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# Approach to the 2011-12 In-Home Supportive Services Budget

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LEGISLATIVE ANALYST'S OFFICE





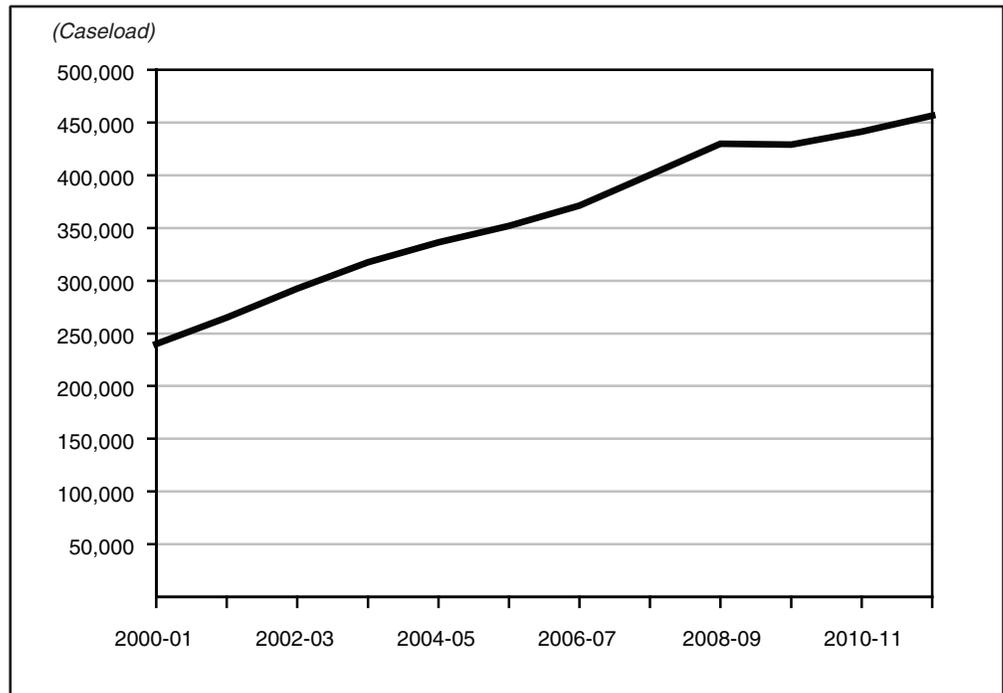
## Overview of In-Home Supportive Services

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- ☑ **Services.** The In-Home Supportive Services (IHSS) program provides various services to eligible aged, blind, and disabled persons who are unable to remain safely in their own homes without such assistance. The IHSS workers assist recipients with tasks such as bathing, housework, feeding, and dressing. Recipients are eligible to receive up to 283 hours of IHSS per month.
  
- ☑ **Eligibility.** When a potential IHSS recipient applies for the program at a county office, the determination of their eligibility is a two-step process that takes into account the applicant's income and need for IHSS services.
  
- ☑ **IHSS Is a Medicaid Benefit.** About 99 percent of IHSS recipients receive IHSS services as a Medicaid benefit.
  
- ☑ **Funding Shares.** The IHSS program is funded by a combination of state, county, and federal funds.
  
- ☑ **Handout Organization**
  - Provides background information about the IHSS program and recently enacted reductions.
  - Describes the Governor's major IHSS proposals.
  - Provides LAO comments on each proposal.
  - Describes a conceptual strategy for approaching the IHSS budget.



## IHSS Caseload and Costs



- Monthly Caseload.** For 2011-12, the IHSS average monthly caseload (absent any reduction proposals) is estimated to be 456,000. This is a projected 3.4 percent increase over the 2010-11 estimated caseload (442,000).
- Recent Slowing in Growth of IHSS Caseload.** The IHSS caseload has grown by over 80 percent since 2000-01. As shown in the figure, there has been slowing in the growth of the caseload in recent years.
- Average Cost Per Case.** Based on the most recent estimates of 2010-11, the average annual cost per case is about \$13,000 (total funds).



## Strategies for Controlling Costs in IHSS

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The methods to control costs in the program generally fall into the following four categories:

- **Service Reductions**—Reducing the number of hours IHSS recipients receive.
- **Eligibility Reductions**—Reducing the number of people actually receiving IHSS.
- **Reductions in the Cost Per Hour**—Reducing the amount the state pays for each hour of IHSS.
- **Increased Federal Funds**—Increasing the federal share of program costs.

Some approaches may incorporate a combination of these strategies.

- Legal Risks Associated With Reduction Proposals.** Any time IHSS services are reduced or eliminated, there is some risk of litigation asserting that the change puts recipients at risk of institutional placement, which could violate the U.S. Americans with Disabilities Act.
- LAO Recommended Approach to Reductions.** The LAO has proposed that the Legislature target reductions to those least likely to require institutional placement. This approach maximizes the cost-effectiveness of the program while preserving services for those with the highest risk of institutional placement.



## Recent Major Changes to the IHSS Program

Reduction	Estimated Solution Value	Status
<b>2009-10</b>		
Reduction in state participation in wages	\$98	Not Achieved (Enjoined)
Functional index service reductions and eliminations	102	Not Achieved (Enjoined)
Savings from anti-fraud activities	162	Partially Achieved
Elimination of Share of Cost Buyout Program	42	Achieved
Public authority reduction	13	Achieved
<b>2010-11</b>		
Provider tax and supplemental payment	190	Unknown
3.6 percent across-the-board reduction in hours	35	Unknown
Provider exclusionary crimes	—	—
Suspension of enjoined reductions	—	—

- These were initial savings estimates. Full-year savings, if implemented, could be greater.
  
- In the past two years, the Legislature has made reductions to IHSS totaling over \$600 million General Fund. However, due to various court injunctions and other factors, many solutions have not yet achieved their estimated savings.



## Overview of the 2011-12 IHSS Proposed Budget

**Total Budget.** The 2011-12 budget proposes about \$4 billion (\$1.1 billion from the General Fund) for the support of IHSS. This is a total decrease of 43 percent compared to estimated expenditures for 2010-11.

**Governor's IHSS Reduction Proposals**

- **Implementation Timeline.** All reduction proposals assume enactment by March 1, 2011, and implementation by July 1, 2011.
- **Savings Estimates Are Interactive.** The Governor's budget proposes a package of reductions. If the solutions are not adopted as a package, the savings associated with each proposal would change.
- **Reductions Would Likely Require Federal Approval.** Because IHSS is a Medicaid benefit, approval from the federal government likely would be necessary to implement the proposed changes.

### General Fund Benefit (In Millions)

Solution	Amount
Additional reduction in hours for services	\$128
Eliminate domestic services in shared living environments	237
Eliminate all services for recipients without a physician's certificate	121
<b>Total</b>	<b>\$486</b>



## Across-the-Board Hour Reductions

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- An 8.4 Percent Across-the-Board Reduction in Hours.** The Governor's budget proposes to reduce authorized hours for all IHSS recipients by 8.4 percent. This reduction is in addition to the 3.6 percent across-the-board reduction in authorized hours that was enacted as part of the *2010-11 Budget Act*. The proposal includes a process of hour restoration called the supplemental care application. This is for recipients who believe that their reduction would put them at risk of institutional placement. This proposal is estimated to save \$127.5 million General Fund in 2011-12.
- Effect of the Proposal on Recipients**

  - **Number of Recipients Impacted.** All 456,000 IHSS recipients would initially be impacted by this proposal. However, it is assumed that the following number of recipients would have their hours fully or partially restored:

    - 21,000 recipients would have their hours fully restored.
    - 46,500 recipients would have 50 percent of their hours restored.
    - 15,500 recipients would have 25 percent of their hours restored.
  - **Amount of Service Lost.** The average recipient is estimated to lose 6.7 monthly hours of IHSS.



## Across-the-Board Hour Reductions

(Continued)



### LAO Comments

- **Supplemental Care Application Could Reduce Legal Risk.** Because the proposal includes a process for hour restoration for those at risk of institutional placement, it could limit some of the legal challenges other reduction proposals have faced.
- **Recipients With Most Hours Lose Most Hours.** As shown below, an across-the-board reduction results in those with the most authorized hours losing the most hours.

<b>Examples of How Across-the-Board Reductions Impact Recipients</b>			
	Monthly Authorized Hours		
	25	87	283
<b>Hours Lost</b>			
From 3.6 percent reduction	-1	-3	-10
From 8.4 percent reduction	-2	-7	-24
<b>Total Hours Lost</b>	<b>-3</b>	<b>-10</b>	<b>-34</b>
<b>New Monthly Authorized Hours</b>	<b>22</b>	<b>77</b>	<b>249</b>

- **Supplemental Hour Application Could Make the Reduction More Targeted.** If the recipients who are put at risk of institutional placement have their hours restored through the supplemental care application process, the reduction would effectively be targeted to those individuals who are not at risk of institutional placement.



## Across-the-Board Hour Reductions

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***Many Administrative Details Will Need to Be Addressed.*** In order to ensure that recipients at risk of institutional placement have their hours restored, there are many questions that should be addressed.

- How will recipients demonstrate that the reduction puts them at risk of institutional placement?
- How will county social workers review the supplemental care applications?
- What are the administrative costs to ensure that counties are able to review supplemental care applications and make timely decisions?



### **Budget Likely Overestimates Savings**

- ***Assumes That Those Who Have Hours Restored Have Average Hours.*** The budget assumes that those who have their hours restored use an average number of authorized hours. It is, however, much more likely that those who have their hours restored are those with higher-than-average hour authorizations.
- ***Does Not Account for Offsetting Costs in Developmental Services.*** About 9 percent of IHSS recipients are developmentally disabled and receive services through 21 regional centers. When these recipients lose IHSS, the regional centers may be required to purchase the services at likely an increased cost to state government.



***Amount of Overestimated Savings.*** Although we believe the savings may be overestimated for the reasons above, we lack sufficient detail to estimate the specific amount. Roughly, we estimate the net savings could be overstated by about 20 percent.



## Reductions in Domestic and Related Care Services

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***Eliminate Domestic and Related Care Services for Recipients Living With Others.*** The Governor's budget proposes to eliminate IHSS domestic and related care services for most recipients who live with other people. Domestic and related care services include housework, meal preparation, meal clean-up, laundry, shopping, and errands. This proposal is estimated to save about \$237 million in 2011-12.



### Effect of the Proposal on Recipients

- ***Number of Recipients Effected.*** It is estimated that this proposal would result in the loss of domestic and related care services for about 300,000 IHSS recipients in 2011-12.
- ***Amount of Hours Lost.*** Most recipients would lose an average of between 14 and 16 monthly hours of domestic and related care services. Children under the age of 18 are estimated to lose an average of 5 monthly hours of domestic and related care services.



### LAO Comments

- ***Legal Risk.*** Recently, Washington State had a shared living rule. In Washington, recipients living with their providers were not eligible for domestic and related care services. The Washington State Supreme Court ultimately decided that this rule violated Medicaid requirements that recipients be treated equally.
- ***Roomates May Have No Obligation to Provide Services.*** In shared living arrangements, IHSS recipients may (1) live with family and friends or (2) live with someone unrelated to them for purposes of affordable rent. In cases where the recipient may not closely know their roommate, there is no expectation that the roommate provide IHSS services.
- ***Treatment of Recipients Living With Other Recipients.*** It is important to note that some IHSS recipients may be living with other recipients. In these cases, the Legislature should consider exempting these households from the reduction.



## Reductions in Domestic and Related Care Services

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- **Alternatives.** The Legislature could consider the elimination of domestic and related care services for all recipients. This could achieve more savings than the Governor proposes, and may be less risky because it treats all recipients the same, as required by Medicaid. However, this reduction may present a legal risk related to the U.S. Americans with Disabilities Act.



## Physician Certification

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***Elimination of IHSS for Recipients Without a Physician's Certification.*** The Governor's budget proposes to eliminate services for recipients without a written physician's certification which states that personal care services, as provided through IHSS, are necessary to prevent him/her from entering out-of-home care (such as a skilled nursing facility).

- Intent Is to Target Services to Those Most at Risk.*** The intent of this proposal is to ensure that services are targeted to those most likely to enter an institution. Ideally, the recipients who would not receive a physician form would be those who are able to remain at home without IHSS. However, the most impaired recipients may have the most difficulty complying with the requirement.
- Counties Already Collect Some Information From Physicians.*** The ten largest counties already collect information from physicians in some cases. This information is currently used as a tool for social workers to assess the need for IHSS services, not as a condition of eligibility. In some cases, a doctor may find that IHSS services are not needed, but the social worker conducting the assessment may find that there is a need for services. In these cases, services are granted.
- Difficult to Determine Whether IHSS Is Necessary to Prevent Out-of-Home Care.*** There is no standard definition for physicians to use to determine whether IHSS is necessary to prevent out-of-home care.
- Physician Certification Could Make Other Reductions Difficult.*** If all IHSS recipients have been certified by a physician to need IHSS to avoid out-of-home care, it may be difficult to eliminate or reduce services for those recipients given recent court rulings and the U.S. Americans with Disabilities Act.



## Physician Certification

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**Key Implementation Questions.** The savings associated with this proposal would depend on how the proposal is implemented.

- Are physicians certifying that recipients are “at risk” of institutional placement or that they already qualify for institutional placement? Depending upon how this question is answered, the number of recipients affected could be significantly more than estimated by the Governor.
- What does it mean to need IHSS to avoid out-of-home care? How does this fit with existing definitions of “nursing home certified” as used in determining eligibility for other home and community-based services?
- Will physicians require recipients to schedule an appointment in order to complete the certification?
- Will there be an exception process for recipients if they are unable to leave home for an appointment due to their disability?
- How long will recipients have to get their certification submitted?
- In signing this form, what incentives do physicians face?



## Physician Certification

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### Savings Likely Overstated

- **Potential Medicaid Costs for Physician Visits.** If physicians require recipients to come in for a visit prior to certifying their need for IHSS services, or charge a fee for filling out the required form, this would result in state Medicaid costs.
- **Estimate Does Not Account for Offsetting Costs for Developmentally Disabled.** If developmentally disabled recipients lose services as a result of this proposal, there could be increased costs to provide services outside of IHSS.
- **Estimate Assumes Those Who Do Not Receive Certificate Will Have Average Monthly Hours.** The budget assumes that the recipients who do not receive a physician certification would have the average number of IHSS hours. It is more likely that these recipients would be lower hour utilizers of IHSS services.
- **Estimate Does Not Account for Potential Automation Costs.** In order to track whether recipients have received a physician certification, changes to the current automation system will likely be required.
- **Level of Savings Depends on Implementation Details.** Until answers to the implementation questions presented above are provided, it is impossible to determine how much savings could be achieved.



## Other IHSS Budget Issues

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- Estimated Fraud Savings Are Likely Overstated.*** The proposed budget assumes that General Fund savings from anti-fraud activities will be \$151 million in 2011-12. The most recent estimates of the anti-fraud savings achieved in 2009-10 and 2010-11 are \$34 million and \$68 million respectively. Thus, we think it is unlikely that savings of \$151 million are achievable in the budget year.
  
- Consider Reenacting Wage Reduction.*** To address some of the legal concerns of the federal court, the Legislature could reenact a reduction in state participation in provider wages in a way that allows a reduction down to \$10.10 per hour contingent on the results of a study that determines the potential impact of the reduction on the supply of available providers. This study is currently being conducted. A reduction in state participation in wages to \$10.10 per hour could save about \$90 million annually.



## Strategy for Achieving Significant Savings in IHSS

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- ☑ ***Difficult Balancing Act.*** In considering these proposals, the Legislature faces a difficult balancing act. Because of the state's budget deficit, the Legislature should balance the need to achieve significant IHSS savings with the primary policy goal of the program—allowing aged, blind, and disabled recipients to remain at home rather than in an institutional setting. In adopting reductions to the IHSS program, the Legislature will have to consider (1) the impact of the reduction on recipients, (2) the legal risk associated with the proposal, and (3) how the proposal will be implemented.
  
- ☑ ***Adopting a Package of IHSS Solutions.*** Although all of the Governor's proposals and our alternatives present significant administrative challenges and risks, we find that the following proposals warrant legislative consideration because they achieve significant savings and attempt to address legal risks. Below, we present short- and long-term strategies for the IHSS budget.

  - **Short-Term Reduction Strategies**

    - ***Adopt the 8.4 Percent Across-the-Board Reduction.*** Because the state has not been sued as a result of the 3.6 percent reduction to IHSS authorized hours, this may be the least legally risky proposal. Additionally, the proposal allows for hour restorations for those at risk of institutional placement.
    - ***Deeper Across-the-Board Reduction.*** To achieve additional savings, the Legislature could adopt a larger across-the-board reduction. Roughly, each percentage above 8.4 percent would save about \$18 million.



## Strategy for Achieving Significant Savings in IHSS

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- **Reenact the Reduction in State Participation in Wages.** Although the state has been enjoined from implementing the reduction in state participation in wages that was previously enacted, we believe making the amount of the reduction conditional on the results of a wage study would address the federal courts' concerns (\$90 million savings).
  - **Reduce State Participation in Wages to the Minimum Wage.** To achieve additional savings of around \$200 million, the Legislature could consider reducing state participation in wages to the minimum wage, contingent on the results of a wage study. Such a study is not currently underway, so full-year savings may not be available.
- **Long-Term Reduction Strategy**
- **Evaluate the Role of a Physician Certification for IHSS.** Introducing a medically based eligibility process, such as a physician certification, to the IHSS program would be a significant change that should be carefully considered. To address the implementation details described earlier, a stakeholder process is recommended.
  - **Work on Developing a Better Measure of Impairment.** Although the Governor's proposals all attempt to target reductions to those least likely to enter an institution, each proposal identifies this population in a different way. Moving forward, the Legislature should consider working to develop a better measure of impairment and risk of institutional placement for IHSS recipients. This new measure would better enable the Legislature to target IHSS services to those most in need. We note that Washington State has an automated system for social workers to assess a recipient's level of impairment. This impairment measurement is standardized for all long-term care programs.