

Legislative Update

November 24, 2009

CAPA and its allies lobbied hard in early November for SB 69, which as amended would have deferred implementation of new provider enrollment processes until all stakeholders – not just CDSS – had agreed on the mechanics, followed afterwards by a two-month period for rolling in the changes. Although the measure passed unanimously in the Assembly, the SB 69 stalled in the Senate as Republicans, at the Administration's urging, hewed to party line and stick with the November 1 date.

The implementation date wrought chaos in IHSS as the Public Authorities, the counties, consumers, and providers wrestled with the new world of mandatory background checks and orientations and new provider enrollment forms. This came directly on the heels of a temporary federal injunction blocking the elimination of roughly 40,000 consumers from the program based on Functional Index Score. It was a welcome reprieve that nonetheless required that the CMIPS records for each of those consumers be corrected manually – a task that was almost complete before Nov. 1 but not quite, which in mid-November prompted another admonishment of the State by the Ninth Circuit Court.

Fortunately the service cuts based on Functional Index Scores, as well as provider wage cuts, remain temporarily enjoined. Nonetheless the chaos and uncertainty around the program will grow even more intense in coming months as the Governor and Legislature address a newly projected \$21-billion deficit for the 18 months starting January 1.

The Budget hole owes partly to the poor economy but also to the failure of Budget "savings" approved last year to materialize. Some of those savings were to come from IHSS -- through the caseload reduction based on FIS, the crackdown on (largely hypothetical) fraud, and dating back to last February, a cap on State participation on provider wages at \$8 per hour. With many of these cuts tied up in court, it remains unclear where the Administration will next aim in its chronic attempts to gut the program. However, there is little doubt that when the Governor issues his first Budget proposal on January 10, it will propose deep cuts to IHSS. And CAPA and its allies will once again be fighting to maintain basic services to consumers.

Also on the Administration's agenda for 2010 is renewal of the state's public hospital finance Section 1115 waiver. A draft "concept paper" outlining the Administration's priorities for the new waiver calls for "better coordination" of home care services for Medicare/Medi-Cal eligible consumers which, in its most ominous form, could mean greater consolidation of IHSS at the State level and less flexibility locally. The waiver process, on the other hand, could offer opportunities to build on the strengths and efficiencies of IHSS, by expanding the role of community based services as an alternative to institutional care. This month Legislature held its first hearing on the waiver, the crafting of which will be just as crucial to health and human services programs as the Budget dealing.

Indeed, 2010 is likely be a watershed year for IHSS. The structure of program – and even its very continuation – will come under question and pressure. CAPA's role in the legislative and regulatory arenas must be aggressive and fluid. We must work with

fellow IHSS stakeholders – within the IHSS Coalition, CWDA, CSAC, and others – to stave off the worst of the worst, to cultivate champions among policymakers, and to fight long and loud on behalf of IHSS, the role Public Authorities play in it, and the consumers that PAs serve every day.