UNDER THE RADAR AND UNDER THE GUN

Budget Cuts Threaten the Frail Elderly and the Disabled of all Ages

SUMMARY

In-Home Supportive Services (IHSS) is a statewide program, funded by federal, state and county governments, designed to assist both low-income frail elderly and disabled persons of all ages to continue living in their residences if possible. This provides a positive environment at significantly less expense than placing them in institutions. Frequently, family members act as caregivers, receiving pay that augments much needed income. This program benefits the recipients, the caregivers and the taxpayers. The Santa Barbara County Civil Grand Jury (Jury) has learned that this program is in jeopardy.

To reduce the 2009-10 state budget deficit, the governor and the legislature took steps to cut significantly the funding for the IHSS program, which is administered in Santa Barbara County by the Department of Social Services (DSS). The governor has made a similar but even more severe proposal for 2010-11. Because it is a jointly funded program among the federal, state and the individual county governments, cuts in one source automatically reduce contributions from the others. There are approximately 3,000 IHSS recipients in Santa Barbara County, 1,200 of whom will be impacted by this budget cut. Of those, 640 would be substantially affected and 200 would lose all benefits. If the proposed budget for 2010-11 is implemented, these numbers will increase and even more recipients will lose benefits.

Although allegations of caregiver and recipient fraud in the statewide IHSS programs have surfaced and prompted some anti-fraud provisions in the budget legislation, the Jury learned that fraud detected has been confined to major cities. DSS advised that there is no documentable or substantiated evidence of fraud in Santa Barbara County's IHSS program.

Fortunately for IHSS recipients, preliminary injunctive relief ordered by a federal court in mid-October stayed the 2009-10 budget cuts, but it is unknown how long this will remain in effect, as the state has appealed the injunction. The governor has announced his intention to eliminate 87% of the funding for IHSS programs in order to mitigate the continuing deficit in the 2010-11 state budget. If this comes to pass, Santa Barbara County will need to bear the full brunt of the fiscal loss and implement a yet-to-be designed and funded program of its own. If the state's budget cuts are reinstated, it will test the principle that one of the measurements of the quality of a society is the way in which it takes care of those within it who are least able to take care of themselves through no fault of their own.

BACKGROUND

Under the 1965 Medicaid Act, the federal government financially assists those states that provide medical services to eligible recipients, including the poor frail elderly and the disabled. California participates in Medicaid through the MediCal Program. In 1973, California established IHSS as part of MediCal to provide assistance to low-income frail elderly and disabled persons of all ages with the tasks of daily living. IHSS is funded with a combination of state, county and federal Medicaid monies. Even though funding has remained essentially static, the IHSS program recipient ranks in Santa Barbara County have grown by seven to eight percent annually.

Funding for the program is provided through federal Medicaid, at the state level through MediCal, and with additional proportional matching funds from the counties. The stated purpose of the program is to furnish as far as may be practicable, "medical [and other related] assistance on behalf of ...aged, blind or disabled individuals whose income and resources are insufficient to meet the costs of necessary medical services" and "to help such families and individuals attain or retain capability for independence or self-care...."[1]

The California Department of Social Services' (CADSS) Manual of Policies and Procedures (MPP) directs IHSS to provide "assistance to those eligible aged, blind and disabled individuals who are unable to remain safely in their homes without this assistance."[2] The MPP states that a particular service will not be authorized unless the social worker evaluating the individual "has determined that the recipient would not be able to remain safely in his or her home without IHSS".[3]

As a consequence of the emergency budget cuts imposed by the State, originally to have taken effect September 1, 2009 – subsequently delayed by court injunction - there will be a loss or reduction of aid and care to poor people who need services to continue living in their residences, thereby avoiding full-time institutional care. The court ordered injunction allows recipients to be able to remain in their own homes, and not be deprived of the services that would have been reduced by the implementation of the budget cuts.[4]

Legal Environment

In July 2009, as part of an effort to deal with the state's large budget deficit, the California legislature passed and the governor signed emergency budget legislation, ABX4 4,[5] which reduced and/or eliminated the delivery of IHSS services to thousands of individuals currently qualified for the program.

Under this new legislation, which was to go into effect on September 1, 2009, the Santa Barbara County Department of Social Services (DSS) estimates that of the approximately 3,000 current IHSS recipients, about 1,200 would lose some services. A projected 640 of

[1] 42 USC, Sec. 1396.
[2] MPP Sec. 39-700.1
[3] Id. Sec. 30-761.13-14
[4] Order Granting Injunctive Relief, V.L., et al. v. Wagner, et al., Case C 09-04668 CW, U.S. Dist. Ct., N. Dist. of CA
[5] Emergency Assembly Bill, ABX4 4, amending Calif. Welf. and Inst. Code Secs. 12309(e) and 12309.2

those would lose most services, and at least 200 of the 640 would no longer be capable of safely living at home. Thus, the 200 would have to be placed into an institutional setting at a substantial increase over IHSS cost.[6]

The DSS reported that the average 80 hours of service per month at the prevailing rate of $10 per hour would cost the IHSS program $9,600 per person per year. Institutional care would require $59,495 (at $163 per day – the maximum under current law) of MediCal money per year, plus a federal Medicaid supplement, resulting in an even greater cost per person.

The Jury was advised that skilled nursing facility or alternative beds in Santa Barbara County or anywhere in California might not be available to meet the anticipated need. According to DSS, all counties are expected to exhaust the supply of facilities with their own necessary placements.

The IHSS reductions contained in the budget legislation were suspended as the result of a federal district court action filed in early August 2009, by certain persons representative of IHSS recipients. In October 2009, a federal district court judge entered a preliminary injunction in that class action suit; preventing implementation of the emergency budget provisions described above, pending a full hearing.

This injunction has been appealed by the state to the Ninth U.S. Circuit Court of Appeals, although a decision is not expected until later this year. The ruling may result in a sustaining of the injunction for a period of additional time. A reversal of the lower court would result in the immediate, but not retroactive, loss of the allocated state portion of the IHSS funding. As that domino falls, federal and county funding diminishes accordingly.

In their complaint, the class plaintiffs allege that the legislature and governor have - by their actions - deprived them of their rights under the Due Process Clause of the 14th Amendment to the United States Constitution, the Americans With Disabilities Act, the Medicaid Act, the Rehabilitation Act and other federal statutes.[7] It is not a function of the Jury to render an opinion on the merits of litigation, but it is necessary to recognize the potential outcomes in order to provide a complete background for this report.

On December 22, 2009, the governor, in a letter to Congress,[8] stated that he was in favor of eliminating the IHSS program and all funding for it under federal Medicaid, inclusive of state MediCal contributions. He added in his budget message to the legislature on January 8, 2010, that the minimum cuts acceptable in the IHSS funding for 2010-11 would be 87%. Under such a scenario only the most frail and most disabled would retain any funding for services.

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[6] Numbers cited are per DSS estimates based on anticipated funding from State and federal budgets. (Each county in California is responsible for developing its own projection).

[7] See, Order Granting Motion For A Preliminary Injunction, V.L., et al., v. Wagner, et al., No. C 09-04668 CW, (Dist. Ct., No. Dist. Cal), Oct. 19, 2009.

[8] Governor Schwarzenegger letter to Speaker of the House Pelosi dated December 22, 2009, and published on line by the California Disability Commission Action Network ("CDCAN") December 23, 2009, available on the Internet at *<http://gov.ca.gov/press-release/14080/>*.

METHODOLOGY

The state budget cuts to the IHSS Program contained in Assembly Bill 4 4 of the Statutes of 2009, Chapter 4, Section 29-30 (ABX4 4) would result in reductions of proportional matching federal and county contributions. The IHSS program would be impacted significantly because of the way in which the governor and legislature earmarked or "categorized" the eliminated funds.

Therefore, the Grand Jury assessed the impact the budget cuts would have on Santa Barbara County's most fragile citizens by interviewing several senior management officials and staff members in County DSS, the Area Agency on Aging, the Public Authority[9], and representatives of those charitable organizations whose missions include aid to the needy.

All county supervisors were interviewed, some several times. The Jury also researched pertinent California statutes and regulations, currently available state and county budget data and agency statistics, the pleadings in the federal litigation challenging the budget reductions, and various publications authored by interested organizations and academicians.

OBSERVATIONS AND ANALYSIS

The Program

The IHSS program is administered in Santa Barbara County by DSS. Its primary goal is to allow the recipients to remain at home and retain their independence through the receipt of essential home care services, and to provide an alternative to institutionalization and its greater cost.

How the Program is Funded

Funding for the program comes from federal, state and county sources. Currently, Santa Barbara County budgets $31.2 million for these services. It receives 61% of that funding from the federal government and approximately 26% from the state. The county itself contributes the remainder, which fluctuates from 12 to 14%.

Any loss of state funding for IHSS automatically causes a reduction in the federal contribution, and also results in a reduction of the county's minimally required proportional contribution. Under California's finalized 2009-10 budget, and with consideration for the proportional reductions of federal and Santa Barbara County funding, the total IHSS available funds would be cut by over 8.62%, or approximately $2.69 million per DSS. The American Recovery and Reinvestment Act (ARRA) has allocated one-time only federal funding to County DSS of $2.8 million. However, what portion of that may

[9] An agency of the County DSS with non-profit status that prepares and maintains the registry of service providers, is responsible for background checks of non-family members of recipients, and in some counties also renders payment directly to those providers

go to supporting IHSS, if any, is unknown at this time. There will be no state or county funds required or available to match ARRA funding.

Although allegations of caregiver and recipient fraud in the statewide IHSS program have been made in partial justification for the legislative efforts to slash funding, there must be adequate evidentiary support to prosecute wrongdoers. Obtaining reliable proof can be difficult, and pursuing alleged fraud may not be cost effective. Moreover, unlike the situation in the mostly urban counties, e.g., Alameda, Los Angeles, San Francisco, San Diego and Sacramento, instances of IHSS fraud by caretakers or others have not appeared to be a serious and documentable problem in Santa Barbara County. DSS is committed to remaining alert to this issue, and to monitor the program to that end.

The Impact of the Budget Bill on Participants

According to officials interviewed by the Grand Jury, the fiscal 2009-10 California budget bill, ABX4 4, if implemented, will eventually result in approximately 1,200 current Santa Barbara County recipients having reduced eligibility or becoming totally ineligible for IHSS. If the governor's proposed cuts for 2010-11 are enacted, many more would be negatively impacted.

DSS advises that the elimination or reduction of these services will put many of the currently eligible recipients at serious risk to health and safety. It may become necessary that they be transferred to unwanted out-of-home care, requiring expensive institutionalization, assuming that facilities willing to take them are available. Losing these IHSS services may cause some recipients to suffer increased medical complications, declines in physical functioning, and/or additional otherwise preventable accidents and injuries. Increased county aid and additional involvement of non-profit organizations and private volunteers may be a partial solution, but only on an interim basis. During interviews, the Jury learned there is a shortage of money for such financing in the private sector as well.

Eligibility

To be eligible for IHSS, a person must be "elderly" (65 or older), blind or disabled and generally have income at or below the federal Supplemental Security Income (SSI) and/or State Supplemental Payment (SSP) program grant levels ($845 per month for individuals as of October 2009). Those individuals with higher income may still be eligible for IHSS with Share of Cost (SOC) participation. An IHSS recipient with a SOC must make an out-of-pocket monthly payment toward the receipt of IHSS benefits before IHSS pays the remainder of the cost of these services. Eligibility for IHSS is generally limited to individuals with no more than $2,000 and couples with no more than $3,000 in assets (with certain exclusions for assets such as homes and vehicles).[10]

[10] California Welfare & Institutions Code, Secs. 12051,12052,14051; CDSS Manual of Policies and Procedures, Secs. 30-755.111-.114.

Assessing Qualification For Services

Once an individual meets the eligibility criteria, he or she is evaluated for the service(s) required. The maximum number of hours of IHSS services allowed per recipient is 283 hours per month for the "severely disabled" and 195 hours per month for those less so.[11] The available assistance for the performance of tasks includes the following:

- *Laundry*
- *Shopping and Errands*
- *Meal Domestic Services*
- *Preparation/Meal Cleanup Ambulation*
- *Transfer / Transportation*
- *Bathing, Oral Hygiene, and Grooming/Routine Bed Bath*
- *Dressing Prosthetic Devices*
- *Bowel, Bladder, and Related Care*
- *Menstruation*
- *Eating*
- *Respiration*
- *Memory*
- *Orientation*
- *Judgment*

It is noteworthy that these domestic services are in some instances the only support that will allow frail elderly people to stay in their homes. Shopping and meal preparation are especially essential.

In 1988, CADSS developed the uniform needs assessment process that defines six categories for social workers to use in rating low-income elderly or disabled individuals of any age with respect to their functional abilities in areas of daily living. Each recipient is evaluated to determine the level of needs. From that determination, a numerical overall level of need is established on a scale of 1 to 6. These "rankings" are referred to as Functional Indices (FI's), and are applied to the candidate's performance ability using various criteria[12]:

1. *Functioning is independent and can be performed without human assistance, although the recipient may have difficulty in performing the function, but the completion of the function with or without a device or mobility aid, poses no substantial risk to his or her safety;*
2. *Able to perform a function, but needs verbal assistance, such as reminding, guidance, or encouragement;*
3. *Can perform the function with some human assistance, including, but not limited to, direct physical assistance from a provider (caregiver);*
4. *Can perform a function, but only with substantial human assistance;*
5. *Cannot perform the function, with or without human assistance;*
6. *Paramedical services needed.*

[11] Code, id., Secs. 12303.4(a) (b), 14132.95(g)

[12] California Welfare & Institutions Code, Sec. 12309 (d)

The FI score is based upon a weighted average of eleven of the above fourteen categories of functional ability. Due to the severe nature of their disabilities persons with an assessment score of level 5 or level 6 currently do not qualify for IHSS benefits. Qualified candidates only fall into the categories (levels) 1 through 4. It is important to note that cognitive functioning (memory, orientation and judgment) is excluded from the needs assessment determination even though it is part of the functional index.

Higher weights are assigned to such labor-intensive activities as meal preparation, clean-up and personal hygiene. Lower weights are assigned to such tasks as laundry, housework and shopping. In practice, an individual who needs assistance with a greater number of different tasks, especially those more time-consuming, will have a higher FI score than a person who needs help with less time-consuming tasks.

If the cuts are imposed, those least impaired with an FI score of levels 1 and 2 will lose all in-home services. The assumption is they will require fewer services, even though some important measurements are not considered in determining eligibility, specifically memory, orientation, and deficiencies in judgment. According to DSS, while candidates may be able to complete particular functions, the rating system presumes they are medically or psychologically capable, which is not always the case. Mental health professionals working apart from the IHSS program assist those suffering from dementia.

The Jury noted that recipients with FI at levels 1 and 2 are particularly vulnerable. The greater numbers of people with FI levels 3 and 4 in domestic and related tasks will sustain partial cuts (under the 2009-10 budget cuts – greater in 2010-11). Reduced services will further erode what has been described to the Jury as a fragile individualized safety net.

Some needy frail older people with chronic conditions will receive fewer services because of the reduction in funding, and thus can be expected to be at greater risk of accelerated declining health. As a result, it is estimated about 200 current recipients of IHSS assistance will require institutionalization, which would result in higher costs than any anticipated savings from the budget cuts. Under the governor's proposed 2010-11 budget, only FI level 4 recipients would continue to receive services.

Role of Public Authorities

Finding qualified providers of services for IHSS was difficult in the early days of the IHSS program. The process was disorganized with no centralized system in place for matching caregivers with the needy. In 1993, legislation was passed which authorized creation within the counties of Public Authorities.[13] Such authorities are non-profit consortia under the jurisdiction of the Board of Supervisors and the DSS in Santa Barbara County.

[13] See footnote 9 above for additional description.

The Public Authority is responsible for:

- *Developing a registry of potential providers for "consumers" (*IHSS recipients*) to consult in finding caregivers;*
- *Conducting criminal background checks of caregiver candidates;*
- *Providing training and education;*
- *Administering the payroll (*of the providers*).*[14]

A Commentary on the Impending Crisis

The negative impact of the IHSS budget cuts was characterized recently by the UCLA Center for Health Policy Research[15] as follows:

> ***In-Home Supportive Services Program (IHSS) cut 30 percent:*** *This program aids seniors with incomes above what is needed to qualify for SSI but still not high enough to afford in-home supportive services. IHSS provides a subsidy to help defray the costs of in-home personal care and essential household services that seniors are unable to perform without monitoring or assistance...*
>
> *"We need lawmakers to rethink these punishing cuts," said Bruce Chernof, president of the SCAN Foundation, which funded the research. "With a rapidly growing older population, we need to make our publicly funded long-term care system more efficient and effective, and this report shows that the cuts do neither."*
>
> *The state's adult day health care centers, which serve more than 37,000 seniors, were also scheduled for Oct. 1 cuts until a federal judge issued an injunction Sept. 11 preventing California from cutting services until its poor, elderly and disabled clients are provided other Medi-Cal services to prevent their institutionalization. However, many of the seniors who patronize these centers will still endure cuts to their SSI checks.*
>
> *"It means the meal seniors get at an adult day health care center may be the only meal of the day," Wallace said. "They won't have the income they need to pay for all of their basic necessities."*
>
> *The cuts to long-term care programs that support the low-income or disabled elderly are expected to shave about $500 million from California's budget. However, Wallace said the cuts may ultimately have the reverse effect, by forcing seniors further into poverty and, ultimately, forcing some into Medi-Cal supported nursing homes.*

[14] California Welfare & Institutions Code, Sec. 12301.6.
[15] "California Budget Cuts Fray the Long Term Safety Net", October 2009

"As a state, we have two choices," Wallace said. "We can either help seniors live with dignity in their own homes, or we can reduce them to destitution and force them into nursing homes. Either way, the state of California is going to pick up the tab."

Additional Impacts of Funding Cuts

IHSS recipients who have a change in their functional status can appeal any loss of services to DSS. However, those with cognitive impairments and those without family support and/or an outside advocate are less likely to have the resources to appeal and may be the first to feel the effect of the service reductions.

CONCLUSION

The Grand Jury believes that unless alternatives are found, the strains resulting from these cuts most likely will over time substantially weaken the family care system. According to DSS, more than half of IHSS service providers are paid family members. Some families may experience significantly lower income as a result of cuts in service hours. For example, IHSS cuts may mean the loss of primary jobs for some unspecified number of family members, who may then have to look elsewhere for work and end their family-based service provision. Cuts in service hours may also result in disrupted service relationships with recipients. Both workers and recipients may experience more stress and strain as they try to cope with fewer hours and continuing or escalating needs.

Many Californians are unaware of the pending deep cuts in the In-Home Supportive Services (IHSS) program and the negotiated Budget Act (ABX4 4) that the governor signed in July 2009, as well as his proposals for further reductions in 2010-11. The pending cuts could gravely impact the needy frail elderly and the disabled who depend on IHSS for care and assistance. This segment of society is most vulnerable and at serious risk of adverse mental and physical consequences.

In Santa Barbara County approximately 1,200 current recipients of the services will be adversely affected, and will have no recourse except to appeal to the state Department of Social Services or litigate to just maintain the status quo. A federal district court has enjoined the state from implementing the parts of the law that would cut funding and therefore affect the frail elderly and the disabled. The state has appealed the district court's decision to the Ninth Circuit Court of Appeals.

The Grand Jury concludes that these issues warrant additional resources by the county to at least partially offset the anticipated losses. There are also charities and foundations, which, having been alerted to the impending crisis, may be called upon to step in and provide assistance in this critical situation. Perhaps increased or stabilized county aid, non-profit organization participation, charitable foundation grants, and private volunteers, will have to be sought and employed to implement a long-term solution.

Until the outcome of the federal litigation is known, the county must prepare for the eventuality that the IHSS budget cuts will be implemented. The Jury suggests that the Board of Supervisors establish a "blue ribbon" commission to act on the topic of IHSS disruption/demise. The Board could also host workshops of concerned citizens, charities and foundations, where the meetings might be staffed with and hosted by DSS senior management and county CEO personnel. It is therefore imperative that the county take steps now by the county to prevent our most vulnerable citizens from being swept away in what one senior DSS official has aptly described as a potential "human tsunami."

FINDINGS AND RECOMMENDATIONS

Finding 1

In-Home Supportive Services is dependent upon funding from federal, state and county sources.

Finding 2

In July 2009, the California legislature enacted ABX4 4, which reduced funding for In-Home Supportive Services programs for fiscal 2009-10.

Finding 3

A federal district court judge has stayed the implementation of ABX4 4. The state has appealed the injunction to the Ninth Circuit Court of Appeals. The appeal is pending at this time.

Finding 4

If ABX4 4 is implemented, Santa Barbara County would lose approximately $2.69 million, per Department of Social Services, from the funding for In-Home Supportive Services programs, resulting in reduction or elimination of such services to approximately 1,200 frail elderly and disabled of all ages.

Finding 5

Approximately 1200 people currently receiving In-Home Supportive Services benefits will experience reduction or complete loss of service, some requiring institutionalization, if the budget cuts are implemented.

Finding 6

Currently, there is a serious shortage of both skilled nursing home and alternative beds for In-Home Supportive Services recipients in Santa Barbara County.

Finding 7

If the 2010-11 California budget proposal is enacted even more of the 3,000 current recipients of In-Home Supportive Services benefits will lose all services and could need institutionalization.

Recommendation 1

The Santa Barbara County Board of Supervisors directs the county Chief Executive Officer to identify funds to maintain the current level of services for In-Home Supportive Services recipients.

Recommendation 2

The Santa Barbara County Board of Supervisors develop a definitive plan, which could include public and private partnerships, to seamlessly assist the low income frail elderly and the disabled should prior and/or proposed budget cuts be implemented.

REQUEST FOR RESPONSE

In accordance with *Section 933.05 of the California Penal Code,* each agency and government body affected by or named in this report is requested to respond in writing to the findings and recommendations in a timely manner. The following are the affected agencies for this report, with the mandated response period for each:

The SB County Board of Supervisors – 90 days

Findings 1, 2, 3, 4, 5, 6, 7
Recommendations 1, 2

The SB County Department of Social Services – 60 days

Findings 1, 2, 3, 4, 5, 6, 7

Copies to be provided to:

Supervisor Janet Wolf, Second District, Chair, Board of Supervisors

Supervisor Salud Carbajal, First District

Supervisor Doreen Farr, Third District

Supervisor Joni Gray, Fourth District

Supervisor Joseph Centeno, Fifth District

The Santa Barbara County Chief Executive Officer

The Santa Barbara County Auditor-Controller

Attachment 2

County of Santa Barbara
DEPARTMENT OF SOCIAL SERVICES
234 Camino del Remedio, Santa Barbara CA 93110-1369 (805) 681-4400 Fax (805) 681-4403

Kathy M. Gallagher
Director

May 7, 2010

Honorable Arthur Garcia
Presiding Judge
312 C East Cook St.
Santa Maria, CA 93456-5369

Honorable Judge Garcia:

In accordance with Section 933.05 of the California Penal Code, attached please find the response from the Department of Social Services to the report of the Grand Jury, "Under the Radar and Under the Gun, Budget Cuts Threaten the Frail Elderly and the Disabled of all Ages".

The work and insights of the Grand Jury are acknowledged and much appreciated.

Sincerely,

Kathy M. Gallagher, Director

cc: Fletcher Phillips, Foreman of the Grand Jury

Terrie Concellos, M.B.A., C.P.A.
Deputy Director
Administrative Functions

Delfino Neira, M.A.
Deputy Director
Social Services Programs

Ken D. Jensen, Psy. D.
Deputy Director
Client Services & Benefits

Department of Social Services
Response to Findings

"Under the Radar and Under the Gun"
"Budget Cuts Threaten the Frail Elderly and the Disabled of all Ages"

Finding 1
In-Home Supportive Services is dependent on federal, state, and county sources.

Response: The Department of Social Services agrees that the In-Home Supportive Services Program is funded by a melding of County General Fund, and Federal and State funds. These funds are the backbone of the safety net for the elderly and disabled of our community.

Finding 2
In July, 2009, the California Legislature enacted ABX4 4, which reduced funding for In-Home Supportive Services programs for fiscal year 2009-10

Response: The Department of Social Services agrees that ABX4 4 reduced funding for the IHSS program.

Finding 3
A federal district court judge has stayed the implementation of ABX 4 4. The state has appealed the injunction to the Ninth Circuit Court of Appeals. This appeal is pending at this time

Response: The Department agrees with this finding.

Finding 4
If ABX4 4 is implemented, Santa Barbara County would lose approximately $2.69 million, per Department of Social Services, from the funding for In-Home Support Services programs, resulting in reduction or elimination of such services to approximately 1,200 frail elderly and disabled of all ages.

Response: The Department of Social Services generally agrees with this finding. While the exact reductions are difficult to estimate at this time due to the pending lawsuit and uncertainties about the State budget, a significant number of IHSS recipients can expect to see a reduction in service or an elimination of their services if the State of California were to prevail in their legal appeal to the Federal court.

Finding 5
Approximately 1,200 people currently receiving In-Home Support Services benefits will experience a reduction or complete loss of service, some requiring institutionalization, if the budgets cuts are implemented.

Response: The Department of Social Services agrees with this finding. An exact number of recipients who will either see a reduction or elimination of service cannot be determined at this time, the department estimates that approximately 1,200 clients will be affected.

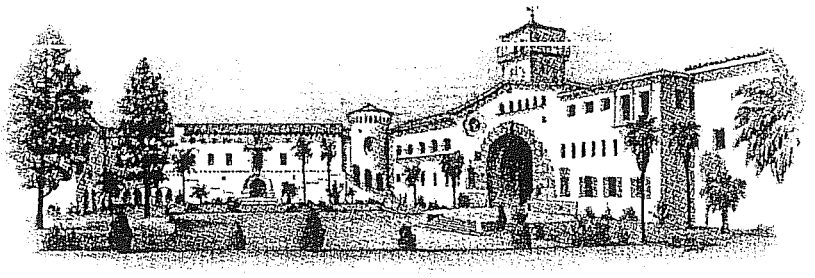
Finding 6
Currently, there is a serious shortage of both skilled nursing homes and alternative beds for In-Home Supportive Services recipients in Santa Barbara County.

Response: The Department of Social Services agrees with this finding. The current service delivery model in the State of California to support low-income frail elderly and disabled individuals is the IHSS program which provides in-home caregiver support for only the necessary hours, rather than the more expensive institutional 24-hour care. This model has been in place for forty years. As a consequence, there are fewer skilled nursing facilities, with fewer available beds, than is needed to absorb all of the former IHSS recipients around the State who will no longer be able to remain independent in their own homes.

Finding 7
If the 2010-11 budget proposal is enacted even more of the 3,000 current recipients of In-Home Supportive Services benefits will lose all services and could need institutionalization.

Response: The Department of Social Services agrees with this finding. The Governor's current budget proposal includes the elimination of the In-Home Supportive Services program.

ATTACHMENT 3



BOARD OF SUPERVISORS
County Administration Building
105 East Anapamu Street
Santa Barbara, CA 93101
Telephone: (805) 568-2190
www.countyofsb.org

June 1, 2010

COUNTY OF SANTA BARBARA

Honorable Judge Arthur A. Garcia
Santa Barbara County Superior Court
312 C. East Cook Street
Santa Maria, CA 93456-5369

Board of Supervisors' responses to Fiscal Year 2009-2010 Grand Jury Report on "Under the Radar and Under the Gun - Budget Cuts Threaten the Frail Elderly and the Disabled of all Ages"

Dear Judge Garcia:

During its regular meeting of June 1, 2010, the Board of Supervisors adopted the following as the Board's response to the findings and recommendations in the Fiscal Year 2009-2010 Grand Jury Report entitled "Under the Radar and Under the Gun - Budget Cuts Threaten the Frail and Elderly and the Disabled of all Ages".

The Board of Supervisors thanks the Grand Jury for its work on this most important issue regarding the frail and elderly of our County. The County Supervisors have carefully reviewed the findings and recommendations presented in the Grand Jury Report and provide the following responses:

Finding 1
In-Home Supportive Services is dependent on federal, state, and county sources.

> **Response**: The Board of Supervisors agrees that the In-Home Supportive Services Program is funded by a melding of County General Fund, and Federal and State funds.

Finding 2
In July 2009, the California Legislature enacted ABX4 4, which reduced funding for In-Home Supportive Services programs for fiscal year 2009-10.

> **Response**: The Board of Supervisors agrees that ABX4 4 reduced funding for the IHSS program.

Finding 3
A federal district court judge has stayed the implementation of ABX 4 4. The state has appealed the injunction to the Ninth Circuit Court of Appeals. This appeal is pending at this time.

Response: The BOS agrees with this finding.

Finding 4
If ABX4 4 is implemented, Santa Barbara County would lose approximately $2.69 million, per Department of Social Services, from the funding for In-Home Support Services programs, resulting in reduction or elimination of such services to approximately 1,200 frail elderly and disabled of all ages.

Response: The BOS generally agrees with this finding. While the exact reductions are difficult to estimate at this time due to the pending lawsuit and uncertainties about the State budget, a significant number of IHSS recipients can expect to see a reduction in service or an elimination of their services if the State of California were to prevail in their legal appeal to the Federal court.

Finding 5
Approximately 1,200 people currently receiving In-Home Support Services benefits will experience a reduction or complete loss of service, some requiring institutionalization, if the budgets cuts are implemented.

Response: The BOS agrees with this finding. An exact number of recipients who will either see a reduction or elimination of service cannot be determined at this time, the department estimates that approximately 1,200 clients will be affected.

Finding 6
Currently, there is a serious shortage of both skilled nursing homes and alternative beds for In-Home Supportive Services recipients in Santa Barbara County.

Response: The BOS agrees with this finding. The current service delivery model in the State of California to support low-income frail elderly and disabled individuals is the IHSS program which provides in-home caregiver support for only the necessary hours, rather than the more expensive institutional 24-hour care. This model has been in place for forty years. As a consequence, there are fewer skilled nursing facilities, with fewer available beds, than is needed to absorb all of the former IHSS recipients around the State who will no longer be able to remain independent in their own homes.

Finding 7
If the 2010-11 budget proposal is enacted even more of the 3,000 current recipients of In-Home Supportive Services benefits will lose all services and could need institutionalization.

Response: The BOS agrees with this finding. The Governor's current budget proposal includes the elimination of the In-Home Supportive Services program.

Recommendation 1
The Santa Barbara County Board of Supervisors directs the County Chief Executive Officer to identify funds to maintain the current level of services for In-Home Supportive Services recipients.

> **Response**: This recommendation will not be implemented because it is unreasonable at this time. If the IHSS program is eliminated, as recommended by the Governor in his budget, the cost to the County to supplant the lost federal and state funds would be prohibitive in this economic climate (an additional $27.5 million annually). The Board of Supervisors may direct that the County funds already allocated to the IHSS program, approximately $5 million (caregiver wages, contract services and administration) be used to provide some specified level of support services to the most frail of the elderly and disabled population who lose IHSS services.

Recommendation 2
The Santa Barbara County Board of Supervisors develop a definitive plan, which could include public and private partnerships, to seamlessly assist the low income frail elderly and the disabled should prior and/or proposed budget cuts be implemented.

> **Response**: The recommendation will not be implemented as it is not reasonable at this time. The Board of Supervisors does agree that it is prudent to plan should IHSS program reductions occur as a result of State actions. However, given the depth of the State budget dilemma and continued issues impacting revenue at the local level, it would be misleading to suggest that such a plan would result in a increased distribution of funding to assist the clients, caregivers and families within the IHSS system in a substantive way. However, should the reductions occur the Adult and Aging Network, an existing collaborative network of local non-profit service providers and public agencies, all of whom provide various services to the elderly and disabled populations, could work to strengthen safety net services for the most vulnerable clients who lose IHSS benefits. Funding for such an effort may be available if existing County funds allocated to the IHSS program are redirected to support this local alternative program, thus ensuring that the most vulnerable among the elderly and disabled would continue to have some level of support services.

Thank you once again for your report. If I can be of any further assistance, please contact my office at any time.

Sincerely,

Janet Wolf
Chair, Board of Supervisors

cc: Fletcher Phillips, Foreman-SB County Civil Grand Jury 2009-10