

January 26, 2011

Mental Health Realignment

LEGISLATIVE ANALYST'S OFFICE

Presented to:

Assembly Budget Subcommittee No. 1

On Health and Human Services

Hon. Holly J. Mitchell, Chair





Overview

- Department Responsibilities.*** The Department of Mental Health (DMH) directs and coordinates statewide efforts for the treatment of mental disabilities. The department's primary responsibilities are to: (1) provide for the delivery of mental health services through a state-county partnership, (2) operate five state hospitals, (3) manage state prison treatment services at the California Medical Facility at Vacaville and at Salinas Valley State Prison, and (4) administer various community programs directed at specific populations.
- Governor Proposes Two-Step Realignment for Mental Health.*** The Governor's realignment of mental health services would be completed in two phases:

 - In the budget year, the Governor proposes redirecting \$861 million in Proposition 63 funds to support the following three specialty mental health programs: (1) Early and Periodic Screening, Diagnosis and Treatment; (2) Mental Health Managed Care; and (3) state-mandated specialty mental health services for special education students (known as "AB 3632" programs).
 - In 2012-13, the Governor's budget proposal would realign fiscal responsibility for these programs to the counties. The Governor's budget identifies certain tax revenues in lieu of state General Fund to support these programs. As part of this realignment, the Governor also proposes to support previously realigned mental health programs with these revenues.
- Mental Health Program Realignment May Be Workable.*** A realignment of these programs has merit, but the Legislature will have to address some significant fiscal and policy issues in developing a realignment plan.



Overview

(Continued)



Organization. This handout provides information on:

- Major mental health treatment programs including federal, state, and county administrative roles and funding.
- The Governor's realignment proposal.
- General principles of realignment program design.
- LAO comments and concerns regarding the Governor's proposal.



Certain Mental Health Services and Funding Were Realigned in 1991

- ☑ ***Bronzan-McCorquodale Act Realigned Many Mental Health Services to Counties.*** Under the Bronzan-McCorquodale Act, the following mental health services programs were realigned to the counties:
 - ***Community-Based Mental Health Services.*** These services, which are administered by county departments of mental health, include short- and long-term treatment, case management, and other services to seriously mentally ill children and adults.
 - ***State Hospital Services for County Patients.*** Counties have fiscal responsibility for certain civil commitments to state hospitals. Counties currently contract with DMH for these beds on an annual basis.
 - ***Institutions for Mental Diseases (IMDs).*** The IMDs, administered by independent contractors, generally provide short-term nursing level care to the seriously mentally ill.

- ☑ ***Funding.*** Under a continuous appropriation, counties receive about \$1 billion in realignment funds annually.



Major General Fund Mental Health Programs

- ☑ ***Mental Health Managed Care.*** Counties provide Medi-Cal specialty mental health managed care, including inpatient psychiatric and outpatient services, to mostly adult beneficiaries through county Mental Health Plans (MHPs). The DMH oversees the counties at the state level.
 - The MHPs receive an annual state General Fund allocation to pay for some of these services.
 - The program operates under a federal Medicaid waiver.

- ☑ ***Early and Periodic Screening, Diagnosis and Treatment (EPSDT).*** The EPSDT is a federally mandated program that requires states to provide a broad range of screening, diagnosis, and medically necessary treatment services—including mental health services—to Medi-Cal beneficiaries under age 21.
 - Counties administer EPSDT specialty mental health services through MHPs. Total expenditures for these services now exceed \$1 billion and serve about 220,000 children annually.
 - The federal government provides about one-half of the funding, with most of the remaining cost borne by the state and a small portion borne by the counties.
 - Over the last ten years, EPSDT has grown at an average annual rate of about 10 percent due to a variety of factors including litigation and caseload growth.

- ☑ ***AB 3632 Specialty Mental Health Services.*** In 1984, the Legislature assigned county mental health departments the responsibility for providing mental health services for special education pupils who needed the services to benefit from their education. This program provides mental health services to about 20,000 special education pupils.



Governor Proposes Realigning Most General Fund Supported Mental Health Programs

Mental Health Programs Proposed for Realignment	
<i>(In Millions)</i>	
Program	Amount
Early and Periodic Screening, Diagnosis and Treatment ^a	\$579.0
Mental Health Managed Care ^a	183.6
AB 3632 programs ^a	104.0
Existing community mental health programs	1,077.0
Total	\$1,943.6

^a Currently supported in part with state General Fund.

- Funding Responsibility Shifted to Counties.** The Governor proposes to shift full fiscal responsibility to the counties for the General Fund mental health programs listed above. This includes shifting previously realigned community mental health programs to the new revenue stream in 2012-13.
- State Would Retain Certain Functions.** Under the administration's proposal, DMH would continue to retain certain state functions including licensing and certifying mental health facilities and programs as well as administering certain federal funds.



General Principles of Realignment Program Design



Link Program Funding Responsibility and Program Policy Control

- Realignment works best when the same level of government has program policy authority and fiscal responsibility.
- Let the level of government that pays a program's bills set its rules.



Build In Accountability

- Promote accountability by quantifying results regarding governmental performance and broadly disseminating information to the public.
- Minimize reliance on detailed reports to state agencies.



Address Cost Impacts of Changes in Program Responsibility

- Provide sufficient revenues to maintain an appropriate level of program services over the long term.
- Roughly match the rate of growth for the portfolio of realigned programs with the rate of growth for the portfolio of realignment revenues.
- Avoid creating state-reimbursable mandates.



Allow Realignment Funds to Be Used Flexibly

- Limit earmarking of realignment revenues or segregating revenues into multiple pots.
- Allow funds to be used to meet diverse and changing local objectives.
- Promote accountability through performance measures, not fiscal controls.



General Principles of Realignment Program Design

(Continued)



Develop a Simple Revenue Allocation Methodology

- Design a revenue allocation methodology that works over the long term.
- Minimize long-term reliance on formulas that reflect prior-year revenue allocations or program costs.
- Distribute revenues based on each local government's population or another broad based indicator of overarching need.



Rely on Financial Incentives to Promote Intergovernmental Coordination

- Create fiscal incentives that encourage the efficient achievement of programmatic goals by multiple levels of government.
- Identify and address counterproductive fiscal incentives between state and local government.



Are Proposed Mental Health Programs a Good Fit for Realignment?

- Governor's Proposal Has Merit.*** We believe the Governor's realignment proposal for mental health programs has merit.
 - These direct services are already provided at the local level through county systems.
 - The proposed changes could potentially give counties greater flexibility to spend these funds and better coordinate with other county-run programs such as substance use treatment and criminal justice.

- AB 3632 Is Well-Suited for Realignment, but Not as Proposed by the Governor.*** As provided in more detail in another handout, we believe that the AB 3632 program is well-suited for realignment but not as proposed by the Governor.



Proposed Realignment May Be Workable, But Significant Issues Must Be Addressed



Ensure Federal Medicaid Requirements Continue to Be Met.

In order to receive federal matching funds, the state must meet certain federal requirements in the Medicaid program. While some of these requirements can be “waived” through agreements with the federal government, other requirements cannot. For instance:

- ***Statewideness and Comparability of Services.*** In general, a state must provide services in all areas of the state and these same services must be provided to any eligible individual.
- ***Entitlement to Services.*** The EPSDT and most Mental Health Managed Care services are required benefits under federal Medicaid law. Counties would likely not have the option of controlling costs by limiting enrollment into the program.



Realignment Could Intersect With Federal Health Care Reform.

The Affordable Care Act (ACA), also known as federal health care reform, will significantly expand health care coverage and the number of persons eligible to receive Medi-Cal services, including mental health services.

- The ACA prohibits states from increasing the local share of state Medicaid match, but allows for voluntary contributions.
- The ACA also will require Medicaid programs to provide certain “benchmark” benefits including mental health treatment.



Potential Interaction With Federal Medi-Cal Demonstration Waiver.

The proposed realignment could interact with a recently approved federal Medi-Cal waiver that will provide additional federal funds. For example, as a condition of continuing a federal waiver, the state must meet two federal reporting requirements in 2012. Specifically, the state is required to submit (1) a needs assessment and (2) a plan to meet federal benchmark benefit requirements.



Redirection of Proposition 63 Funds May Not Be Permissible

- What Is Proposition 63?** In November 2004, California voters approved Proposition 63, also known as the Mental Health Services Act. Proposition 63 provides state funding for certain new or expanded mental health programs through a personal income tax surcharge of 1 percent on the portion of a taxpayer's taxable income in excess of \$1 million.
- How Proposition 63 Programs Are Administered.** The DMH, in coordination with certain other agencies, has the lead role at the state level in implementing most of the programs specified in the measure—generally through contracts with the counties.
- Funding.** Most Proposition 63 funds are continuously appropriated with annual revenues ranging from about \$900 million to \$1.5 billion.
- Proposed Redirection Could Require Voter Approval.** Proposition 63 imposes various restrictions on the state and counties regarding spending on mental health programs. While the administration's proposal includes amending the provisions described below, we are concerned that these changes do not further the purposes of the act.

 - **Maintenance of Effort Requirement.** The state is specifically barred from reducing General Fund support for mental health services below levels provided in 2003-04, \$558 million in General Fund by some estimates.
 - **Non-Supplantation Requirement.** State law specifies that Proposition 63 funds shall not be used to supplant state or county funds.
- Other Issues.** Proposition 63 funds are not general purpose and, therefore, may not be used for mandate claims as proposed for AB 3632 programs. We discuss this issue in more detail in our presentation on AB 3632.



Key Questions for the Legislature to Consider

- We believe the administration's proposal lacks important funding and programmatic detail and leaves significant questions unanswered. Some key questions the Legislature may wish to consider in discussing the merits of realigning state-supported mental health programs include:
- For what purposes does the administration propose to use existing mental health realignment funds?
 - How would the Proposition 63 fund shift be implemented?
 - What degree of flexibilities will counties gain and what responsibilities will the state retain?
 - Would counties' existing authority to manage the programs change and, if so, how?
 - How will potential federal funds losses be minimized?
 - What implications does the federal health reform law have for the Governor's proposal?
 - What are the potential interactions between the state's implementation of the Medi-Cal demonstration waiver and realignment?
 - How will funding methodologies and allocations be determined for these programs?
 - Who is ultimately at risk for increases in program costs if the funding provided under realignment is insufficient?



Other Options for the Legislature to Consider



Our initial review suggests that there are other programs to consider for realignment.

- Pharmaceutical costs for Medi-Cal patients receiving specialty mental health services.
- Funding and responsibility for persons determined incompetent to stand trial.
- Voter approval for permanent realignment of Proposition 63 funds with increased flexibility.