ASSOCIATION OF REGIONAL CENTER AGENCIES
ANALYSIS OF THE FY 2016-17 NOVEMBER ESTIMATE
(GOVERNOR'S BUDGET)
JANUARY 7, 2016

FY 2015-16 (Current Year)

1. CASELOAD

The FY 2015-16 May Revision estimated the regional center Community Caseload to be 289,931 consumers for January 31, 2016. The November Estimate increases the January 31, 2016 caseload to 290,496, an increase of 565 consumers (a 0.19% increase).

2. PURCHASE OF SERVICE - $ 45.1 million *decrease* (1.0% d*ecrease*)

- $ 45.1 million *decrease* to Purchase of Services due to slower than projected growth in POS expenditures.

3. OPERATIONS - $1.6 million Increase (0.3% increase)

- $1.6 million increase to reflect updated caseload.

FY 2016-17 (Budget Year)

The following increases and decreases are in comparison to the revised budget for FY 2015-16.

1. CASELOAD

The budget anticipates an increase of 11,923 consumers (a 4.1% increase) over the 290,496 consumers projected for January 31, 2015.

2. PURCHASE OF SERVICE - $267.3 million increase (6.3% increase)

- $257.6 million increase over current fiscal year for caseload and utilization growth (a 5.8% increase).
- $62.4 million increase for full-year funding of the minimum wage increase per AB 10 effective January 1, 2016.
- $54.2 million increase for full-year funding of the changes in the Fair Labor Standards Act regulations regarding the payment of overtime by service providers that previously were not required to pay overtime.
- $4.5 million *decrease* due to funding of certain behavior health treatment services by Medi-Cal.
- $26.6 million increase in funding for development of needed resources associated with planned developmental center closures.
- $46 million increase to fund increased costs associated with the development of enhanced Alternative Residential Model (ARM) rates for homes serving four or less residents.
- $15 million increase to fund modifications and additional staffing as needed for service providers to come into compliance with CMS' final regulations.

3. OPERATIONS – $43.4 million increase over Ccurrent year (7.0% increase)

- $20.7 million increase in staffing due to the projected increase in caseload.
- $4.1million increase for additional staffing related to the closures of Sonoma Developmental Center, Fairview Developmental Center, and the General Treatment Area of Porterville Developmental Center.

- $17 million increase for additional staff to improve service coordinator caseload ratios.

- $1.6 million increase to fund 21 additional Program Evaluators to ensure compliance with CMS' final regulations.

- $582,000 increase in Projects for the Client's Rights Advocacy and Office of Administrative Hearings contracts.

Future Fiscal Issues

DDS listed two future fiscal issues related to Self-Determination and the Uniform Holiday Schedule.

Self-Determination

In 2013, Senate Bill (SB) 468 (Chapter 683) required Department of Developmental Services (DDS) to implement a statewide Self-Determination Program (SDP), subject to approval of federal funding. DDS submitted an application for federal funding to the Centers for Medicare and Medicaid Services (CMS) on December 31, 2014. The SDP will allow Regional Center (RC) consumers and their families more freedom, control, and responsibility in choosing services and supports to help meet the objectives in their individual program plans. Participation is limited to 2,500 individuals in the first 3 years of the SDP, including approximately 140 participants in the current State-only funded self-determination pilot projects. To ensure the required cost neutrality of the SDP, SB 468 General Fund (GF) savings shall be used to offset administrative costs to DDS, including the required criminal background checks. Any remaining funds can be used to offset costs to the RCs in implementing the SDP.

After making changes required by CMS, the Home and Community Based Services (HCBS) Waiver application was formally resubmitted to CMS on September 29, 2015. In a December 11, 2015 letter, CMS indicated that additional information and clarification was needed before the Waiver could be approved. This request for additional information is typical in response to applications for Medicaid funding.

The Budget Bill for Fiscal Year (FY) 2016-17 includes the following provisional language to administer the SDP once federal approval has been received:

X. The Department of Finance may authorize a transfer of up to $2,800,000 to this item from Item 4300-101-0001 in order to effectively administer the Self-Determination Program. The Director of Finance shall notify the Joint Legislative Budget Committee of the transfer, including the amount transferred, how the amount transferred was determined, and how the amount transferred will be utilized not less than 30 days before the effective date of the approval.

Uniform Holiday Schedule
Between FY 2009-10 and 2011-12, DDS implemented various cost containment measures, including implementation of a Uniform Holiday Schedule and Half-Day Billing Rule. Most day programs, look-alike day programs, and work activity programs previously recognized an average of 10 holidays, but these holidays could be different between programs. The Uniform Holiday Schedule standardized holidays for these programs and increased the total number of holidays to fourteen days. In addition to savings from the decreased number of program days, there were savings from reduced transportation costs. The Uniform Holiday Schedule went into effect on August 1, 2009. The Half-Day Billing Rule went into effect on July 1, 2011, and limited the RC payment to providers of many site based programs for only a half day if a recipient of that program was present for less than 65 percent of the program day.

The Arc of California filed suit in federal court to prevent DDS from enforcing the Uniform Holiday Schedule and from continuing to implement the Half Day Billing Rule. On February 13, 2015, the United States District Court ruled that when the State enacted the "Uniform Holiday Schedule" and the "Half-Day Billing Rule," the State violated federal Medicaid laws by failing to first follow a specific process of review and obtaining prior approvals from the federal government, and issued an injunction against the Uniform Holiday Schedule and the Half-Day Billing Rule. On March 17, 2015, DDS issued an official directive to the 21 RCs announcing elimination of the "Uniform Holiday Schedule" and the "Half-Day Billing Rule" reductions effective immediately.

Subsequently, on March 31, 2015, the United States Supreme Court decision held that providers could not file suit against a state for alleged violations of the federal Medicaid laws and DDS asked the Federal District Court to "vacate" or set aside its previous ruling that struck down the two cuts. On September 1, 2015 the federal district court issued its order denying the State's motion to "vacate" its previous ruling, and reinstate the two reductions. The court is reviewing the various arguments of the parties and will issue rulings in writing.

DEVELOPMENTAL CENTERS

FY 2015-16 (Current Year)

The Governor's Budget is proposing a net increase of $60.2 million for the current fiscal year.

- $42.5 million one-time payment to DHCS in response to audit findings of excess federal payments for developmental center care. This is achieved through a fund shift from the regional center POS budget.
- $13.0 million increase for employee compensation adjustments.
- $1.5 million increase for 24.4 additional staff.
- $1.6 million increase for deferred maintenance projects at Porterville Developmental Center.
- 1.6 million increase for preliminary closure activities and independent monitoring at Sonoma Developmental Center.
- $1.0 million increase for the Sonoma Developmental Center Acute Crisis Unit full year costs and lack of federal funding.
- $1.0 million *decrease* and reduction of 9 positions due to centralization of some functions due to multiple concurrent developmental center closures.

FY 2016-17 (Budget Year)

The Governor's Budget proposes a net increase of $12.1 million for the budget year.

- $14.2 million increase for employee compensation adjustments and other baseline adjustments.
- $8.8 million *decrease* due to decrease of 129.2 positions due to anticipated population decline.
- $3.0 million increase for preliminary closure activities and independent monitoring at Sonoma Developmental Center.
- $0.4 million increase for the acquisition of a records management system for the Office of Protective Services.
- $2.3 million *decrease* in developmental center employee workers' compensation costs.
- $3.8 million increase for the repayment of overpaid federal funds.
- $1.8 million increase to replace the Personal Alarm Locating System at Porterville Developmental Center.
- $1.0 million increase for the Sonoma Developmental Center Acute Crisis Unit full year costs and lack of federal funding.
- $1.0 million *decrease* and reduction of 9 positions due to centralization of some functions due to multiple concurrent developmental center closures.
- $6.5 million increase to upgrade the fire alarm system in the Porterville Developmental Center Secure Treatment Area.

HEADQUARTERS

FY 2015-16 (Current Year)

The Governor's Budget is proposing a net increase of $2.2 million for the current fiscal year.

- $1.2 million increase for staff compensation and benefits.
- $1.0 million increase and increase of 9 positions due to centralization of some functions due to multiple concurrent developmental center closures.

FY 2016-17 (Budget Year)

The Governor's Budget proposes a net increase of $5.7 million for the budget year.

- $2.1 million increase and increase of 8 positions (in addition to 5 redirected positions) to support developmental center closures.
- $0.9 million increase and increase of 7 positions to establish a Fiscal and Program Research Unit to compile, research, and analyze data in response to inquiries.
- $0.5 million increase and increase of 4 positions to assist with compliance with the HCBS Final Rule.
- $1.0 million increase to permanently establish and retain funding for 7 auditor positions that were originally designated as limited-term in 2014-15.

PROPOSED BUDGET BILL AND TRAILER BILL LANGUAGE

- Budget Bill language to require regional centers to report annually to DDS the number of providers receiving the HCBS transition funds;
- Trailer Bill language that gives DDS the authority to implement changes necessary to achieve compliance with the CMS Final Rule through policy directive until new statute and/or regulations are promulgated;
- Budget Bill language to require regional centers to report annually to DDS the number of facilities receiving the new 4-Bed ARM rates;
- Budget Bill language to require regional centers to report annually to DDS the number of staff hired with the additional case management funds and the effectiveness in reducing average caseload ratios; and,
- Trailer Bill language to allow the use of PRRS funds for Family Resource Centers.