition Plan*?
- **4. Consumer Access to Services.** The Administration states about 82 percent of ADHC consumers are eligible for Medicare *and* Medi-Cal. DHCS states that services provided to individuals receiving federal Medicare services will not be affected by the transition.

DHCS states in the *Transition Plan* that Medi-Cal services will include, but not be limited to, the following:

- All existing applicable Medi-Cal services such as physicians, clinic, non-emergency medical transportation, pharmacy, hospital outpatient, home health, mental health services, and acute inpatient services;
- Additional transition services provided through Medi-Cal Managed Care or APS Healthcare including the following:
 - Health Assessment;
 - Case Management;
 - Care Coordination;
 - Registered Nurse Advice;
 - Referrals for services
- Other Home and Community-Based Services including the following:
 - Medication Management
 - Program of All-Inclusive Care for the Elderly (PACE) where geographically available;
 - Senior Care Action Network (SCAN) Health Plan where geographically available;
 - Multipurpose Senior Service Program (MSSP) Waiver;

- In-Home Support Services (IHSS);
- In-Home Operations (IHO) Waiver;
- Nursing Facility Acute Hospital Waiver;
- Adult Day Program Services through the Department of Aging;
- Assistance through the Department of Developmental Services, which received increased total funds of \$32.1 million for this purpose.

Questions. Questions regarding this aspect of the Administration's *Transition Plan* include the following:

- Is there appropriate access and availability of these various services for transitioning individuals? Will this vary geographically?
 - Are any changes to existing Waivers or additional program slots necessary for ADHC consumers to access services? (Please be specific)
 - How will consumers be linked to these various different services? Will Medi-Cal Managed Care Health Plans or APS Healthcare be providing assistance?
 - How is the Administration (DHCS, Department of Social Services and Department of Aging) working with local providers and counties to coordinate access to services for transitioning consumers?
 - How will the DHCS monitor access to services?
- **5. Consumer Education and Outreach.** The DHCS has developed an *Outreach Plan* which consists of (1) Beneficiary Outreach; (2) Provider and Community Outreach; (3) Health Plan Outreach; and (4) Public Meeting and Hearings. (See Member's Binder and DHCS website.)

Questions. Questions regarding this aspect of the Administration's *Transition Plan* include the following:

- What are the consumer education goals to ensure choice and continuity of needed health care?
- What are the short-term and ongoing goals of this outreach?
- How will the Administration measure its usefulness or know how to target/focus its outreach accordingly as the transition progresses?