Near-Term Stability of Rates Paid for California Developmental Services: An Analysis

Prepared

by Laurel Mildred, MSW

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Policymaking with People in Mind

MILDRED CONSULTING

LAUREL A. MILDRED, MSW | Laurel.Mildred@mildredconsulting.com | mildredconsulting.com | 916.862.4903

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Executive Summary

California's developmental disability (DD) system was established 46 years ago with the passage of the Lanterman Developmental Disabilities Act. Today it has a budget of over $3.5 billion state General Fund and provides services to nearly 300,000 California children and adults with intellectual or developmental disabilities, including autism. The Lanterman Act provides for an entitlement to services for all who qualify and does not utilize waiting lists to ration services. Although it was once a 100% General Funded system, today the system serves high-acuity persons with a Medicaid Home and Community-Based Services Waiver but also continues to serve lower acuity persons, paid for from the General Fund.

The recession which nearly floored California took a steep toll on the DD system along with all California health and human services programs. The state cut a billion dollars from the system in the five years following the recession, and also made little provision for the rising cost of business in its provider rates. This has caused widespread closures of provider agencies (although, as this analysis explains, some providers are in a relatively stronger position than others). At the same time, poor and dangerous conditions in the state's large-scale institutions, called Developmental Centers, has hastened plans to close those institutions and place all remaining residents in communities. Federal regulators have taken assertive actions to protect DD consumers and have required the state to make systemic changes. Their attentiveness, along with the Obama Administration's enforcement of the Supreme Court's 1999 *Olmstead* decision, limit California's options and protect against disinvestment in the DD system.

An energetic campaign to influence the Legislature to restore DD provider rates has been launched by advocates. They want a 10% immediate raise, a plan for rate reform to create better sustainability of the community services system, and a 5% increase annually until such reforms are implemented. A majority of State Legislators have signed on to this plan, but Governor Brown outmaneuvered the Legislature in the 2015/16 budget process, seeking tax concessions in return for raising provider rates. When the effort failed, the stage was set for the upcoming 2016/17 budget battle, which kicks off January 10. Meanwhile, the non-partisan California Legislative Analyst's Office is projecting that California will have an $11.5 billion surplus during the upcoming budget year.

This analysis considers these factors and concludes that one of two likely scenarios will occur: either rates will be raised, or a stalemate will take place and the rates will continue at current level. Conditions indicate there is little to no risk that DD provider rates would be cut in the near-term.

Background on California's Developmental Disability System

California's system for serving persons with intellectual and developmental disabilities (I/DD) is unique in the nation; for many years regarded as a model for other states. It was first established in 1969 under the leadership of State Assemblyman Frank Lanterman with legislation that became known as the Lanterman Act, and was subsequently expanded.[1] The impetus for the Act was the strong advocacy of parents who did not believe their children should be institutionalized and who agitated relentlessly to create a service system that would be a realistic alternative.

The developmental disability (DD) system is organized around 21 non-profit Regional Centers which assess individual goals and needs of the disabled person and then create a plan to support living in the community. After first using "generic" resources such as public programs (Medicaid, Social Security, etc.) and other resources the consumer is entitled to (for example, health insurance), the Regional Center then purchases the balance of supports the consumer needs by contracting with community-based agencies which provide specialty services.[2]

The DD system serves children and adults with an intellectual disability, cerebral palsy, epilepsy, autism and other conditions that are closely related to I/DD or require similar treatment; that originate before age 18; continue or are expected to continue indefinitely; and which also constitute a substantial disability for the person.[3]

The cornerstone of the Lanterman Act is an entitlement to services: *"The State of California accepts a responsibility for persons with developmental disabilities and an obligation to them which it must discharge."*[4] Those who meet the criteria are ensured access: this is contrary to many other systems which limit or cap the number of people who can receive services, or limit services available based on a pre-defined budgetary amount. Theoretically, the DD budget derives from the actual cost of delivering whatever services are needed to as many people as qualify - what that costs is what the state pays. That was the case for many years, and constituted a comprehensive system entirely financed with State General Fund dollars. Even today, California has no waiting list for access to the DD system, a rarity among states.[5]

In 1983 Medicaid began to cover services to people with I/DD living in the community under "home and community-based waivers,"[6] whereas previously it had only covered institutional care. To take advantage of this opportunity to leverage the services it was already providing and draw down significant federal funding California developed a 1915(c) Home and Community-based Services Waiver for persons with I/DD and began to serve those with a high level of disability through the waiver. Today California's DD waiver is the largest in the nation.[7] In accordance with the Lanterman Act, the state continued to serve any lower acuity person

who met the criteria for services, and this practice continues today, financed by the State General Fund.[8]

As of November 2015 California provided services to 299,285 adults and children with developmental disabilities: 1,054 of them live in state-level institutions (called Developmental Centers) whereas the vast majority are served in the community services system by Regional Centers.[9] A significant demographic factor that has impacted the State budget is the dramatic growth in the state's population of people with autism. In 1987 the DD system served 2,701 consumers with autism; by 2015 that number rose to 76,000, a 28-fold increase. Each year, 5,000 more California children are born with autism severe enough to qualify for services in the DD system.[10]

The culture of advocacy that precipitated the Lanterman Act continues, and is a defining characteristic of the DD system today. A key advocate describes it in these terms: "We have over 40 years of strong and unified advocacy, and an army of people who will go to the wall to protect the system." This activism is evident in California's political process as scores of advocates, providers and disabled persons turn out to testify again and again, and more than any other factor this advocacy is responsible for preserving the system.

Recent Circumstances

Advocacy remains critical to the DD system today. Despite the Lanterman Act which gave California the reputation of having the nation's "best" system, the state began underfunding it in 1997.[11] In the five years following the 2007 recession, after which California declared a fiscal emergency,[12] the state cut a total of $1 billion from the DD system.[13] [14] Although a greater percentage of the state's population receives services than in most other states, since California serves lower-acuity persons in addition to those with more the severe conditions served by Medicaid; [15] the state now invests less on its developmental services system *per resident of the state* than most other states in the nation.[16]

Rate-setting in the DD system is complex. Some rates are set by the state Department of Developmental Services, some by the Department of Social Services, and some by Medi-Cal (California's Medicaid system). Some are charged at the usual and customary rate of the vendor and a few are set by the Regional Center. Finally, some rates are set through negotiation between the Regional Center and the provider.[17]

It is equally complicated to track the cuts that were made to the system and their impact on providers. Types of budget reductions included restrictions on vendor rates: rate freezes, implementation of median rates and provider payment reductions, as well as reductions in

Regional Center operations.[18] In 2003, rates for many service types were frozen and remain frozen, and in the years 2009-2013 service providers received rate reductions from 1.25 - 4.25%.[19] Although the final 2015/16 State Budget adopted over $3.5 billion in General Fund spending for the DD system (a 12% increase over the previous year), the increased funding primarily reflected growth in caseload and other workload-related costs, and did not address provider rates.[20] (The Legislative Analyst's summary of the final budget can be found here; and a full table of provider reimbursement adjustments in each category of community services 1987 - 2013 can be found here.)

During the same timeframe the state implemented system-wide cuts, the cost of doing business rose significantly. California has the nation's highest workers' compensation premiums (188% of the national median)[21] and the 3rd highest cost of housing in the nation. The DD system offers a statewide rate system which does not account for geographical differences in costs, causing mounting pressures in expensive areas such as the San Francisco Bay Area and San Diego. In addition, various federal, state and local employer mandates created additional expenses, including Affordable Care Act health benefits, minimum wage increases, a paid sick leave requirement and other unreimbursed costs. Rates did not keep pace with these requirements. Taken together, the Association of Regional Center Agencies estimates that inflation and other factors have driven costs within the system up about 50% since 1995-1996.[22]

As a result of these conditions, employee compensation has stagnated and staff turnover is high. As early as 1999 a California State Auditor report stated that service providers were experiencing approximately 50% turnover in staff and 3-month timeframes to replace them, creating disruptions in continuity and services.[23] A review conducted by the National Association of State Directors of Developmental Disabilities Services in 2005 found that of 37 states with available data, California's caseload ratios were among the highest.[24]

The results have been widespread closures of programs. Since 2010, 76 intermediate care facilities (458 beds) have closed. Between 2011-2015, 15 supported employment programs closed, 57 day and work programs, and 435 licensed residential homes (2300 beds) closed.[25] Each year more providers decide to get out of the business, and not enough new providers open new programs to replace them. The Department of Developmental Services has reported to the Legislature that "The rate-setting methodologies are designed to work when rates are adequately funded. When rates are chronically underfunded, but program expectations are unchanged, an incongruity occurs that cannot be sustained indefinitely."[26] The Association of Regional Center Agencies (ARCA) states that "Actions taken during the recession pushed the

system as a whole to the tipping point," and that "only immediate relief will prevent the collapse of the system."[27]

One service category is an exception to poor rate conditions: specialized residential programs that serve individuals with complex behavioral, psychiatric, or medical needs have a relative advantage over other services because they negotiate their rates with regional centers.[28] National rate setting expert Norm Davis of Davis Deshaies has stated that while rates for these homes are not as far out of step as those for other DD services, they are still approximately 10% lower than those for Arizona and 20% lower than Florida, both of which have lower relative costs of living than California.[29] But despite not keeping up with national rates or the CPI, these specialized homes are still better off than many DD service providers, experiencing less distress and far fewer closures than other providers in the system. They are also positioned to be in high demand as the state moves to close Developmental Centers. According to ARCA, "Utilization of such facilities is increasing, particularly for those with the most complex service needs. Of the individuals anticipated to leave institutional settings for the community this year, 66% are expected to require placement in negotiated rate residential settings."[30] In addition to these factors, one expert notes that providers who are weathering the storm are those who have diversified lines of service and those who do not have large pension commitments.

It appears that the company under consideration has several of these favorable conditions: providing specialized residential home services under negotiated rates,[31] providing a diversified line of business with several complimentary programs,[32] and without large pension obligations.[33] These are the conditions that would appear to put this provider in a stronger position than some others, with the additional prospect of being in high demand in the future as the state closes Developmental Centers and utilizes specialized homes to an even greater extent.

Nevertheless the California DD system as a whole is perceived to be in crisis, as hundreds of providers have closed and clients have been displaced from established services.[34] Each year the pressure has mounted, with advocates and providers bringing their urgency to Sacramento as part of the political process. In trying to assess the stability of the rates, it is essential to understand the climate of the discussion - the DD system is widely considered to have hit rock bottom and to be at risk of collapse. DD experts and observers of the California political process agree that rates will not be cut, because it is practically and politically untenable. The question on the table is whether the rates will be raised in time to maintain the viability of the system.

Macro Issues

In assessing the system's viability, it is important to understand certain overarching conditions. Most important among these are the Supreme Court's decision in *Olmstead v. L.C.*, and the power of federal regulators in overseeing the Medicaid program. Together these federal regulatory factors place a very real limitation on how far the State of California can push its DD system, and create a protective boundary against state disinvestment and system collapse.

The U.S. Supreme Court's 1999 *Olmstead* decision set the stage for the current struggle in the DD system. In that lawsuit, filed by two Georgia women residing in a state psychiatric hospital, the Court ruled that unnecessary segregation and institutionalization of persons with disabilities is a type of discrimination that violates Title II of the Americans with Disabilities Act. Unnecessary institutionalization "perpetuates unwarranted assumptions" that people with disabilities "are incapable or unworthy of participating in community life," and states are required to integrate them into communities rather than confining them in institutions.[35] The *Olmstead* decision is widely regarded as being as significant for ending the segregation of people with disabilities as the *Brown versus the Board of Education* decision was in ending segregation of African-Americans. Like the *Brown v Board* decision, *Olmstead* has been slow in implementation, and up until now has been more of a theoretical concept than a concrete policy directive. However, that has changed under the Obama administration as enforcement and regulatory policies are making *Olmstead* more actionable.[36] Governor Jerry Brown's administration has now lost two significant lawsuits on an *Olmstead* claim,[37] and how it handles decisions about the DD system is likely to be influenced by those experiences.

More concrete is the role of federal regulators in the Medicaid system. California's DD system relies on approximately $2 billion in federal funds annually[38] and the state is required to maintain a minimum level of quality and access to services to continue to receive these funds. There is precedent for the federal government to pull funding from California: in 1997 federal regulators found that the California DD system had serious deficiencies, including the inability to provide for health and safety. It froze the number of people qualified to receive federal financial participation and did not lift these sanctions for six years, costing the state a total of $933 million in lost federal funding.[39] To reinstate the funding, the state was required to made improvements to the system, including reducing caseloads. The State Department of Developmental Services commented to the Legislature that "This significant funding loss underscores the importance of meeting federal quality assurance standards in the developmental services system, lest the savings achieved through cost-containment measures is dwarfed by subsequent losses in federal reimbursement."[40] ARCA believes that the current crisis precipitated by the recession and unrepaired by the Brown administration after the recession puts federal funding on the line once again: "California is incapable of reliably making

assurances to the federal government that it is meeting minimum standards required to continue to receive federal funding" and is "at risk of losing significant federal funding."[41]

Added to the crisis in community funding have been revelations of dangerous conditions at State Developmental Centers. In 2013 the California Department of Public Health (CDPH), which acts on behalf of the federal government to ensure that all facilities accepting Medicaid payments meet federal requirements, placed the Sonoma, Porterville, Lanterman and Fairview Developmental Centers' Intermediate Care Facilities under review. In January of 2014 CDPH announced it was de-certifying them from eligibility for the Medicaid program.[42] The Center for Investigative Reporting reported that abuse, neglect and lack of supervision in these centers had led directly to the deaths of 13 people since 2002 and contributed to the deaths of six others. (Full story here.)

On June 30, 2015 California entered into an agreement with the Centers for Medicare and Medicaid Services (CMS) to continue federal financial participation for Sonoma Developmental Center for up to two years in order safely transition residents to community settings and to close the facility, as well as agreements to make program improvements in the other centers.[43] Subsequently, Governor Brown announced in his 2015/16 budget proposal a plan to close all remaining Developmental Centers by 2021.[44]

This step reflects not only the changing times that disfavor institutionalizing people with disabilities, but also the Administration's anxiety to avoid further loss of federal funding. Because the Lanterman Act is an entitlement to services, it ensures that if federal funding is lost on either the Developmental Center (institutional) side or on the community services side, the state budget would be required to backfill the funding (and further state General Fund dollars would also be required to bring the system into compliance with federal requirements). So loss of federal funds would automatically trigger higher state costs to make the system whole. This was the case in the 1997 loss of federal funds and again under the current situation where Developmental Centers have come under federal scrutiny: the state had to backfill the losses and pay for systemic improvements with General Fund dollars.

This is the case because the Lanterman Act, which is state law, and the Supreme Court's *Olmstead* decision, work in tandem as related entitlements that protect people with disabilities. While it would be possible (though extremely unlikely) to suspend the state Lanterman Act, *Olmstead* still requires that persons with disabilities have the services they need to live in communities. So, for example, if substantial federal funding was lost and the Lanterman Act was suspended, the state would still have an obligation under *federal* law to ensure that people with disabilities who are at risk of institutionalization have services they need to remain in the community. Reducing services to the extent that it endangers disabled persons' ability to live in

the community is a violation of federal law and is not a viable option for the state. (The state can manage costs, and could theoretically move the services to a managed care delivery system as a cost-containment strategy, but it is not an option for the state to withdraw services needed for community living.) So, Governor Brown is understandably anxious to avoid the loss of federal funds, because the responsibility to pay for services would fall, under both state and federal law, to the state.

As a first step toward closing the Developmental Centers, he directed California Health and Human Services Secretary Diana Dooley to convene a task force with two mandates: 1) To plan for the closures and 2) To establish a reformed rate system for community services that would be sustainable for providers in the community system of care.[45] Advocates are not optimistic that rate reform efforts will yield results in a timeframe that will rescue providers who are on the brink of closure, and are concerned that California is repeating a pattern of closing institutions with only budget savings in mind rather than making investments in the programs which will serve individuals with disabilities in community settings. With federal regulators watching carefully, advocates mistrustful and dogging their steps, and two previous losses in court for violating *Olmstead*, the Brown Administration must tread carefully in its plans for the DD system.

Developing Situation and Expected Outcomes

These increasingly contentious circumstances have created an adversarial relationship between the unified community of advocates, providers and their allies within state government on one side, and the Governor's office on the other. Advocates refuse to back down and have launched an energetic umbrella organization called the Lanterman Coalition under the banner #KeepThePromise. The coalition's specific purpose is to advocate for rate increases by influencing the state Legislature.

The coalition has advanced a multi-year proposal for restoring rates to repair the damage that has occurred to the system since the recession era:

1) A 10% across-the-board increase (for all Regional Center and Community Service Operations) as an immediate stop-gap;
2) Rate reform to ensure future adequacy and sustainability; and
3) An additional annual 5% funding increase until the reform strategies are implemented.[46]

As described above, the Governor has bowed to the demand for rate reform, assigning it to Secretary Dooley's Task Force. However, the coalition continues to press the Legislature for immediate increases.

The coalition has had had notable success in this effort, securing the signatures of 41 of 80 Assemblymembers (including incoming Speaker-elect Anthony Rendon) and 24 of 40 state Senators on a letter originating with Senator Jim Beall. The letter expressed support for increasing rates during the 2015 budget process. (Senator Beall's letter with signatures affixed is here.) Both Democrats and Republicans supported increasing the rates, and as a result of this widespread support, both houses of the Legislature included increases to the DD rate in their Fiscal Year 2015/16 budget. (The Assembly adopted the coalition's full 10% across-the board proposal, while the Senate adopted targeted increases that supported those services most compliant with the new Home and Community-Based Services rules, discussed in the following section.) However, the Governor ultimately prevailed in the final budget, holding the line on rate increases, and they were not adopted.

The Governor has argued that California's "boom or bust" economy and tendency toward generous policies during periods of prosperity have contributed to structural deficits in the California budget in out-years that make the state vulnerable during an economic downturn, as occurred in 2007. Since health and human services programs are a significant driver of state costs and trimming these programs is difficult due to various entitlements and strong support among advocates and the public, he is particularly sensitive to growth in the budgets for these programs and their tendency to limit the state's ability to maneuver flexibly during periods of economic hardship. He wants the Legislature to adopt a "pay as you go" approach to any health and human services budget increases that will have a future impact on the General Fund, first approving sustainable funding sources to finance them, in order to limit the exposure of the General Fund. Despite the popularity of increases to the DD rate, he made a deal with the Legislature to call a "special session" instead of putting increases directly into the state budget. The purpose of the special session on health care and developmental disability funding was to leverage the bipartisan support for increasing both the DD rate and the rate for providers of California's Medi-Cal program, in order to get approval for a new tax on managed care organizations (MCO).[47] If the Legislature could reach agreement on approving the new tax, the rate increases for health and human services program providers would be approved. Unfortunately, the tax proved difficult to pass, the special session "fizzled" without a result, and the stage was set for the upcoming budget debate for Fiscal Year 2016/17.[48]

Meanwhile, the California economy is in a boom cycle again. The Legislative Analyst has forecast an $11.5 billion surplus for the 2016/17 budget year (details here), making Brown's

fiscal discipline harder to enforce. Republicans in particular are pushing for an increase to the DD rate directly from the General Fund surplus; however, it is expected that the Democratic-controlled Legislature will keep the re-structure of the MCO tax on the front burner. The Governor and Democrats will need to give the Republicans something that they want in order to secure votes for the re-structured tax.

Having been caught up in the high-stakes debate over raising new taxes, it is hard to predict the exact outcome for the DD rate. Although one can never underestimate the potential dysfunction of the California budget process, the energy in the debate seems to indicate the Governor will have a hard time holding back the popular rate increases for yet another year. It seems likely that the moral authority of the DD advocates, along with the state's positive fiscal position and the overwhelming support of the Legislature, will push DD rate increases across the finish line this year.

However, Jerry Brown is a tough and wily campaigner who keeps his wits and who has long experience maneuvering the Legislature in his preferred direction. With the failure to pass a new MCO tax and the prospect of losing $1.1 billion in federal funding before the end of the calendar year, advocates and budget staff are braced that the Governor's initial January 10, 2016 budget proposal could potentially start with a proposal for cuts in the health and human services sector, to help focus the Legislature's mind on the importance of passing the MCO tax. This prospect has already been dubbed "Kabuki Theater" by Legislative budget staff. No one believes that there will be cuts this year, particularly in light of the projected $11.5 billion surplus. Such a move however could define the footprint of the discussion, and could possibly rob some of the energy from efforts to secure an increase to the DD rate. In that worst-case scenario, dysfunction and gridlock would continue, and the rate increase would be tabled for yet another year.

Either way, the outcome will either be the continuation of the status quo, or rate increases for the DD system.

Future Considerations

Although this analysis looked at the near-term stability of the DD rate, there are also mid-to-long range considerations worth highlighting. Keeping these systemic issues in mind will enable the most successful long-term navigation of the DD system of care and position providers for positive outcomes in the future.

In January, 2014 the Centers for Medicare and Medicaid Services (CMS) issued a final rule on Home and Community-Based Services (HCBS). The rule outlined significant changes to services and systems that must be made to state HCBS systems in order for them to continue to receive federal funding after March 2019. In general, these programmatic requirements operationalize the *Olmstead* decision, making programs and policies that are institutional in nature ineligible to receive HCBS funding. The new rule states:

1) Individuals must be integrated into the community to same degree as non-disabled people.
2) All service settings must offer inclusion and community integration.
3) Planning for services needs to be individually determined and focused on person's unique goals and needs.[49]

The HCBS rules are likely to have impacts across the sector, but will particularly affect day programs and supported employment programs, which will need to make significant changes to continue to receive funding. Residential facilities will also need to make changes: for example, providing choices of single or shared rooms, lockable doors, flexible meal times, flexible visiting hours and ready access to food as desired by residents. Implementation will require new assessment tools, evaluation of service settings, program modifications and support for individuals making service transitions.

Providers need to understand the HCBS rule and prepare for changes to ensure compliance. And at the same time, observers note that there are opportunities for enhanced funding implied in the rule, because if more is going to be required of community providers they will need higher reimbursements. Effective engagement in the policymaking process will be necessary to ensure that rates reflect the new programmatic requirements.

Finally, it is important for DD providers to be aware of the changes to state systems with regard to the transition to organized health care delivery systems, that is, managed care. While the Lanterman Act provided a framework for the country's first non-profit, state-funded delivery system for people with disabilities, the Affordable Care Act has created many incentives to move large-scale health and even human services programs to managed care. California has transitioned many of its other systems already. California DD advocates watched with concern as the State of Kansas transitioned its entire DD system to managed care within the last couple of years, was sued, and prevailed, winning the right to shift programs and services to a managed delivery system. Such a transition in California would require suspending the Lanterman Act, a true third rail political issue that would become a consequential footnote in the legacy of any Governor who attempted it. But as the population with autism continues to grow and the DD budget comes under more pressure, there is likely to be more serious

consideration of this option as a cost-containment strategy. Providers in the DD system, while aligning with advocates who protect the current system, should also be knowledgeable and aware of California's developing reliance on managed care delivery systems and be prepared to adapt to whatever delivery system California adopts, in order to continue to provide contracted services to the DD population.

Conclusion

The regulatory environment of California's DD system is complex, colorful and in a state of change. It has been built on a philosophical commitment from the people of California, who have a long tradition of paying from their own pockets to ensure people with developmental disabilities can live with dignity and respect. Along with all of California's health and human systems, it was ravaged in the aftermath of the 2007 recession and it has faced a lengthy journey to get back on its feet. It also confronts challenges of significant increases in demand due to the growing population with autism and the modern imperatives of health care reform that advantage managed health care delivery systems over an untidy array of community-based service providers.

In the short-term, the strong and unified advocacy of the Lanterman Coalition has staged the political conditions for a come-back for this revered but tattered system. They continue to enjoy strong public support, they have already secured the support of a majority of a Legislature for rate increases, and economic conditions support their effort. Either their efforts will succeed and rates will be raised, or there will be a stalemate and the rate will be maintained at the status quo. An analysis of the relevant factors in play indicates there is little to no risk that DD provider rates would be cut in the near-term.

Endnotes

[1] A useful overview of California's system is provided in The SCAN Foundation's Long-Term Care Fundamental brief, *California's Developmental Disabilities Service System.* Retrieved on 12/11/15 from http://www.thescanfoundation.org/californias-developmental-disabilities-service-system.
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[3] California Welfare and Institutions Code, Section 4512. Retrieved on 12/13/15 from http://law.onecle.com/california/welfare/4512.html.
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[14] Department of Developmental Services, *DDS Summary of Budget Reductions*. Retrieved on 12/11/15 from http://www.dds.ca.gov/Director/BudgetReductionSummary.cfm.
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[16] Ibid, p. 4.
[17] Legislative Analyst's Office. *Overview of Developmental Services Issues Presented to the Assembly Committee on Public Health and Developmental Services*, 7/9/2015. Retrieved on 12/8/15 from http://www.lao.ca.gov/Publications/Detail/3290.
[18] Legislative Analyst's Office. *Overview of Developmental Services Issues Presented to the Assembly Committee on Public Health and Developmental Services*, 7/9/2015, pp. 5-6.
[19] Association of Regional Center Agencies, *On the Brink of Collapse: The Consequences of Underfunding California's Developmental Services System,* February 2015, p. 34.
[20] California Legislative Analyst, *The 2015-16 Budget: California Spending Plan*, 10/19/15. Retrieved on 12/11/15 from http://www.lao.ca.gov/Publications/Detail/3302.
[21] Association of Regional Center Agencies, *On the Brink of Collapse: The Consequences of Underfunding California's Developmental Services System,* February 2015, pp. 26-27.
[22] Ibid, p. 19.
[23] Ibid, p. 42.
[24] Ibid, p. 6.

[25] Ibid, pp. 36-38

[26] Ibid, p. 10.

[27] Ibid, p. 11.

[28] Ibid, p. 21.

[29] Ibid, p. 22.

[30] Ibid, p. 42.

[31] This information provided to consultant by client.

[32] This information garnered from an inspection of the provider's website.

[33] This information provided to consultant by client.

[34] See descriptions of the impacts of closures on clients and their families here: KQED News, *Developmentally Disabled People Face Losing Access to Services as Closures Hit*, 11/27/15. Retrieved on 12/6/15 from http://ww2.kqed.org/stateofhealth/2015/11/27/developmentally-disabled-people-face-losing-access-to-services-as-closures-hit/.

[35] *Olmstead V.L.C.* (98-536) U.S. 581 (1999).

[36] Mildred, Laurel, *Critical Issues in Olmstead Implementation*, 4/27/2011. Retrieved on 12/16/15 from http://www.mildredconsulting.com/training/.

[37] The issues the state settled in court were global cuts in In-Home Supportive Services benefits, and elimination of California's Adult Day Services program.

[38] Association of Regional Center Agencies, *On the Brink of Collapse: The Consequences of Underfunding California's Developmental Services System,* February 2015, p. 33.

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[41] Ibid.

[42] California Department of Public Health, *The California Department of Public Health Takes Enforcement Action Against Three Developmental Centers*, 1/3/2014. Retrieved on 12/16/15 from https://www.cdph.ca.gov/Pages/NR14-001.aspx.

[43] California Department of Developmental Services. *Public Notice: Sonoma DC, Fairview DC, Porterville DC, Lanterman DC.* Retrieved on 12/16/15 from http://www.dds.ca.gov/PublicNotice/DCPublicNotices.cfm.

[44] California Healthline. *State Closing Last Three Developmental Centers: Community 'Blindsided' by Plan*, 5/20/15. Retrieved on 12/16/15 from http://www.californiahealthline.org/capitol-desk/2015/5/state-closing-last-three-developmental-centers-community-blindsided-by-plan.

[45] California Health and Human Services Agency. *Developmental Services Task Force*. Retrieved on 12/16/15 from http://www.chhs.ca.gov/pages/DCsTaskForce.aspx.

[46] Association of Regional Center Agencies, *On the Brink of Collapse: The Consequences of Underfunding California's Developmental Services System,* February 2015, p. 8.

[47] The complexities of California's MCO tax are secondary to this discussion but relevant to developments in the California budgeting process. In short, the federal government has indicated that the state's existing managed care organization tax structure no longer allowable; it must be restructured by the end of the 2016 Legislative session. The tax allows California to draw down approximately $1.1 billion in federal funds. The Republicans are exercising their diminished power by forestalling the tax, which requires a 2/3 vote. Brown wants a deal and has used the popular bipartisan support for DD and Medi-Cal rate increases to try leverage the issue. An overview of the MCO tax by the Legislative Analyst's office can be found here: http://www.lao.ca.gov/Publications/Detail/3311

[48] Los Angeles Times, *Legislature fizzles in special sessions on transportation and healthcare*, 12/10/15. Retrieved on 12/16/15 from http://www.latimes.com/politics/la-pol-sac-legislature-special-sessions-transportation-health-fizzles-20151210-story.html.

[49] Association of Regional Center Agencies, *On the Brink of Collapse: The Consequences of Underfunding California's Developmental Services System,* February 2015, p. 47.