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## **Recent Developments: California's 2011 Budget Decisions Impact Alameda County Seniors and Services**

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**W**hen Governor Brown signed the state budget on June 30, he enacted deep reductions to critical public programs and institutions. The budget contains over \$15 billion in cuts that are scaling back the social safety net at a time when the economy and local governments are still struggling, are making it more difficult for young Californians to get the college degree they need to get ahead in the job market, are restricting basic health care from people who need it, and are putting thousands of seniors and people with disabilities in peril.<sup>1</sup>

This year's budget was balanced, not with the extension of 2010's temporary taxes that the Governor sought (and which would have required a super-majority vote of the legislature).<sup>2</sup> Instead, California's fiscal year 2011-12 budget contains increased vehicle registration fees, enforcement of state sales tax on internet, optimistic revenue predictions (based on better-than-expected May receipts) and a two-trigger mechanism.

**The two triggers** will engage automatically in January 2012 if the Department of Finance determines that revenues are not meeting expectations. Now that figures for July and August are in, it is becoming clear that at least one trigger will be hit.

The first trigger would cut \$600 million from the budget, mid-year. This trigger will cut \$100 million across-the-board cut to IHSS that will result in a 20% cut in hours to most participants. The trigger will also cut \$15 million in Medi-Cal funding for managed care – making targeted cuts to Program of All-Inclusive Care for the Elderly (PACE), the SCAN Health Plan, and the Aids HealthCare Foundation.<sup>3</sup>

The second trigger would cut up to \$1.9 billion in order to balance the budget. Most of these cuts would come from K-12 Education, but could also include deeper cuts to Community Colleges and the elimination of home-to-school transportation.

**T**he terribly deep cuts to senior services made in March, when parts of the 2011-12 Budget were passed and signed, are still in place. The cuts have seriously damaged remaining life-line programs for seniors – ADHC, IHSS, SSI/SSP, MSSP, and Medi-Cal.

**The following pages summarize the impact of the state's budget decisions and recent developments on senior services in Alameda County gathered at a September 7, 2011 convening of Senior Services Coalition stakeholders.**

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<sup>1</sup> The FY 2011-12 cuts come on top of three years and over \$38 billion of cumulative cuts to public programs and institutions.

<sup>2</sup> Proposition 25, passed by voters in 2010, allows the legislature to pass a budget with a simple majority (eliminating the 2/3rds majority requirement). Prop 25 did not, however, reverse the 2/3rds majority requirement for raising taxes.

<sup>3</sup> The first trigger also cuts \$100 million from University of California, \$100 million from California State University, \$100 million to Department of Developmental Services, \$30 million from Community Colleges, and other cuts to the State Library, Juvenile Justice, Corrections, Developmental Services and Child Care.

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*ADHC provides about 35,000 fragile elderly and disabled Californians – and 880 Alameda County residents – with the safe haven and medical and therapeutic services they need to continue living in the community. About 55,000 patients are served each year.*

*These medically complex patients are at risk for repeat hospitalizations or nursing home placement due to their chronic medical or cognitive conditions.*

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**A**dult Day Health Care - The FY 2011-12 budget bills signed in March eliminated ADHC as a Medi-Cal optional benefit. At the same time, the Legislature agreed to “re-create” ADHC as a federal waiver program with \$85 million in state funding (about half of last year’s state funding for ADHC). The enabling legislation for the waiver was AB 96 (authored by Blumenfield, the legislation instructed the state to move forward with an ADHC-like federal waiver program called Keeping Adults From Institutions, or KAFI).

A partial restoration of \$85 million for a re-configured ADHC program was in the budget that legislators sent to the Governor on June 28, with the expectation that the Governor would approve the funding and also sign AB 96. The Governor approved the \$85 million, but he vetoed AB 96.

Meanwhile, California’s Department of Health Care Services received approval from Center for Medicare/Medicaid Services to end Medi-Cal reimbursement for ADHC on September 1, 2011. DHCS decided to extend that date to December 1 and is proceeding with a complicated “Transition Plan” that includes automatically enrolling almost 26,000 dually eligible<sup>4</sup> ADHC patients into Medi-Cal managed care Plans on October 1. These patients would continue to receive their medical care through fee-for-service Medicare, and the Medi-Cal Plans would manage other services not provided under Medicare.

DHCS expects the Plans to complete comprehensive patient assessments and develop care plans before December 1, when ADHC patients will be discharged to “appropriate services” that will be managed by the Plans. This, in spite of the fact that Medi-Cal does not approve patients for ADHC reimbursement until an assessment shows proof that other services are not appropriate or adequate to meet their needs. DHCS’s Transition Plan indicates that the Medi-Cal Managed Care Plans will coordinate replacement services for participants from a list that includes IHSS, MSSP, an array of individual health care services such as nursing and physical therapy, PACE programs and an existing In-Home Operations waiver.<sup>5</sup> DHCS suggests that the Plans have latitude to provide “ADHC-like” services, yet has not agreed to increase Plan’s reimbursement for even the most acute ADHC patients beyond a \$60 per month/per patient “enhancement” for case management. On September 19 DHCS released a memo indicating that MSSP would not be able to accommodate ADHC participants because MSSP programs state-wide have waiting lists.

DHCS’s Transition Plan does not include a pro forma to indicate how much the planned activities will cost, how the activities will tap the \$85 million in state funds, and whether or not DHCS’s planned changes will exceed that designated funding.

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<sup>4</sup> “Duals” are covered by both Medicare and Medi-Cal.

<sup>5</sup> The IHO waiver currently has 500 “slots” in California, which DHCS has stated will be increased by 1,000.

A groundswell of community support and media attention has not convinced legislators to override the Governor's veto. Hearings called in August by the Assembly Long Term Care Committee and the Senate Budget Subcommittee on Health and Human Services have done little to alter DHCS's plan. Assemblymember Mariko Yamada's August 24 letter to DHCS Director Toby Douglas requested that he postpone the elimination of Medi-Cal's ADHC benefit until March 31, 2012 in order to allow time for a more orderly transition. Yamada's letter was signed by 30 Assemblymembers, and other legislators and local elected officials are taking steps to endorse Yamada's request, including the Alameda County's Board of Supervisors.

The only thing that stands in the way of the virtual elimination of the ADHC model in California is a law suit by Disability Rights California. Arguments in that suit have been filed, but the hearing date has been moved to November 8 at DHCS's request. The judge will decide on the request for preemptive injunction sometime in November, just days before the Medi-Cal coverage of ADHC as an optional benefit is scheduled to end.

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*Over 73,000 Bay Area elders, children and adults with disabilities rely on IHSS to help them live safely in the community – over 430,000 Californians. In Alameda County, over 17,600 people receive this in-home care. While many would be eligible for nursing home placement today, others are able to avoid serious medical complications thanks to the supportive care they receive.*

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**In-Home Supportive Services** - The March Budget made \$420 million in cuts and changes to IHSS, the equivalent of about a 25% cut to the program. These include:

## **REPORT OUTS: ADHC**

*In Alameda County, four organizations provide Adult Day Health Care services at seven locations in Berkeley, Oakland and Hayward.*

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*Of the approximately 880 ADHC patients served annually, about 700 are covered by Medi-Cal and about 650 are Dually Eligible and will be enrolled in a Medi-Cal managed care Plan on October 1.*

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*Adult & Aging Services has identified over 600 IHSS clients who are ADHC patients, but only 200 of them would receive an increase in IHSS hours if they were discharged from ADHC (an increase of only about ten hours per month).*

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*DHCS's notification and enrollment process for the Dually Eligible ADHC patients has been fraught with problems. Patients have not received their packets, have misunderstood the confusing letters, or have received packets containing information materials that are not in their language.*

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*Adult Day Services Network of Alameda County and its members are working with Alameda Alliance for Health (one of the Plans) and with a workgroup convened by Supervisor Wilma Chan and Health Care Services Agency Director Alex Briscoe to address alternative funding streams and to reorganize services under new business models.*

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*ADHC's are also working with PACE programs to identify participants that might be eligible for PACE (this is*

- Requiring a health care provider's written certification confirming that IHSS services are needed to avert out-of-home placement. (This is in addition to the current social worker assessment.) The Governor estimated this requirement will result in the loss of services for approximately 43,000 recipients, and will provide General Fund "savings" of \$120.5 million in 2011-12.
- Adjusting projected caseloads for the current and next fiscal years (\$83.2 million in savings).
- Drawing on an additional 6% increase in federal matching funds by qualifying under the new federal Community First Choice Option (\$128 million in savings).
- Eliminating the mandate that counties maintain IHSS Advisory Committees that are responsible for making program recommendations to the county boards of supervisors (a \$1.4 million cut that leaves just \$200,000 in state funding). In addition, \$3,000 a year in state funding would be available (with potential federal match) for Public Authorities' Advisory Committees.
- Implementing a pilot program to put medication dispensing machines in the homes of IHSS consumers. This is supposed to achieve \$140 million in savings. If the savings are not realized then an across-the-board reduction in hours would be implemented.

If state revenues fail to meet budget expectations and the January 2012 trigger cuts take effect, this will impose an additional mid-year \$100 million across the board cut to IHSS hours, a mid-year cut estimated to bring a steep cut in hours.

#### **REPORT OUTS: IHSS**

*In Alameda County, the new certification requirement has already been implemented. Clients are notified at their reassessment date that they need to comply within 45 days. The new form must be signed by a health care provider (this can be handled by mail and an office visit with the provider is not necessary).*

*A check of the State's Medication Dispensing Machine project web site shows little progress on the medication dispensing machine pilot, making an additional \$140 million in cuts to IHSS next year likely.*

*Alameda County's Public Authority Advisory Board faced state cuts that would have cut its funding from \$53,000 to about \$5,660. Board members appealed to the Board of Supervisors, who allocated \$50,000 to the Advisory Board. Unfortunately this funding was shifted from the Public Authority.*

*Alameda County's Public Authority for IHSS has seen its State funding reduced by 48% over the last several budget cycles. To cope, the PA has brought the registry in-house, eliminated the private pay registry and cut one staff position. Many Public Authorities were cut more deeply but some, Los Angeles in particular, were protected from all but a 4% reduction.*

**M**ulti-Purpose Senior Services Program - The March Budget cut MSSP by 18%, a cut of \$2.5 million in state funds and an equivalent loss of federal match. The budget bill described this cut as "up to \$2.5 million" and instructs California Department of Aging and Department of Health Care Services to "consult with the federal government to identify ways to reduce the operational costs of the program and to limit the impact on the number of recipients served."

*MSSP saves Medi-Cal dollars through case management of frail, nursing home eligible seniors who want to live at home (over 11,000 Californians a year). With adequate funding MSSP could be a core component in the continuum of community-based care.*

**M**edi-Cal - The March Budget cut Medi-Cal funding by \$1.4 billion and the Final Budget signed in June adds an unallocated cut of \$345 million. Reductions will be achieved by:

- Limiting physician and clinic visits to seven per year (a "soft cap" that a doctor may overrule).
- Placing an annual cap on hearing aids of \$1,510.
- Charging patient copayments for a wide range of services, including doctor visits (\$5), pharmacy services (\$3), emergency room (\$50) and hospital visits (\$100 a day, \$200 maximum).
- Eliminating Medi-Cal coverage for over-the-counter cough and cold medications and nutritional supplements.

In addition, the budget reduces reimbursement rates to providers by 10%, affecting managed care plans, physicians, pharmacy, clinics, medical transportation, home health, Adult Day Health Care, certain hospitals, and nursing facilities

Seniors on Medi-Cal, and especially Duals, tend to be sicker and have more chronic conditions than the general senior population. They live on less than 133% of Federal Poverty Level and have little disposable income to cover increased medical costs.

#### **REPORT OUTS: MSSP**

*In Alameda County, two cities, Fremont and Oakland, provide MSSP services for seniors with Medi-Cal. The state budget cuts to MSSP translate into a reduction to the number of "slots" available in those programs, from a total of 440 to about 400, thus further limiting access. Both MSSP providers are also decreasing their purchase of services budgets. Both have waiting lists.*

#### **REPORT OUTS: MEDI-CAL**

*As of today, Center for Medicare and Medicaid Services has not granted approval for California's provider rate cuts or the changes that will limit care and increase patient copayments.*

*The state's 1115 Waiver that is enrolling Medi-Cal Only seniors and people with disabilities into one of two Medi-Cal managed care Plans in Alameda County has been proceeding. Recent reports indicate that very few people are proactively selecting a Plan. This means that a large number of the approximately 8,000 people enrolled to date are not aware of the change to their coverage, and are likely to find out when they visit their old provider.*

*Providers in Alameda County report increases in the number of seniors seeking help. The HomeCares program has seen a 65% increase in requests for incontinence supplies, and now opens its doors to long lines of people waiting to receive donated and used medical equipment/supplies.*

**P**rogram of All-Inclusive Care for the Elderly - PACE was not included in the 10% provider rate cuts in California's 2011-12 budget (and even though the PACE rates are set as a percentage of the skilled nursing facility rate, a rate freeze has been in effect since 2008, barring cuts and COLAs. However, CalPACE is in negotiations with the state regarding rate methodology and PACE providers are expecting to see a 10% reduction beginning in January. In addition, the trigger cut is set to impact PACE in January with a 5% reduction.

**S**upplemental Security Income/State Supplementary Program - The March Budget cut \$15/month from individual SSI/SSP grant levels, causing 38,740 Alameda County residents to lose essential income. This will set grant levels at \$830/month, a full \$72.50 below the federal poverty level. The cut hit recipients' grant checks in July 2011. This cut did not affect couples on SSI/SSP, as their grant levels have already been reduced to the lowest level allowed.

Grant levels for the Cash Assistance Program for Immigrants (CAPI) have also been cut \$15/month. CAPI provides subsistence grants to legal immigrants who are not eligible for SSI.<sup>6</sup>

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*California's almost 1.3 million SSI/SSP recipients are extremely low income people with disabilities and elders. In Alameda County, about 53,000 people rely on SSI to meet their basic needs.*

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total of \$77 a month, more than a week's worth of groceries for an elder living alone<sup>7</sup>. Even before this last cut, St. Mary's Center in Oakland was seeing an influx of homeless older adults seeking shelter and assistance.

Cuts to SSI recipients are particularly cruel, as they have few options to mitigate a loss of income – they are ineligible for food stamps. Since January of 2009 California has cut SSI/SSP individual grant levels by a

#### **REPORT OUTS: PACE**

*In Alameda County, two organizations provide services for nursing home eligible older adults age 55 and older, On Lok Lifeways and Center for Elders Independence. Both programs have or will open new facilities this year.*

*PACE programs in California have been dealing with the state's drawn-out approval process for new enrollees, and are concerned that the influx of patients from ADHCs will cause an already slow process to break down, endangering continuity of care.*

#### **REPORT OUTS: SSI/SSP**

*As residents in low-income senior housing have seen their monthly incomes drop, their need for basics such as food and preventive care has increased. More seniors are seeking free or low cost dental care. The Brown Bag program is starting to deliver more often at some facilities.*

*St. Mary's Center in Oakland is seeing an influx of older adults who have lost their housing. Word on the street is that SSI is the new "homeless income."*

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<sup>6</sup> Cumulative cuts to SSI/SSP and CAPI enacted over the last four budget cycles have affected 54,000 Alameda County residents and have resulted in a \$94 million annual loss to Alameda County's economy.

<sup>7</sup> According to the Elder Economic Security Standard Index for Alameda County, Insight Center [www.insightcced.org](http://www.insightcced.org)