

Senate Budget and Fiscal Review—Nancy Skinner, Chair

SUBCOMMITTEE NO. 3

Agenda

Senator Susan Talamantes Eggman, Ph.D, Chair
Senator Melissa Melendez
Senator Richard Pan, M.D.



Thursday, May 6, 2021
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State Capitol - Room 3191

Consultant: Renita Polk

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5160 DEPARTMENT OF REHABILITATION (DOR)**Issue 1: Spring BCP – Extension of Reimbursement Authority for the Deaf and Disabled Telecommunications Program**

Spring Finance Request. The DOR requests a technical budget adjustment of \$2.3 million reimbursement authority to support 3.2 limited-term positions to continue the implementation of the California Public Utilities Commission (CPUC) Deaf and Disabled Telecommunications Program (DDTP). This proposal would extend reimbursement authority to continue the pilot program, which was initially approved in the 2018 Budget Act, for an additional year through June 30, 2022.

Background. The DDTP provides speech generating devices to Californians with disabilities. To implement the DDTP, the DOR partnered with community-based service providers to serve individuals with speech disabilities by providing speech-generating software and tablets or similar assistive technology devices that enable them to become independent and provide direct access to the telecommunications network.

The DOR entered into agreements with community partners and began to distribute materials for the launch of the program, which was to take place on March 1, 2020. However, due to the pandemic, the launch of the pilot program was delayed to reexamine the service model and how the pilot could be successful when people would be required to stay at home as much as possible. From March 1 through June 1, the DOR updated its internal policies and procedures to allow for electronic signatures, remote demonstrations, in-person and remote access to services, and a complete revision to all training, materials, and considerations as to how the program would be marketed and provided.

The pilot program went live on July 1, 2020. Within the first six months of its launch, the DOR partnered with 12 community-based service providers who established 21 physical locations throughout the state in addition to providing services remotely. Many of the service providers are Independent Living Centers and were disproportionately impacted by COVID-19 since their consumers and most of their employees are people with disabilities who may be at higher risk for COVID-19. In addition, these organizations serve communities that are disproportionately impacted by wildfires and public safety power shutoffs. As a result of having to redirect significant resources in response to the pandemic, wildfires, and power shutoffs, the community-based service providers initially had lower than anticipated expenditures applied toward this pilot program. Despite all of the challenges, the DOR has provided speech-generating devices to 126 Californians. The DOR anticipates that this program will provide 200 speech-generating devices by June 31, 2021, and an additional 300 devices in 2021-22 for a sum of 500 devices distributed to Californians with speech disabilities, disorders, and/or difficulties. Since December 1, 2020, the pilot program has seen an increase in consumer interest. An extension of reimbursement authority would allow the DOR to build on this momentum and fully expend the funds that were not initially utilized due to multiple statewide emergencies.

Staff Comment and Recommendation. Hold open.

5175 DEPARTMENT OF CHILD SUPPORT SERVICES (DCSS)
Issue 1: Spring BCP – Supporting Child Support Agency Administration

Spring Finance Request. The DCSS requests \$31.1 million (\$10.6 million General Fund) ongoing to support underfunded Local Child Support Agency (LCSA) staffing and services. This request is in addition to the \$25 million (\$8.5 million General Fund) proposed in the 2021 Governor’s budget.

Background. LCSA administration costs include salaries and benefits of county staff as well as operating costs. LCSAs are responsible for case intake, court preparation to establish paternity and support obligations, and the enforcement of support obligations, including locating absent parents. LCSA administration costs are funded at \$664 million for 2020-21 and \$689 million for 2021-22. Funding for administration is 34 percent General Fund and 66 percent federal matching funds.

The proposed 2019 Governor’s budget included an ongoing funding methodology for LCSAs. The proposed funding methodology increased funding by \$19.1 million in 2019-20, ramping up to \$57.2 million in 2021-22. In response to the budget impacts of the COVID-19 recession, the final 2020 budget reduced funding for the department and LCSAs to 2018-19 budget levels, and the ongoing augmentation proposed in 2019 was not implemented. The total between this proposal and the 2021 Governor’s Budget proposal would return LCSA funding to 2019-20 levels ongoing, to support underfunded LCSAs staffing and program services. The request uses the LCSA funding methodology, updated with the latest 2020 caseload and calculated 2021-22 full-time equivalent cost data to identify underfunded counties. The methodology distributes funding to 29 underfunded counties, bringing these counties closer to the funding methodology.

Underfunded LCSA	Total Proposed Funding
Los Angeles	\$20 million
San Bernardino	\$5.5 million
Fresno	\$4.5 million
Sacramento	\$4.5 million
Riverside	\$4 million
Kern	\$3 million
San Diego	\$2.8 million
San Joaquin	\$2.4 million
Alameda	\$1.3 million
Ventura	\$1.1 million
Santa Barbara	\$835,592
Stanislaus	\$707,417
Merced	\$660,299
Madera	\$624,082
Imperial	\$585,736
Monterey	\$506,381
Placer	\$500,107
Contra Costa	\$472,643
San Francisco	\$464,647
Solano	\$391,472

Glenn	\$233,416
Kings	\$231,521
Tehama	\$205,543
Yolo	\$114,599
Trinity	\$89,787
Sutter	\$42,380
Eastern Sierra	\$33,571
Lassen	\$25,618
Mariposa	\$1,235
Total	\$56 million

Staff Comment and Recommendation. Hold open.

Issue 2: Senate Budget Options – Reduce State Inflicted Debt on Low-Income Residents

The Subcommittee has asked the Legislative Analyst’s Office to present the following proposal.

Senate Budget Option. The Senate is considering a proposal to reduce and/or expunge uncollectible child support debt owed to the government, including a 2020 Governor’s January budget proposal to cease enforcement of arrearages due to the state when the parent’s sole source of income is from Supplemental Security Income/State Supplementary Payment (SSI/SSP) benefits, Cash Assistance for Aged, Blind, and Disabled Legal Immigrants (CAPI) benefits, a combination of SSI/SSP and Social Security Disability Insurance benefits, or Veterans Administration disability benefits. Note that this proposal would not eliminate any debt owed to families, only debt owed to government entities.

Background. Under federal law, a family receiving public assistance via TANF (which is the block grant that funds CalWORKs) must assign their rights to child support payments to the state. The state, through Local Child Support Agencies (LCSAs), collects the child support payments on behalf of the custodial parent. The noncustodial parent must reimburse the state for any CalWORKs or foster care funds expended by the state, as well as a nominal amount that is passed through to the custodial parent. Any arrears accrue with a ten percent interest rate.

When a family leaves CalWORKs, the family regains its rights to the child support payment. However, if the non-custodial parent has payments in arrears, the state continues collecting and retaining payments as reimbursement for costs associated with welfare benefits paid to the family. The cumulative amount of assistance paid to a family which has not been repaid through assigned support collections is known as the unreimbursed assistance pool (UAP). When the UAP is paid in full any continued child support is paid to the family.

The majority of outstanding public assistance debt is owed by those with low incomes, including some parents on fixed disability payments, who owe tens of thousands of dollars in debt each. A 2003 study prepared by DCSS entitled *Examining Child Support Arrears in California: The Collectability Study* found that 95 percent of the delinquent debt was likely uncollectible. Noncustodial parents making less than \$10,000 owed an average of \$20,000 due in part to a 10 percent interest rate on late payments. 2019 data shows that 40 percent of child support payments are for debt owed to the government¹.

Current law does attempt to right-size payments for low-income parents. Family Code Section 5246 does not allow a child support agency to withhold more than five percent of a non-custodial parent’s disability benefits to pay child support arrearages. The department also administers a debt reduction program, the Compromise of Arrears Program (COAP). The program provides eligible parents with past-due child support payments the opportunity to reduce the amount of money owed to the government if their child(ren) received public assistance or were in foster care while the noncustodial parent was ordered to pay child support. To be eligible for the program the noncustodial parent must be currently making payments. This requirement makes it difficult for many low-income parents already in debt to qualify for the program.

Staff Comment and Recommendation. Hold open.

¹ <https://calmatters.org/projects/california-keeps-millions-in-child-support-while-parents-drown-in-debt/>

As detailed above, the department currently does offer a way for some parents to reduce the amount of debt owed to the government. However, certain requirements of the program such as the requirement that the parent is making current payments prohibits many from participating in the program. The Subcommittee could consider expanding the COAP so that all parents can have the opportunity to reduce and/or eliminate the debt owed to the government, regardless of whether they are making current payments or not. The study mentioned above, as well as others, has found that the majority of child support debt owed to the government is owed by those with low income. Studies have also found that parents are less likely to make payments if those payments are going to the government and not their children. Alternatively, the Subcommittee could consider expunging the balance of the UAP, creating another avenue to ensure that families receive every dollar collected in support in the future. Expunging government-owed debt would remove a barrier to families getting the support they are owed and stop diverting money from the custodial parent to the government.

Panel. The Subcommittee has requested the following panelist to provide comments on this issue.

- Anne Stuhldreher, Director of the Financial Justice Project, Office of the San Francisco Treasurer

Questions.

For the Legislative Analyst's Office:

1. Please provide a brief overview of the proposal.

For Anne Stuhldreher:

1. Please discuss the impact of child support debt on families (both custodial and non-custodial parents).
2. Please describe the pilot program spearheaded by your office to provide debt relief on government-owed child support debt and the program's impact and outcomes.

4300 DEPARTMENT OF DEVELOPMENTAL SERVICES (DDS)**Issue 1: Spring BCP – Deaf Community**

Spring Finance Request. The DDS requests \$2.4 million (\$1.6 million General Fund) for 21 regional center coordinators to support the expansion of deaf service resources, provide training and expertise to regional center staff, and coordinate with the department on statewide efforts. The DDS also requests \$197,000 (\$158,000 General Fund) for one Career Executive Assignment level position to provide statewide leadership and subject matter expertise on the provision of services and supports for individuals who are deaf and have intellectual or developmental disabilities.

Background. For several years, the department has been addressing service equity issues that exist within the developmental services system, with a focus on learning how to serve diverse populations within the service system with cultural and linguistic sensitivity. To that end, the department recognizes the need to evaluate supports for individuals who are deaf and have developmental disabilities and work with regional centers to identify and develop resources to provide improved services and supports. Approximately 14,300 individuals served within the system have moderate to profound hearing loss with about 510 of those individuals reportedly using American Sign Language (ASL) as their primary means of communication.

The current service delivery system is not nimble at identifying the unique cultural needs of individuals who are deaf. Factors that must be considered when serving this population include the availability of deaf service coordinators, adequate training of service coordinators, availability of ASL interpreters with experience in developmental disabilities, effective assessment of the need for individual service planning, and availability of providers with experience working with individuals who have developmental disabilities and who are deaf. Additionally, to effectively support an individual, regional centers must enhance their understanding of the varied and preferred communication methods of this group of individuals.

The proposed position will be responsible for the department's statewide efforts to provide culturally and linguistically sensitive services and supports to individuals who are deaf and have developmental disabilities. The specialist will also consult on innovative methods of service delivery and recommend solutions to improve services and supports for the targeted population, including those with the most challenging service needs. Additionally, the specialist will provide subject matter expertise, technical assistance, participate on external panels and committees, and interface with the regional center coordinators included in this request.

The proposed regional center coordinators will serve as a regional center's point person and subject matter expert on the provision of services to the deaf and hard of hearing community. Proposed duties of the regional center coordinator will include: liaising and partnering with generic agencies that provide services for individuals who are deaf and hard of hearing to expand the regional center's resource pool; and serving as the resource person for regional center staff who provide service coordination to individuals who are deaf and hard of hearing, among other duties.

Staff Comment and Recommendation. Hold open.

Issue 2: January BCP - Forensic Diversion

Governor’s Proposal. The Governor’s budget includes \$2.3 million (\$853,000 General Fund) and three positions to fully implement the recently expanded forensic diversion approach for individuals with Intellectual and Developmental Disabilities (IDD) who have been charged with a felony and are active in the criminal justice system. The additional requested positions include two senior psychologist specialists and one attorney.

Background. Many individuals have been charged with a criminal offense and remain in a jail setting pending their court hearing, placement in a competency program, or sentencing to a correctional facility setting. Alternatively, individuals can be court-ordered to a facility such as a prison, a juvenile justice facility, or the secure treatment area of Porterville Developmental Center (PDC).

In 2015, six plaintiffs filed a petition for a writ of mandamus alleging that delays in admitting incompetent to stand trial (IST) defendants for competency evaluation were unconstitutional (*Stiavetti vs. Ahlin*). In April 2019, the Alameda County Superior Court issued a final amended order. The court found that DDS and the Department of State Hospitals must commence substantive services to restore IST defendants to competency within 28 days of the transfer of responsibility. The court provided two and a half years to achieve this admission timeframe and ordered specified benchmarks. The state defendants have appealed to the California Court of Appeals, but no oral argument date has been set. The requested resources for diversion will be another avenue to reduce the pressure on the PDC Secure Treatment Program (waitlist and occupancy), may reduce admission timeframes, and ultimately, will prioritize a treatment-based approach and be responsive to the issues related to the *Stiavetti vs. Ahlin* lawsuit.

While DDS operates PDC and provides competency training and treatment, this may not be the optimal setting for particular individuals, such as those who have been charged with non-violent felony offenses and could be safely served in a community setting. According to DDS, the proposed implementation of the diversion plan will help enhance the collaboration between DDS and RCs in outreach and management for individuals who have become involved in or have a high potential for involvement in criminal conduct. Further, this will allow the services to move from a criminal justice approach to a clinical programming approach for a more effective intervention for these individuals.

Note that the 2020 Budget Act included language that expanded which individuals are eligible for diversion and provided resources for five forensic specialist positions at Regional Centers and one attorney position at headquarters. The 2020 budget also included funding for contracted wraparound services for individuals that have entered or are likely to enter the judicial system and have IDD, and temporarily expanded bed capacity at Porterville’s Secure Treatment Program.

Staff Comment and Recommendation. Hold open.

Questions.

1. Will the proposed positions and/or resources be used to develop additional community resources to serve IST individuals? How is the department planning to expand community services for these individuals?

Issue 3: Senate Budget Options – Improved Services and Outcomes for the IDD Community

The Subcommittee has asked the Legislative Analyst’s Office to present the following proposals.

Senate Budget Options. The Senate is considering the following proposals to improve services to the intellectual and developmental disability (IDD) community.

- Eliminate funding suspensions for:
 - Specified provider rate increases implemented in the 2019 and 2020 Budget Acts (and provide ongoing funding for that purpose).
 - Uniform Holiday Schedule and provide ongoing funding to permanently end the implementation of the Uniform Holiday Schedule. As part of a package of budget solutions passed in 2009 in response to a significant state budget deficit, the state enacted a policy prohibiting RCs from paying service providers on 14 uniform statewide holidays each year. This meant that service providers either did not provide services on those days or absorbed the cost without payment. Implementation of this policy is currently suspended but the Administration proposes to end that suspension in December 2022.

According to the LAO, General Fund costs associated with the above proposals amount to \$159 million in 2022-23 and \$325 million in 2023-24. For more details on these proposals please refer to the February 23, 2021 hearing agenda.

- Provide additional funding and/or adopt placeholder trailer bill language to do the following:
 - Provisional Regional Center Director Approval of Health and Safety Waivers – adopt placeholder trailer bill language that would allow RC Directors to approve Health and Safety Waivers. The current departmental directive delegates this authority for residential services and/or supplemental services in residential settings.
 - Virtual meetings – adopt placeholder trailer bill language to waive the requirement for in-person service coordination meetings and early start services.
 - Participant-Directed Services – adopt placeholder trailer bill language to allow consumers and families to utilize participant-directed services for personal assistance, independent living, and supported employment. Participant-directed services let the consumer or family choose who to hire, schedule when the person works, and supervise the work. Before the COVID-19 pandemic, consumers could only use a participant-directed model for respite, day care, non-medical transportation, nursing, and day services.
 - Critical Generic Resources – adopt placeholder trailer bill language requiring Regional Centers to secure or fund critical generic resources. Once a regional center identifies a service that can meet an identified need, it is responsible for purchasing or securing that service. Regional centers cannot purchase a requested service if a

different publicly funded program is responsible for funding that service. When a regional center believes that another agency is legally obligated to fund or provide a service, the regional center may attempt to secure that service from the agency by notifying the agency and initiating a dispute resolution process. This process is discretionary and only available for children under six years of age. The proposed language would open this process up to all consumers and require a RC to fund a service if it chooses not to utilize the dispute resolution process.

The above proposals were put forward by Disability Rights California and were heard at the Subcommittee's February 23, 2021 hearing. For more details on these proposals, please refer to the February 23, 2021 hearing agenda.

- Improve employment opportunities for Californians with IDD – adopt placeholder trailer bill language to increase utilization of the Paid Internship Program (PIP) and competitive integrated employment (CIE). The PIP was established when the state minimum wage was \$10 per hour, and it allowed consumers to earn up to \$10,400 per year in the program, which equates to 1,040 possible internship hours. This proposal would replace the \$10,400 earnings cap with a 1,040 annual hours cap. This reflects a proposal put forth by the California Disability Services Association heard at the Subcommittee's February 23, 2021 hearing. For more detail on this proposal, please refer to the February 23, 2021 hearing agenda.
- Begin implementation of a training and certification program for Direct Support Professionals (DSPs), as recommended in the 2019 DDS vendor rate study.

Background. While the need and desire for system-wide change within the developmental services system have been a continued topic of discussion in the Subcommittee, the COVID-19 crisis highlighted that need and forced the system to adapt and make needed changes almost overnight. In response to COVID-19, the developmental services system quickly mobilized to meet the unique needs of individuals with disabilities. Service providers across the state pivoted to providing alternative support services remotely; regional centers transitioned to providing remote service coordination and other meetings virtually, and the department quickly issued directives to allow for these changes and many others.

While expanded vaccine eligibility has allowed the state to open up more, some consumers will likely continue to desire to utilize the flexibilities put into place during the pandemic. At the Subcommittee's February 23 hearing, the Subcommittee heard from Regional Center Directors, consumer advocates, providers, and other stakeholders about the importance of the above proposals, and specifically the various directives put in place by DDS since the beginning of the pandemic. Several witnesses testified in support of continuing some of those directives. The state can also use the implementation of these directives as a jumping-off point to think about broader changes within the developmental services system.

Before the COVID-19 pandemic, DSP turnover was high due to low wages, and the pandemic only exacerbated this issue. Direct support staff, who work with consumers daily, are essential to the developmental services system. Since the beginning of the pandemic, DSPs faced the risk of contracting COVID-19 to deliver services to individuals across the state. The state must invest in a quality direct support workforce. The establishment of a training/certification program for direct

support staff was suggested in the 2019 rate study submitted to DDS by Burns and Associates, Inc. The study recommended a model where direct support staff who receive more training and demonstrate greater competency are assigned to a “level” attached to higher payments, thus reflecting higher wages. The implementation of this model would require the establishment of infrastructure both within the DDS (or perhaps another state department) and the provider community.

The COVID-19 pandemic has caused a rise in unemployment, particularly among people with disabilities. According to the Society for Human Resources Management, close to one million workers with disabilities in the United States have lost their jobs since the COVID outbreak was declared a pandemic by the World Health Organization in March 2020. In 2020, only 13.51% of RC consumers received wages, according to the RC data dashboard on the DDS website. It is imperative that the state do all it can to help those within the community find jobs if they so choose. Two avenues for obtaining employment are the paid internship program (PIP) and competitive integrated employment (CIE). Since 2016-17, the state budget has appropriated \$29 million (\$20 million General Fund) annually for the implementation of the PIP and CIE incentives program. Both are designed to increase employment opportunities and CIE outcomes. However, the state has underspent this appropriation by \$96 million over the past four years. Increasing utilization of these programs and the designated appropriation is a first step to ensuring that all RC consumers who would like to work are able to.

Staff Comment and Recommendation. Hold open.

Panel. The Subcommittee has requested the following panelists to provide comments on the above proposals.

- Sawait Seyoum, Senior Policy Advisor, Disability Rights California
- Barry Jardini, Executive Director, California Disability Services Association
- Jordan Lindsey, Executive Director, the ARC of California

Questions.

For the Legislative Analyst’s Office:

1. Please provide a brief overview of the proposals.

For Sawait Seyoum:

2. Please discuss the impact of the proposals to continue various COVID-19 directives on the IDD community and how they can help bring about system-wide change.

For Barry Jardini:

3. Please discuss the expected impact of the proposal to increase utilization of the PIP and CIE programs on employment opportunities within the IDD community.

For Jordan Lindsey:

4. Please discuss the impact COVID-19 has had on the DSP workforce.
5. Please describe the type of infrastructure currently needed to invest in a training and certification program for DSPs.

PROPOSALS FOR INVESTMENT RELATING TO DEVELOPMENTAL SERVICES

The Subcommittee has received the following proposal for investment and has asked the Legislative Analyst's Office to present it. Note that proposal sponsors provided all information below, aside from staff comments and recommendations.

1. Service Outcomes Initiative for California's Developmental Disability Community

Budget Issue. The California Community Living Network requests \$2 million in 2021-22, \$3 million in 2022-23, and \$5 million in 2023-24 for a pilot project that will develop service outcome-based measurement, training, quality, and data collection tools for California's developmental disability services.

Background. The state has been concerned about the rising cost of providing services to individuals with developmental disabilities for several years. There is increasing pressure to understand how to provide quality services in a manner that balances the intent of the Lanterman Act, but also provides value. The requested resources would establish an administrative pilot program, administered by the DDS, to identify a limited number of services provided to individuals through California's regional center network and develop outcome metrics. The pilot would be voluntary on the part of the regional center, the service provider, and the consumer. No services would be altered, modified, limited, or otherwise changed due to this administrative pilot. The purpose of the pilot is to create and validate administrative measures to better track and measure outcomes and quality in the developmental disability service area. This approach creates the ability to measure service delivery, use of service deliverables, and the service outcome's contribution to quality-of-life goals.

Staff Comment and Recommendation. Hold open.

Note that this budget request is accompanied by a policy bill, AB 813 (Mullin), currently under consideration in the current legislative session.

4170 CALIFORNIA DEPARTMENT OF AGING (CDA)**Issue 1: Spring BCP – Extend and Increase Funding to the Aging & Disability Resource Connection**

Spring Finance Request. The CDA requests \$1.9 million General Fund in 2021-22 and \$1.8 million General Fund in 2022-23 and ongoing to support 13 permanent positions for the expansion of the Aging & Disability Resource Connection (ADRC) Infrastructure Grants Program proposed in the 2021 Governor’s Budget and to provide oversight, coordination, and assistance to the state-wide ADRC network including building the capacity to draw down additional federal funds through Medicaid.

Background. The ADRC Infrastructure Grants program supports efforts by local Area Agencies on Aging (AAAs) and Independent Living Centers (ILCs) to set up a statewide network of ADRCs. The requested state operations resources will allow CDA to support the administration of the grant program and to provide the ADRC network with statewide oversight, coordination, and assistance. CDA will provide training, guidance, and technical assistance to local ADRCs. CDA will develop centralized services and resources to prevent duplication of efforts by local ADRCs such as a statewide website and phone line. CDA will also work to establish the administrative capacity for the ADRC program to draw down federal funding through Medicaid administrative claiming.

Staff Comment and Recommendation. Hold Open.

Note that the January Governor’s budget proposes a half-year augmentation of \$5 million General Fund in 2021-22 and a half-year augmentation of \$5 million General Fund in 2022-23 to maintain and expand this program. That issue was discussed at the Subcommittee’s March 2, 2021 hearing.

Issue 2: Spring BCP – Health Insurance Counseling and Advocacy Program (HICAP) Modernization

Spring Finance Request. The CDA requests \$2.1 million in 2021-22 and \$2 million in 2022-23 from the HICAP special fund to support two-year limited-term resources equivalent to three positions and \$1.4 million local assistance funding.

The CDA also requests the following provisional language be added to the Budget Act.

To Item 4170-001-0289:

1. Notwithstanding any other law, upon request by the Department of Aging, the Department of Finance may increase the expenditure authority in this item up to the total amount of proceeds available in the State HICAP Fund not sooner than 30 days after notification in writing of the necessity thereof is provided to the Chairperson of the Joint Legislative Budget Committee and the chairpersons of the committees in each house of the Legislature that consider appropriations.

2. Of the funds appropriated in this item, \$673,000 is a temporary augmentation to the Health Insurance and Counseling and Advocacy Program. Notwithstanding any other law, the amount of this augmentation and any increase made pursuant to Provision 1 shall be exempt from the ratio provided by subdivision (d) of Section 9541.5 of the Welfare and Institutions Code.

To Item 4170-101-0289:

1. Notwithstanding any other law, upon request by the Department of Aging, the Department of Finance may increase the expenditure authority in this item up to the total amount of proceeds available in the State HICAP Fund not sooner than 30 days after notification in writing of the necessity thereof is provided to the Chairperson of the Joint Legislative Budget Committee and the chairpersons of the committees in each house of the Legislature that consider appropriations.
2. Of the funds appropriated in this item, \$1,386,000 is a temporary augmentation to the Health Insurance and Counseling and Advocacy Program. Notwithstanding any other law, the amount of this augmentation and any increase made pursuant to Provision 1 shall be exempt from the ratio provided by subdivision (d) of Section 9541.5 of the Welfare and Institutions Code.

Background. HICAP provides free, confidential one-on-one counseling, education, and assistance to individuals and their families on Medicare, Long-Term Care insurance, other health insurance related issues, and planning ahead for Long-Term Care needs. HICAP services are provided through the statewide network of 26 local Area Agencies on Aging (AAAs).

HICAP is California's implementation of the federal State Health Insurance Assistance Program (SHIP). HICAP is primarily funded from three sources: (1) fees assessed on Medicare Health Care Service Plans deposited in the HICAP Special Fund; (2) reimbursements from the Insurance Fund; and (3) federal SHIP grant funding provided by the Administration for Community Living (ACL). HICAP Special Fund revenues have grown from \$3.2 million in 2005-06 to an estimated \$4.1 million in 2020-21. Meanwhile, state fund expenditure authority for local HICAP programs has not been changed from \$6.7 million since 2005-06. The 2021 Governor's Budget projects that the HICAP Special Fund will have a \$10.6 million balance at the end of 2021-22, given current revenue and expenditure levels, in addition to a \$4 million loan balance due from the General Fund.

CDA requests provisional language which would allow expenditure authority to be increased upon 30-day notification to the Legislature during a two-year period. This flexibility will allow CDA and local HICAP programs to implement additional modernization options as priorities are developed, within existing HICAP Special Fund resources. CDA also requests provisional language, during this two-year period, to exempt this temporary augmentation and any increase made pursuant to provisional authority from matching by the Insurance Fund, as this request is a one-time investment in modernizing HICAP based on available surpluses in the HICAP Special Fund. 58 percent of HICAP service providers report insufficient staffing necessary to manage existing workload and modernization. In addition, 73 percent of HICAP service providers report insufficient funding to procure needed equipment and supplies. Several of the HICAPs have only part-time Volunteer Coordinators and no dedicated staff. The requested local assistance resources will allow each local HICAP program to retain one full-time equivalent staff position. Several of the HICAPs have only part-time Volunteer Coordinators and no dedicated staff.

Staff Comment and Recommendation. Hold open.

Issue 3: Spring BCP – Master Plan for Aging Implementation

Spring Finance Request. The CDA requests \$3.3 million General Fund ongoing to support 20 permanent positions and resources equivalent to one one-year limited-term position and \$300,000 contract authority to implement the Master Plan on Aging (MPA) through policy, technology, data, project management, and support. Additionally, CDA requests authority for two permanent positions for existing temporary help positions.

Background. In January 2021, the California Health & Human Services Agency published the Master Plan for Aging to serve as a comprehensive framework that will prepare the state for significant demographic changes in the years ahead, including the growth of the 60-and-over population to 10.8 million people by 2030. CDA is the lead agency responsible for coordinating the implementation of the Master Plan.

The CDA requests positions to address the following areas and implement the MPA:

- Policy Leadership and Support (10 positions)

CDA currently does not have a dedicated policy research, analysis, and development function. Existing analyst positions in program divisions are dedicated predominantly to program operations. CDA requests the establishment of a dedicated central policy leadership function to be able to research, analyze, and develop policy for the strategic operation and development of California's aging programs. One of the positions included in this request is a Chief of Aging Policy. Other requested positions include a focus on inclusion and isolation prevention, equity, and housing.

- Information Technology Leadership and Support (5 positions)

CDA's current Information Technology (IT) Branch consists of 11 authorized positions and is resourced to maintain existing program operations. CDA requests additional resources to provide IT leadership and expertise to implement the Master Plan. CDA is currently working with the Department of Technology and the California Health & Human Services Agency Information Officer to develop a state-wide Client Relationship Management system that will bring all aging programs and local Area Agencies on Aging onto one platform. The requested resources will also enable CDA to quickly change systems to reflect program changes implemented as part of the Master Plan.

- Master Plan for Aging Project Leadership (3 positions)

CDA previously administratively established two temporary help positions to support the development of the Master Plan by redirecting savings achieved through operational efficiencies. As the Master Plan is a 10-year project, these positions will be needed for implementation during the entire duration of the project. CDA requests permanent position authority-only for these existing positions, as well as funding and position authority for one additional Associate Governmental Program Analyst position.

- Dignity at Home Fall Prevention Program

The 2019 Budget Act provided \$5 million one-time funding for the Dignity at Home Fall Prevent Program. The 2021 Governor’s Budget proposes to extend the availability of this funding through June 30, 2022, because of delays associated with COVID-19. CDA also requests one-year limited-term resources to retain the Staff Services Manager I Specialist for an additional year.

- Office of Legal Services (3 positions)

Workload is expected to increase with the implementation of the Master Plan for Aging. CDA requests two attorney positions and one legal analyst position to support legal services.

- Human Resources Support

CDA requests one position in the Human Resources Branch to manage the increased recruitment, hiring, and other associated workload for the positions requested in this proposal.

Staff Comment and Recommendation. Hold open.

Questions.

1. Will the Client Relationship Management system be able to interface with and/or include programs administered by other departments that most consumers of CDA aging programs also use?

Issue 4: Spring BCP – Office of Long-Term Care Patient Representative

Spring Finance Request. The CDA requests \$2.5 million in 2021-22 and \$4 million in 2022-23 and ongoing from the California Department of Public Health Licensing and Certification Fund for six permanent positions and local assistance resources to establish the Office of Long-Term Care (LTC) Patient Representative.

The CDA also requests statutory changes to establish the Office and the following language be added to the Budget Act:

To Item 4170-101-3098:

1. Notwithstanding any other law, upon request by the Department of Aging and in consultation with the Department of Public Health, the Department of Finance may increase expenditure authority in Schedule (1) of this item for the Office of Long-Term Care Patient Representative if the expenditure authority in this item is projected to be insufficient to provide adequate patient representative services based on program caseload and service costs. The Department of Finance shall not authorize an increase pursuant to this provision sooner than 30 days after notification in writing of the necessity thereof is provided to the Chairperson of the Joint Legislative Budget Committee and the chairpersons of the committees in each house of the Legislature that consider appropriations, or

not sooner than whatever lesser time after that notification the chairperson of the joint committee, or the chairperson's designee, may determine.

Background. Health and Safety Code Section 1418.8 sets forth procedures to be followed for skilled nursing facility (SNF) and intermediate care facility (ICF) residents who cannot make their own health care decisions and who do not have a legally authorized decision-maker, as an alternative to petitioning a court to appoint a decision-maker, or authorize a health care decision according to the Probate Code. The statute authorizes an interdisciplinary team -- consisting of the resident physician, a registered nurse responsible for the resident, other appropriate staff, and a patient representative -- to review and authorize medical treatment.

In *California Advocates for Nursing Home Residents (CANHR) v. Smith (2019)*, the constitutionality of the statute was challenged. The Court upheld the constitutionality of the statute; however, the court required facilities to ensure that a patient representative is part of every interdisciplinary team even if no family member or friend of the patient is available to act in this role. An interdisciplinary team may act without a patient representative only in the instance of an "urgent medical emergency" affecting the patient. This exemption does not extend to necessary health care decisions in non-emergency circumstances.

If the patient lacks an available family member or friend, the facility must locate a person unaffiliated with the facility to act as a patient representative to use the interdisciplinary team process. If the facility is unable to locate a patient representative, the facility may not use the interdisciplinary team process and must instead petition a court to authorize health care decisions. Following the *CANHR v Smith* court ruling, facilities have not developed an organized process to designate unaffiliated patient representatives for otherwise unrepresented patients who lack decision-making capacity. CDA proposes to establish the Office of LTC Patient Representative to provide a uniform statewide approach to represent the interests of otherwise unrepresented patients. CDA proposes to fund this program using facility fees from the California Department of Public Health Licensing & Certification Fund, given the Court ruling imposed the responsibility of locating a patient representative on the facilities, not the state.

Staff Comment and Recommendation. Hold open.

Questions.

1. Advocates have expressed concerns that the Administration is proposing to fund the Office with facility licensing fees instead of General Fund. They believe that this may be a violation of the court ruling as skilled nursing facilities are precluded from funding the activities of patient representatives. Please respond to these claims.

Issue 5: Senate Budget Options - Aging Issues

The Subcommittee has asked the Legislative Analyst's Office to present the following proposals.

Senate Budget Option. The Senate is considering the following budget proposals:

- Eliminate the funding suspension in CDA senior nutrition programs and provide \$35 million ongoing for those programs. This reflects a proposal put forward by the California Association of Area Agencies (C4A) heard at the Subcommittee's March 2, 2021 hearing. For details on the proposal, please refer to the March 2 hearing agenda.
- Eliminate the funding suspension for ADRCs and provide ongoing funding for the statewide ADRC network. This reflects a proposal put forward by the California Association of Area Agencies (C4A) heard at the Subcommittee's March 2, 2021 hearing. For details on the proposal, please refer to the March 2 hearing agenda.
- Provide ongoing funding to support the Dignity at Home Fall Prevention Program and make it permanent. This reflects a proposal put forward by the California Association of Area Agencies (C4A) heard at the Subcommittee's March 2, 2021 hearing. For details on the proposal, please refer to the March 2 hearing agenda.
- Provide one-time funding to bridge the digital divide and provide additional tablets and other devices to older Californians. This will build on CDA's current partnerships with AT&T and Google to provide tablets and smart speakers to older Californians who are low-income and live alone.
- Provide baseline ongoing funding for Area Agencies on Aging. This reflects a proposal put forward by the California Association of Area Agencies (C4A) heard at the Subcommittee's March 2, 2021 hearing. For details on the proposal, please refer to the March 2 hearing agenda.

Note that other aging issues are included in other departments. Those proposals (listed below) will be discussed at other Subcommittee hearings.

- Permanently restore the seven percent reduction to IHSS service hours.
- Incentivize counties to reach IHSS labor agreements.
- Simplify the CalFresh application process for seniors and the disabled.

Background. Over the past several years, the Senate and the Administration have taken an interest in aging issues. The Senate has implemented an "aging package" in the last two budget years that address issues of importance for aging Californians. Some of those funding proposals included increased funding for senior nutrition programs and a statewide ADRC network, increased supplemental payments for Multipurpose Senior Services Program (MSSP) providers, increased funding for Long-Term Care Ombudsman offices, and startup funding for an injury prevention and education program.

While the Legislature has made strides to address aging issues in California, the COVID-19 crisis has only highlighted the need for additional resources for the older population. The pandemic has laid bare the food insecurity among older adults. At the start of the pandemic Area Agencies on Aging (AAAs) shifted from providing congregate meals to home-delivered meals and meals for pick-up. In 2020, there were a record 27 million meals delivered to older Californians. This represents a 51% increase over 2019 numbers (17.8 million). While the state's recent progress in getting Californians vaccinated has hinted at a coming end to the pandemic it is likely that there will still be a need and desire for alternatives to congregate meals.

Access to reliable internet and digital devices have also been critical tools necessary to remain socially connected. To meet that need CDA has leveraged public-private partnerships with AT&T and Google to provide tablets and smart speakers to thousands of older Californians who are low income and live alone. Google has donated 8,500 smart speaker devices, which have been distributed to local AAAs and MSSP sites to distribute to their clients. CDA has also entered into an agreement with AT&T to purchase 4,000 iPad tablets that will be provided to AAAs to distribute to low-income older adults who live alone.

The Senate is considering the above budget options to build on current efforts at CDA by providing additional funding for senior nutrition programs, ADRCs, and AAs; and one-time funding to provide tablets and other devices to seniors to combat isolation and loneliness.

Staff Comment and Recommendation. Hold open.

Panel. The Subcommittee has requested the following panelist to provide comments on the above proposals.

- Victoria Jump, Director, Ventura County Area Agency on Aging

Questions.

For the Legislative Analyst's Office:

1. Please provide a brief overview of the proposals.

For Victoria Jump:

2. Please discuss the impact COVID-19 has had on the programs that the Area Agencies on Aging administer, and how the above proposals may help to address those issues at AAAs and ADRCs.