

## **JOINT INFORMATIONAL HEARING**

**Tuesday, March 11, 2003**

**1:30 p.m. - 5:00 p.m.**

**State Capitol, Room 437**

**and**

**Wednesday, March 12, 2003**

**1:30 p.m. - 5:00 p.m.**

**State Capitol, Room 444**

**Assembly Committee on Human Services**

**Chair, Assemblymember Lois Wolk**

**Assembly Budget Subcommittee on Health and Human Services**

**Chair, Assemblymember Judy Chu**

**and**

**Senate Committee on Health and Human Services**

**Chair, Senator Deborah Ortiz**

### **Background Analysis on Realignment in Human Services**

In his 2003-04 budget, Governor Davis proposes to "realign" a variety of programs in social services, health care and court security by shifting greater responsibility to local governments from the state, and dedicating three new revenue sources to fund the realigned programs. This joint hearing is designed to explore the policy and fiscal implications of this proposal, to examine alternative approaches to realignment, and to assess the viability of realigning programs while maintaining and enhancing the integrity of services delivered to Californians who depend upon them.

***Realigned programs.*** The realignment scheme would shift an estimated \$8.2 billion in costs to counties. Several of these, affecting health care and court security, are outside the scope of this hearing. A complete list of the programs proposed for realignment and the value of the cost shift is contained in Attachment 1. Over \$3 billion is in Medi-Cal costs (a 15% share of benefits and long-term care), and \$300 million is in Court Security.

The following human services programs proposed for realignment will be addressed at this hearing:

- Children & Youth Programs
  - Child Care administered by the Department of Education \$968 million
  - Foster Care grants \$460 million
  - Foster Care administration \$34 million
  - Child Welfare Services \$610 million
  - Adoptions Assistance \$217 million
  - Kin-GAP \$19 million
  
- Healthy Communities
  - In-home Supportive Services and administration \$1.171 billion
  - CalWORKs administration & services (50%) \$547 million
  - Food Stamp administration \$268 million
  - Programs for Immigrants (CFAP, CAPI) \$110 million
  
- Mental Health and Alcohol and Drug Programs
  - Substance Abuse Treatment programs and Drug Courts \$110 million
  - Proposition 36 Drug Treatment Services \$120 million
  - Integrated Services for Homeless \$55 million
  - Children's System of Care \$20 million
  
- TOTAL** **\$4.71 billion**

**Revenue Increases.** The Governor's proposal dedicates three new sources of revenues to counties for the purpose of funding the realigned programs. The revenue generated is estimated at \$8.3 billion:

- One-Cent Sales Tax Increase - \$4.6 billion.
- Personal Income Tax Increase in Upper Bracket Tax Rate from 9.3% to 10% and 11% - \$2.6 billion
- Cigarette Tax Increase of \$1.10 per pack - \$1.2 billion

Of the \$8.3 billion, \$8.2 billion would be deposited in a new special fund for realignment and allocated to counties. The remaining money would be used to backfill revenue losses to programs supported by Propositions 99 (health and tobacco education) and 10 (Children and Families) due to reduced sales of cigarettes that will result from the proposed cigarette tax increase.

**1991 Realignment.** In the midst of a severe budget crisis, the legislature adopted a realignment of selected health and human services programs in 1991. That realignment was performed on a smaller scale than what is proposed this year. It was funded by increases in the sales tax and vehicle license fee, raising a total of \$2.2 billion in 1991

dollars. Counties were intimately engaged in the legislative process of crafting the realignment program. The California State Association of Counties (CSAC) adopted "Principles of Realignment" which guided their approach, included at Attachment 3.

Programs transferred from state to county included community-based mental health programs, county health services, the Medically Indigent Services Program and County Medical Services Program. Sharing ratios on several programs were altered based on assessments of which programs would be improved by increasing county financial incentives, and which ones were outside county control. Ratios were modified in Foster Care, Child Welfare Services, Aid to Families with Dependent Children, county administration of public assistance programs, Greater Avenues for Independence, In-home Supportive Services, the County Services Block Grant, and the Adoption Assistance Program.

A 2001 Legislative Analyst Office (LAO) report concluded that the added flexibility and reliable funding stream has improved the delivery of mental health services, but that a lack of data makes evaluation of realignment of health programs difficult. Moreover, LAO concluded that the complicated system of formulas for allocating new dollars, with distribution spread among three sub-accounts, limits counties' incentive to control program costs. There was an initial shortfall in revenues following the 1991 legislation, but over most of the period since realignment revenues generally kept pace with program demands. However, there is currently an estimated shortfall in realignment funding of \$184 million (\$64 million in base shortfall, \$120 million in the absence of caseload growth funding) given the decline in sales tax revenue and the growth in program costs.

**Issues for discussion.** The realignment proposal raises many serious policy and fiscal questions, some of which are applicable to the entirety of the plan, others of which are specific to particular programs.

- *Adequacy of revenues.* Will the dedicated revenues be sufficient to fund the realigned programs? Attached is a table (Attachment 3) prepared by the Legislative Analyst which estimates growth rates in program costs by realigned program. The social services programs are projected to grow at an annual rate of 7.2% through 2007-08, while the three revenue streams are estimated to grow by 5.5 to 6% annually. If revenues are not adequate, or if unanticipated factors cause greater program growth, is there a safety net for unmet needs? Who will be responsible for coping with the shortfall? Should a reserve be created by placing an amount of revenues into the special fund which exceed estimated costs of realigned programs?

As to some programs, it may be possible that a dedicated revenue stream such as would be created in realignment would constitute a more stable and secure funding source than reliance on the annual budget process.

- *County discretion.* How much control over program rules, standards and services will counties have in their operation of the realigned programs? What program elements are governed by federal law? Are programs and services best governed by local

rules, or does the state have an interest in consistency and uniformity?

- *Funding flexibility.* To what extent will counties be able to reallocate funds between programs within a larger pot of revenues? According to the LAO, the Governor's proposal provides that all of the funds except for those dedicated to Medi-Cal and long-term care are to be lumped into a single block grant which counties would be free to allocate as they see fit. There are, however, federal maintenance of effort requirements for alcohol and drug funding and Temporary Assistance for Needy Families (TANF)-related programs, which would have to be tracked and satisfied. Are there, or should there be, other limitations on shifting funds from one program or purpose to another? Are there any other legal impediments to counties' discretion to redistribute dollars?
- *Allocation among counties.* What kind of allocation formula would be used to distribute the realigned funds among counties? There are currently different formulae for different programs. Should there be a single formula for all the funds?
- *Accountability.* How will the state assure that programs are operated effectively and legally if the entirety of their funding is devolved to local governments? Will the state maintain supervisory authority? What enforcement mechanisms and performance measurements would or should be employed?
- *Prioritization.* Are some programs more suited for realignment than others? If less than \$8.3 billion in revenues is available for this purpose, what programs and services are most appropriate for inclusion in a smaller realignment package?
- *Fiscal implications.* If realignment as envisioned by the administration or some variation of it fails, will this create pressure to make additional reductions in human services programs because less revenue will be available? If the revenues proposed to be generated are not dedicated for realigned programs and the funds are placed in the general fund, then according to LAO \$3.5 billion of the \$8.3 billion in new revenues would be set aside for K-12 education under Proposition 98.
- *Legality of special fund.* Some observers have questioned whether the placement of the newly-generated revenues into a special fund for dedication to the realigned programs can avoid the requirement of Proposition 98 that half of general fund revenues be used for K-12 education programs. This turns on the question of whether the revenues would be subject to laws governing the General Fund or whether the fund into which they are to be placed would be a true special fund. In a recent widely-reported opinion, Legislative Counsel concluded that the special fund created as a repository of the funds to be used for realignment have the characteristics of General Fund revenues and that Proposition 98 requirements would apply. The Counsel's office historically has interpreted the term "General Fund" more broadly than the definition contained in Section 16300 of the Government Code. However, there are varying viewpoints on the legal question. The administration disagrees with the Legislative Counsel's opinion, and no court decision has directly addressed the

issue. In 1991, the legislature included several "poison pills" in the realignment package, one of which would have repealed the sales tax increase if an appellate court had found that the revenues dedicated to realignment purposes were subject to the requirements of Proposition 98. No challenge was filed on those grounds. The Legislature could design similar measures to accompany a new realignment, such as a conditional suspension of Proposition 98 if the special fund mechanism is invalidated.

The administration also has "rebenched" the Proposition 98 guarantee by removing the realigned child development funds from the base calculation, and this has been criticized by advocates who believe that these programs should be recognized as integral parts of the education system which deserve the fiscal guarantees of Proposition 98.

## **REALIGNMENT AS TO HUMAN SERVICES PROGRAM AREAS**

### **Child Care**

Child care programs in California are administered at the state level primarily by the State Department of Education (SDE) and State Department of Social Services (DSS). A total of \$3.1 billion is spent on child care, \$1.4 billion of which is federal funds. DSS administers care in Stage 1 of the CalWORKs program, which provides the initial care for CalWORKs caretakers engaged in employment activities until their situation stabilizes. Stage 1 serves an estimated 69,900 children at a cost in 2003-04 of \$474 million, nearly all of which are federal funds. Stage 1 care is not affected by the realignment proposal.

SDE administers a variety of subsidized child care and development programs, mostly for eligible families with incomes less than 75% of the State Median Income (\$2,925 per month for a family of three). These programs include, State Preschool, After-school partnerships, Alternative Payment Programs, General Child Care, including the system of state contracted child care centers and family child care networks, resource and referral agencies, Migrant Child Care, and Stages 2 and 3 of CalWORKs child care. In 2001-02, SDE programs served 417,000 children. In addition to DSS and SDE, child care services are provided by the California Community Colleges (serving nearly 15,000 children in 2000-01) through CARE (Cooperative Agencies Resources for Education) and CalWORKs for low-income parent students.

Stage 2 of CalWORKs is administered by SDE through voucher-based alternative payment programs, and is available after participating caretakers are engaged in employment activities and for two years after they leave aid. Stage 3 continues care for parents with children of eligible age who qualify financially for subsidized care after their Stage 2 eligibility ends. Approximately 110,000 children were served by Stages 2 and 3 in 2001-02. As low-income parents have continued working and avoiding cash assistance but not earning sufficient wages to become financially self-sufficient, the Stage 3 caseload has been rising. The Administration projects that full funding of Stage 3 in 2003-04 would cost \$451.4 million, a 26% increase over 2002-03. In his Mid-Year

Budget Reductions, the Governor proposed to eliminate Stage 3 care as of April 1, 2003, ending care for over 55,000 children with projected savings of \$187 million. The proposal was rejected by the Legislature.

It is estimated that over 280,000 families financially eligible for subsidized care are on waiting lists because of inadequate funding.

The division of authority between SDE and DSS, with varying procedures, eligibility and payment rules, and the often clumsy transition between the CalWORKs stages for parents, has occasioned criticism by many sources. Most in the child care community emphasize child development and education as essential to quality care, and thus argue for continued and expanded involvement of the Department of Education. Other observers stress the function of care, which permits parents to be employed or participate in work-related activities. Some believe we can and should meet both policy objectives.

Realignment proposal. All of the SDE-controlled child care programs, except for state preschool and before and after-school programs, are proposed for realignment, shifting \$968 million from Proposition 98 to counties. Counties would also receive \$863 million in federal child care funds. The proposal does not designate the local entity to administer the programs.

### **Issues for discussion**

- What local agencies would administer and deliver child care services? County welfare departments now administer Stage 1 CalWORKs child care, but implementing the entirety of the subsidized system raises major questions of capacity and commitment to the child development goals of the existing system. The LAO suggests that the local Proposition 10 commissions might be appropriate administering entities, yet they were not designed for such purposes and would confront major issues of capacity. Alternatively, a new set of local agencies for this could be created, although doing so would present immense challenges in constructing an administrative structure to implement a program of this size and scope. Any of the options would necessarily require significant time and expense before effective administration could be achieved.
- The Administration proposes that counties individually determine eligibility, rates, fees, and quality standards. While regional costs and reimbursement rates of care do vary, current rates are based on a statewide survey using a single methodology. Are these aspects of child care of sufficient statewide importance that they should be determined at the state level? Would the state oversee and enforce any set of minimum statewide standards? Which state agency would be responsible? Could funding be transferred to counties but the eligibility, rate, fee and standards remain intact?
- Federal standards govern the \$863 million in Child Care and Community Development Block Grant (CCDBG) and TANF funds which will be included in the

funds transferred to counties. How will the state assure compliance with those rules and regulations?

- The Administration's proposal excludes state preschool and after-school care from its realignment scheme, arguing that those programs serve educational needs. Yet the child development programs proposed to be shifted to counties have had educational goals in part as well, and the relationship between the programs proposed to be realigned and those excluded may be closer in many cases than the proposal assumes.
- The Administration has proposed to eliminate CalWORKs Stage 3 care, and under realignment local governments would be free to do this. Both the Administration and the LAO suggest that continuing eligibility for Stage 3 care is inequitable, since former CalWORKs families continue to receive care at incomes higher than families with no CalWORKs history who remain on waiting lists. However, when they initially qualify, CalWORKs families have very low incomes and are subject to mandatory work participation requirements. They continue to be eligible once they reach Stage 3, paying a family fee as would any family similarly situated, until their incomes exceed 75% of median income or their children "age out." Families who enter subsidized care by other routes likewise continue to be eligible until they no longer qualify; neither group is terminated while they remain eligible.
- Much attention has been given in recent years to developing a comprehensive restructuring of child care, or at least beginning the process of developing a master plan. The realignment proposal might be viewed as a way of avoiding confronting those issues directly, and shifting difficult questions to local governments. The bifurcation of state responsibility and excessive bureaucratic complexities need to be addressed, but the question presented is whether realignment is a good way to accomplish this.

## **Public Assistance Programs**

The realignment proposal designates several public assistance programs to be shifted in whole or part to the counties. They are:

***CalWORKs Employment and Administration.*** This program provides income assistance and employment and supportive services to 1.3 million Californians in 480,000 families. It is funded by the TANF federal block grant (a total of \$3.7 billion, some of which goes to non-CalWORKs purposes) and a required state contribution (the Maintenance of Effort, or MOE) of \$2.7 billion. The MOE is a floor but has been treated by the Administration as a ceiling.

The caseload has dropped 46% since 1995, but is currently relatively flat. Counties have a 2.5% share of grant costs, and no share of employment services or administration. (See share of cost chart, Attachment 4). Counties already have considerable discretion in the organization and delivery of employment services. The state, however, must meet

federal rates for participation of CalWORKs adults in work activities. Administration of CalWORKs benefits is governed by rules largely prescribed by state law.

Realignment proposal: 50% of the costs of administration and employment services would be shifted to counties, a total of \$547 million.

**Issues for discussion:**

- It does not appear that there is any intention to alter existing CalWORKs laws governing employment services and administration, but to direct funding toward an area where considerable discretion already exists.
- The Legislative Analyst concludes that this is an appropriate area for realignment, observing that the absence of a county share provides a limited incentive to control costs.
- The CalWORKs caseload has been relatively stable in recent years, suggesting that the risks to counties of inadequate funding over time will be less here than in other programs.
- The reauthorization of the TANF block grant is pending in Congress, and is likely to require higher levels of participation in welfare-to-work programs, limit county discretion in the provision of employment and supportive services, and make additional demands on program costs. The state may also face a higher risk of federal financial penalties.
- The Legislative Analyst has raised the question of whether the counties' share of cash benefits should be increased from 2.5% to 25%, thereby giving counties an incentive to operate effective welfare-to-work services to assist families leave aid through self-sustaining employment. Such might also create incentives to increase rates of sanctioning or denials and discontinuances for procedural reasons.

***Food Stamp Administration.*** The Food Stamp program provides nutritional assistance to low-income families and individuals. It served 1.65 million persons in 635,000 households in October 2002. The benefits are entirely federally-funded, and the state shares half of the costs of administration. Counties pay 30% of the nonfederal costs, or 15% of the total. Most of the rules governing the program are federally-mandated, but states have some limited flexibility, e.g., in establishing rules excluding the value of vehicles from the resource limits for households.

Food Stamp caseload dropped precipitously after the enactment of federal welfare reform in 1996, in great part due to the exclusion of most legal immigrants. California created the California Food Assistance Program (CFAP) to fill in the gap created by loss of federal eligibility. The Food Stamp program has remained relatively constant in the past two years. Recent federal law has restored eligibility for many immigrants, which will

result in increases in the Food Stamp caseload and declines in CFAP when fully phased in by October 2003.

Realignment proposal. 100% of the costs of administering Food Stamps would be shifted to the counties.

**Issues for discussion:**

- Federal rules govern most of the Food Stamp program, so counties have less control over these costs than they do in other programs. Given this, the Legislative Analyst concludes that a 100% share is inappropriate.
- There is variation among counties in Food Stamp administrative practices which might have some effect upon caseload. A recent study by the California Food Policy Advocates of four counties' Food Stamp application procedures found that the time to complete the process ranged from 1 hour 45 minutes in Santa Cruz county to 4 hours and 52 minutes in San Diego county.
- As with CalWORKs, a higher share would give counties an incentive to provide effective services to help families avoid the need for public aid, but also might create incentives to impose administrative barriers to program access.
- The Legislative Analyst notes that there is reason to conform the sharing ratio of Food Stamp administration to that of CalWORKs administration, to avoid counties shifting costs to take advantage of the program with the lowest share, since there is substantial overlap in the households served by the two programs.

***California Food Assistance Program (CFAP).*** This program provides food assistance to legal immigrants who do not qualify for federal Food Stamps. When initially established following the 1996 federal welfare reform act, the program covered only children under 18 and adults over 64, but as federal coverage expanded CFAP grew to include legal immigrants 18-64 who meet Food Stamp eligibility criteria but for their immigration status. In November 2002 CFAP provided assistance to 89,000 persons in 33,000 households. However, as noted in the discussion of Food Stamp administration, the 2002 Farm Bill increased Food Stamp coverage of immigrants (adding those legal noncitizens who are disabled, who have resided in the U.S. at least five years, or who are children regardless of date of entry) and will result in significantly reduced CFAP caseload. Budget year costs are estimated to decline by 83%, from \$88 million in 2002-03 to \$15 million in 2003-04. Counties currently have no share in the costs of this program.

Realignment proposal: The entire costs of CFAP would be realigned, resulting in a shift of \$15 million from the state to counties.

### **Issues for discussion:**

- Would counties be expected to operate CFAP under existing program rules, which conform to the Food Stamp program? Would they be able to limit eligibility and benefits, or even eliminate the program altogether?
- Is CFAP a program where statewide standards for eligibility and benefits are appropriate? The Legislative Analyst concludes that realignment is inadvisable for immigrant benefit programs given the statewide interest in uniformity.
- If counties have complete discretion over CFAP, would worries about attracting low-income immigrants result in a "race to the bottom," as suggested by the Legislative Analyst?
- Given the reduction of caseload due to expanded federal Food Stamp eligibility, is this a program where stable caseloads present a lesser risk to counties of costs outpacing revenues?

***Cash Assistance Program for Immigrants (CAPI)***. This is the replacement program of cash aid for aged, blind and disabled immigrants who are ineligible for federal Supplemental Security Income benefits following the 1996 federal welfare reform and subsequent amendments. Those who qualify and entered the U.S as sponsored immigrants will have the income of the sponsors deemed to them for a period of up to 10 years, depending upon whether the immigrant entered the U.S. after August 22, 1996. There were about 9,000 recipients receiving CAPI in December 2002, down from over 11,000 in January 2001. There has been less activity at the federal level in restoring eligibility to SSI/SSP as has been the case with Food Stamps. Counties administer CAPI but have no share of its cost.

Realignment Proposal. The entire cost of CAPI would be realigned to counties, resulting in a shift of \$95 million from the state.

### **Issues for discussion**

- The proposal as to CAPI raises similar issues as those with CFAP: county discretion over program rules, lack of uniformity in a cash aid program, a potential "race to the bottom." As with CFAP, the LAO recommends against including this among the programs to be realigned.
- While caseload has been declining, the state faces potential caseload increases if it loses a legal challenge to the state's definition of "date of entry," which the Department of Social Services has interpreted to mean the date an immigrant obtains legal residency rather than the date of physical entry.

**Realignment in Human Services  
Joint Informational Hearing  
Wednesday, March 12, 2003  
1:30 p.m. - 4:30 p.m.  
State Capitol, Room 444**

**Background Analysis Continued**

## **In-Home Supportive Services**

The In-Home Supportive Services (IHSS) program provides services to low-income aged, blind, or disabled persons who are unable to remain safely in their homes without such services. This may include assistance with meal preparation, laundry, shopping, errands, bathing, transportation to medical and service appointments, or paramedical services, such as assisting the client in the management of medication or other medical self-care. Counties administer this State-mandated and regulated program.

IHSS is an entitlement program. Interested persons have a right to apply for the program and are guaranteed services upon meeting income and functional eligibility requirements. IHSS cases increased 38% from 1995 to 2001. This rapid growth is expected to continue in the future, given demographic and utilization trends. The total cost of the program nearly doubled from \$1.39 billion in fiscal year 1998-99 to \$2.63 billion in 2002-03. Compounding the impact of the caseload growth is implementation of Assembly Bill 1682 (Honda) Chapter 9, Statutes of 1999. This law requires counties to establish an employer of record for the purpose of negotiating wages and benefits for IHSS care providers. Collective bargaining has and is likely to continue to result in higher wages and benefits for providers, substantially increasing future costs.

The IHSS program consists of a Medi-Cal funded component, the Personal Care Service Program (PCSP), and a state funded component, known as the Residual Program. As a Medi-Cal benefit, the PCSP portion of IHSS carries some federal restrictions. PCSP expenditures represent 80% of total IHSS spending.

Realignment proposal: Counties to fund 100% of the non-federal cost of this program for a cost shift of \$1.171 billion.

### **Issues for discussion:**

- The entitlement nature of this program will result in substantial caseload growth as California's elderly and disabled populations grow and life expectancy increases. This growth may exceed funding growth.
- Collective bargaining by the newly established employers of record will lead to higher wages and benefits for IHSS providers substantially increasing the cost of this program in the future.

- Federal funding requires that services be provided consistently across the state limiting individual county flexibility to tailor this program to meet local needs and control costs.
- Compliance with the 1999 U.S. Supreme Court decision in *Olmstead v. L.C.* (holding that unnecessary institutional segregation which denies access to treatment in a community-based program violates the Americans with Disabilities Act) and proposed Long Term Care Integration legislation may result in a caseload shift away from Medi-Cal long term care to IHSS services, resulting in a net cost savings in realigned program expenditures.

## **Adult Protective Services**

The Adult Protective Services (APS) Program provides intervention and assistance to elderly and dependent adults who are victims of all types of abuse, neglect, and exploitation. State law mandates that counties provide 24-hour emergency response, investigation, needs assessment, and case management services, as well as necessary tangible resources such as food, emergency shelter care, in-home protection, and transportation. State law is ambiguous regarding counties' ability to modify service levels to manage within available resources or to fit local priorities.

Despite its name, Adult Protective Services (APS) is less intrusive or interventionist, than Child Protective Services (CPS). APS does not have a "dependency system" like CPS does, and its protective efforts are more like those of domestic violence services and similar women's programs. If a person is believed to be gravely disabled, however, APS may make a referral to law enforcement for an evaluation pursuant to §5150 of the Welfare & Institutions Code.

There is no county share of cost in APS, but there is a county maintenance of effort (MOE) requirement of \$11 million, which represents the amount counties were spending on services prior to 1977. Funding increased after that year but never to the level needed to meet the program's full demands. Total funding since 1999-00 remained relatively stable until fiscal year 2002-03, when state funding was reduced by \$5 million.

APS is currently funded by \$62 million in State General Fund, \$32 million in projected Federal Title XIX revenues, and the \$11 million county MOE. Many counties commit additional county funds to this program due to chronic under-funding estimated by the California Welfare Directors Association at \$15.6 million annually.

Realignment proposal: 100% of the non-federal cost of this program are shifted to counties, a total of \$61 million, making this program optional.

### **Issues for discussion:**

- The caseload nearly tripled since 1977. Since that time, the average number of clients served has remained level. Funding has constrained service levels despite a 29%

increase in reports of suspected abuse in the last two years.

- Compliance with the U.S. Supreme Court's 1999 decision in *Olmstead v. L.C.* (described above) and proposed Long Term Care Integration legislation may result in a caseload shift away from Medi-Cal long term care to in-home services, possibly introducing upward pressures on APS caseload.
- APS provides a safety function to the elderly in the community. Does the state have an interest in uniform safety standards for the elderly across county lines?
- Current state law does not clearly allow county flexibility to modify the array of services to meet local needs or manage within available resources. Counties are thus exposed to significant liability for failure to provide needed services despite inadequate funding.

## **Children's Services**

The Governor's realignment proposal would substantially alter the current approach to funding children's services, and potentially to the delivery of services. Nearly all state costs for children's services are proposed to be realigned to the counties.

***Child Welfare Services (CWS).*** This program provides services to abused and neglected children and their families through four components: Emergency Response, Family Maintenance, Family Reunification, and Permanent Placement. The CWS program provides immediate response to allegations of child abuse and neglect, provides family maintenance and family reunification services to children and their families to regain custody of their children, and seeks to find permanent homes for children who cannot be safely reunified with their parents.

The CWS is subject to a large number of mandates, both federal and state, including a federal requirement for a single statewide agency to operate these programs, the Department of Social Services. Additionally, the federal government has recently imposed an outcome monitoring system, pursuant to which state programs are evaluated, and a failing grade could result in significant financial penalties.

Although the caseload of the CWS program has declined over the past several years, program costs have grown by an average annual rate of 11% over the same time period.

Currently, the non-federal share is allocated 70% to the state, and 30% to the counties.

Realignment Proposal. The entire non-federal share is proposed to be realigned, for a total program cost to the counties of \$797.6 million.

***Foster Care.*** This program provides monthly payments to persons and agencies that are caring for children who have been removed from their homes and are under the jurisdiction of the juvenile court. Those providing foster care might be relatives, private

foster homes, homes certified by foster family agencies, or group homes. The program is an entitlement for children who have been removed from their parents or guardians.

Some children are not eligible for the foster care program mandated by the federal government, and for which the federal government participates in the cost. California has a parallel program for those children not eligible for federal foster care.

The caseload of the foster program has significantly declined since 1999, when the Kin-GAP program, described below, began. The costs of the program, however, have continued to increase.

The federal government pays 50% of the costs of grants and 50% of the costs of administrative activities on behalf of federally eligible children. The non-federal share is allocated 40% to the state and 60% to the counties. With regard to administrative activities, currently, the non-federal share is allocated 70% to the state and 30% to the counties.

Realignment Proposal: The entire non-federal share for both grants and administration is proposed to be realigned, for a total county program cost of \$1.2 billion.

***Adoptions Assistance.*** This program provides monthly grants to families adopting a child with special needs who is in foster care. The payments may continue until the child is 18 years old. This grant is available to all families, regardless of income or resources.

The caseload and costs of this program have been increasing significantly every year, due in part to an increased federal and state emphasis on expediting permanency for foster children. It is expected that the caseload will continue to rise, as the new federal outcomes accountability system will assess the ability of states to timely establish permanent placements for children, and could impose steep financial penalties on states who fail to meet federal outcomes.

Currently, the non-federal share is allocated 75% to the state and 25% to the counties.

Realignment Proposal: The entire non-federal share is proposed to be realigned to the counties, for a total county cost of \$289.3 million.

***Kin-GAP.*** The Kinship Guardianship Assistance Payment Program (Kin-GAP) was created in 1999 to provide monthly grants to relatives to help move children out of the child welfare services program. Kin-GAP was created along with kinship guardianship as a permanent placement option. Prior to 1999, the only two exits from the dependency system were family reunification or adoption. Since neither was appropriate for many kinship care placements, this population of foster children remained in long-term foster care with a relative caregiver, never achieving permanent placement. The kinship guardianship placement created a permanent placement option for relatives, allowing them to be appointed as the legal guardian, and allowing the child to exit the child welfare system, without terminating the parental rights of the child's parent. The Kin-

GAP program enabled these relatives to receive needed financial support to assist them in caring for the child.

The Kin-GAP caseload has continued to increase sharply since the program's inception, with an average annual increase of 56%. Costs have increase at an average annual rate of 28% during this same period. Many speculate that the program growth will begin to level off somewhat as the initial program implementation has been completed.

Currently, the state and counties each pay 50% of the costs. There is no federal share.

Realignment Proposal: The entire cost is proposed to be realigned, for a total county cost of \$37.2 million for the program.

**Issues for discussion:**

- The LAO supports aligning the full array of children's programs to counties. The LAO asserts that with realignment, counties would have control and responsibility for the entire system, including deciding when to remove children from their homes, caring for children who are separated from their families, and determining the best long-range plan for foster children. Counties would need sufficient program authority to allow them to administer programs in a way that responds to local needs and conditions.
- According to the LAO, the Governor's proposal assumes that with the realignment of funding responsibilities for the children's services, the counties would be given increased discretion over the operation of the programs, such as the authority to change eligibility rules or administrative practices. Additionally, LAO comments that giving counties this authority would require the state to eliminate as many nonfederal requirements as possible, such as the state's requirement for monthly social worker visits.
- California recently failed its first Child and Family Services Review of its child welfare system performed by the U.S. Department of Health and Human Services, and risks serious penalties. As a result of the review the state will need to ensure that it is able to impose sufficient service requirements and timelines and be able to exercise more than minimal oversight of county operations to protect its federal funding. The Legislature will need to consider whether realignment should be achieved by dedicating the dollars from the new revenue sources but maintaining the necessary level of controls at the state level.
- Although the Adoptions Assistance Program is proposed to be realigned, the basic Adoptions Program is not. This program provides services to facilitate and expedite adoptions. If the Legislature concludes that all other child welfare systems programs should be realigned, it might wish to consider whether it is equally appropriate to realign this program. If the Legislature determines that these children's programs are not appropriate for realignment, whether to meet federal mandates, ensure statewide

consistency and uniformity in service delivery, or for other reasons, it might conclude that the Adoptions Program also should not be realigned.

## **Alcohol and Drug Programs**

The Governor's proposal is to realign to counties the funding and programmatic responsibility for multiple local alcohol and drug programs, including Drug Medi-Cal services, drug court programs, Proposition 36 funding, and non-Medi-Cal alcohol and other drug services. Under the principles of the proposed realignment, counties would be responsible for the provision of services to their residents. The Governor assumes there would be Legislative approval of increased revenue, which would be dedicated to counties to fund these services.

The Governor's Budget proposes to reduce the Department of Alcohol and Drug Program's (DADP) budget by \$230.4 million General Fund (\$97.2 million total funds) and 33.9 Personnel Years, which is a General Fund reduction of 97.6% and a Total Fund reduction of 16%.

***Drug Medi-Cal Services.*** The Drug Medi-Cal (DMC) Program provides medically necessary substance abuse treatment services for eligible Medi-Cal beneficiaries. The DADP contracts with counties and/or certified providers for delivery of alcohol and other drug treatment services. Treatment services include outpatient drug-free, day care rehabilitative (for Early and Periodic Screening, Diagnosis, and Treatment clients and perinatal clients only), narcotic treatment programs, naltrexone, and perinatal residential.

Realignment proposal. The Governor's Budget proposes to realign the State General Fund match for the DMC Program. County reimbursement would be used as match for the federal funds. The current Federal Medi-Cal Assistance percentage is 50%. Counties would need to provide up to \$47 million for the match for regular DMC alcohol and drug services and \$2.1 million for perinatal DMC services.

***Drug Court Programs.*** The goals of drug court programs are to reduce drug usage and recidivism, provide court supervised treatment, offer the capability to integrate drug treatment with other rehabilitation services to promote long-term recovery and reduce social costs, and access federal and state support for local drug courts. The DADP has two models of drug court that it funds: the Drug Court Partnership (DCP) and the Comprehensive Drug Court Implementation (CDCI). The drug courts are diverse and serve various populations such as adults, juveniles, repeat drug offenders, multiple offenders, and probation violators. Generally, drug court participants have abused alcohol or other drugs for ten or more years and received little or no substance abuse treatment.

The DCP program was enacted in 1998 and has annually granted General Fund to 33 counties. The funds are in support of adult drug courts. The CDCI program was enacted

in 1999 and has annually granted General Fund to 47 counties beginning in December 2000. These funds are in support of adult, juvenile, and dependency drug courts.

Realignment proposal. The proposed funding to be realigned includes \$4.6 million for the DCP and \$6.6 million for the CDCI. In addition, four positions that provide administrative oversight for these programs were reduced from the DADP's budget.

***Proposition 36 Programs.*** California voters approved Proposition 36, the Substance Abuse and Crime Prevention Act, in November 2000. The proposition changed sentencing laws, effective July 1, 2001, to require adult offenders convicted of nonviolent drug possession to be sentenced to probation and drug treatment instead of prison, jail or probation without treatment. Certain offenders, those who refuse treatment or who are found by the courts to be "unamenable to treat", are excluded from the provisions of the Act. The Act further requires that state prison parolees with no history of violent convictions who commit a non-violent drug offense or violate a drug-related condition of parole be required to complete drug treatment in the community, rather than being returned to state prison.

Budgetary Considerations. The Act requires that the state provide \$120 million annually through 2005-06, to be deposited to a new Substance Abuse Treatment Trust Fund, and distributed to counties to pay for the costs of treatment and related programs. Under the Act, the DADP is charged with allocating Trust Fund monies to counties using a formula based on factors set out in the Act, completion of an annual report to the Legislature, completion of a long-term evaluation, and annual audits of counties. Funds may be used for substance abuse, treatment, vocational training, family counseling, literacy training, probation supervision and court monitoring of offenders.

The DADP has submitted a request to the federal government to exclude Proposition 36 from its maintenance of effort (MOE) requirement for the federal Substance Abuse Prevention and Treatment (SAPT) block grant. The Governor's Budget was constructed based on approval of the Proposition 36 exclusion. Federal rejection of the request would require a recalculation of the DADP's General Fund MOE requirement, possibly creating a gap between federal requirements and state expenditures. The Department would need to make up this General Fund gap, in any one of several options open to them, or lose an equivalent amount in federal SAPT funds.

Realignment proposal. The proposed funding to be realigned is \$120 million. In addition, 24.2 positions related to administrative oversight, county audits, and evaluation of the program were reduced from the DADP's budget.

***Alcohol and Other Drug Services (non-Drug Medi-Cal).*** The DADP allocates General Fund to the counties for either discretionary alcohol and other drug (AOD) services or for perinatal services. These encompass an array of services that may include group and individual counseling, residential services, detoxification, prevention, case management,

relapse prevention, and ancillary services. By statute, counties are given broad authority in determining and planning programs and services that meet local needs.

Realignment proposal. The proposed funding to be realigned includes \$17.3 million for discretionary AOD services and \$23.4 million for perinatal services. The entirety of the costs of administration and service delivery would be transferred to counties for a total of \$230.4 million.

### **Issues for discussion:**

- **Prop 36 Exclusion Request.** What is the status of the DADP’s request to exclude Proposition 36 from the federal maintenance-of-effort (MOE) requirement for state program funding? What impact does the result of the federal decision have on the budget year MOE calculation?
- **County Discretion.** What discretionary changes will there be for the counties with the realignment of 1) alcohol and other drug services, 2) drug courts, and 3) Proposition 36?
- **The LAO** believes that the realignment of alcohol and drug programs makes sense, but it has also identified several technical problems with the proposal.
- **MOE.** It is uncertain whether the federal government would provide the flexibility to count realignment funds as state expenditures to satisfy the federal MOE for the Substance Abuse Prevention and Treatment block grant to counties.
- **Proposition 36.** The Governor’s plan proposes changes to Proposition 36 that some initiative proponents contend violate the terms of the measure, such as the elimination of state operations to supervise the measure’s implementation.
- **Added complexity.** The mechanism by which realignment funding would be transferred to counties, transferred back to the state, and then transferred again to counties would increase administrative complexity. This transfer also may engender conflicts between the state and counties regarding which level of government has control over the realigned programs’ funds.

### **Mental Health Programs**

The realignment proposal designates two mental health programs to be shifted in whole to the counties.

*Children’s System of Care.* The program targets seriously emotionally disturbed children, adolescents, and their families. It is an ongoing project that consists of interagency services, blended programs, and program standards that facilitate necessary service and support delivery in the least restrictive environment. It is designed to provide a continuum of care for mental health programs for children. Authorized under the

Children's Mental Health Services Act (Welfare and Institutions Code, Sections 5850 et, seq.) county based programs are consistent with the following requirements:

- A defined mechanism to ensure that services are child centered and family focused with parental participation in all aspects of the planning and delivery of service.
- A formalized multi-agency policy-making council and an interagency case management services council. The roles and responsibilities of these councils should be specified in existing interagency agreements or memoranda of understanding, or both.
- A defined interagency management system designed to facilitated services to the defined target population.

Assuring quality outcomes for children and youth requires the integration of various child-serving agencies and systems to collaboratively provide services to include mental health, special education, child welfare, social services, public health, and increasingly, juvenile justice services. One of the basic premises of Children's System of Care (CSOC) is to redirect moneys and resources from institutional care and to put these funds into local levels of care, as well as improving "service planning, delivery and evaluation" across departments.

Required outcomes of the CSOC initiative include improved child functioning, reduced interactions with juvenile justice, reduced out-of-home placement costs, reduced out-of-home placements of special education pupils, and reduced use of psychiatric hospitals.

Realignment proposal. The administration proposes to realign this entire discretionary program to the counties in the sum of \$20 million. The Legislature originally proposed funding of the CSOC at \$35.8 million. The Governor vetoed \$15.8 million and noted the reduction was in response to the State's current fiscal challenge.

***Integrated Services to the Homeless.*** This program helps transition homeless individuals into recovery and stability in the community. Recent estimates indicate that there are 50,000 homeless, severely mentally ill Californians including 10,000 to 20,000 homeless mentally ill veterans.

In the 1999-2000 budget, Governor Davis provided \$10 million in the 1999-2000 budget for pilot programs providing integrated services to persons who are homeless mentally ill, at risk of homelessness, and/or at imminent risk of being incarcerated. Legislation signed by Governor Davis, (AB 34 (Steinberg) Chapter 617, Statutes of 1999) authorized pilot programs in three counties for demonstration grants to provide comprehensive services targeting homeless mentally ill. The Department of Mental Health (DMH) awarded grants to Los Angeles, Sacramento, and Stanislaus counties to implement pilot programs. The initial success of the pilot programs served as the impetus for the strong support from the Administration and the Legislature to provide continued funding for this program and the target population. In September 2000, Governor Davis signed AB 2034, Chapter 518,

Statutes of 2000. Governor Davis approved the Budget Act of 2000, which included \$55,600,000 General Fund to continue the existing demonstration projects in the pilot counties and to expand this effort to additional counties. In the same year, the DMH awarded grants totaling \$54.9 million annually over three years to support programs in 24 counties and 2 cities.

Realignment proposal: The administration proposes to realign this entire program to the counties in the sum of \$54.9 million. The Legislature originally proposed funding of the CSOC at \$35.8 million. The Governor vetoed \$15.8 million and noted the reduction was in response to the State's current fiscal challenge. The entire Mental Health Realignment Proposal for cost of administration and service delivery would be a total of \$74.9 million.

### **Issues for discussion:**

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- **County Discretion.** What discretionary changes will there be for the counties with the realignment of 1) Children's System of Care and 2) Integrated Services for the Homeless?
- How will the reduced level of funding for the **Children's System of Care** program affect counties' programmatic decision-making in the second year of realignment?
- The foundation of the **Integrated Services for the Homeless** program was established on the Adult Systems of Care (ASOC) programs. Without funding for those ASOC programs in the budget, how could realignment shape county discretionary funding for both ASOC and Integrated Services for the Homeless?
- The **Legislative Analyst's Office** believes that the similarity between the mental health programs proposed for realignment in 2003 and the programs realigned in 1991 creates an incentive to realign CSOC and AB 34. The LAO review of the 1991 mental health realignment found that counties used their increased program and fiscal authority to improve the overall delivery of mental health services.
- The **LAO** recommends that the Legislature consider realigning additional programs in mental health:
- **Early and Periodic Screening, Diagnosis, and Treatment (EPSDT).** \$381 million in General Fund. LAO argues that such a transfer would provide counties with a strong incentive to implement appropriate utilization controls on these programs.
- **Mental Health Managed Care**, including a separate San Mateo County effort. \$213 million.
- **Mental Health Local Mandates**, such as the AB 3632 (Willie Brown), Chapter 1747, Statutes of 1984 program, which provides mental health services to special education students in compliance with the requirements of federal law. \$65 million, estimate. Essentially, there are currently no funds in the budget for mandates because

they have been proposed for deferral for a second year.

- **Ancillary services** for individuals in Institutions for Mental Disease. \$27 million.
- **Community services for brain damaged adults.** \$11.7 million.