



December 20, 2019

Dr. Mark Ghaly
Secretary, California Health and Human Services Agency
1600 9th Street,
Sacramento, CA 95814
(VIA EMAIL EngAGE@aging.ca.gov)

Dear Dr. Ghaly:

On behalf of an engaged and diverse stakeholder group of senior living provider organizations and consumer organizations—specifically, 6Beds, Inc.; the Alzheimer’s Association; California Advocates for Nursing Home Reform; the California Assisted Living Association; California Long-Term Care Ombudsman Association; Justice in Aging; and LeadingAge California—who have been working on Assisted Living Waiver reform for several years, we respectfully provide the following proposal for your consideration to strengthen the Assisted Living Waiver and better serve California’s older adults, as part of the Master Plan for Aging.

The Assisted Living Waiver program is a Medi-Cal benefit overseen by the Department of Health Care Services in 15 counties with a maximum enrollment of 5,744 individuals. Previous estimates showed nearly 5,000 individuals on the wait list. The program is paid for jointly with federal funds, and only to the extent that the state funds are matched with federal dollars. The program allows participants the choice of living in Assisted Living or publicly subsidized housing with home health agency services as an alternative to institutional care such as skilled nursing. The goal of the waiver is to allow participants to live in the least-restrictive environment possible. Waiver participants either transition from skilled nursing facilities back into community settings or they are proactively moved directly into the program without first residing in skilled nursing facilities to prevent unnecessary skilled nursing facility admissions for individuals with an imminent need for nursing care that can be safely managed in Assisted Living or public housing with the additional services.

The July 8, 2019, Senate Appropriations analysis for Assembly Bill 50 (Kalra), a bill to expand the Assisted Living Waiver program, provides the following information that highlights significant program savings for waiver services.

- Assume the average annual cost for waiver services is \$18,747 in Current Year (CY) 2020, \$20,333 in CY 2021, \$21,930 in CY 2022, and \$23,793 in CY 2023.
- Assume the average annual cost in a skilled nursing facility (SNF) is \$77,280.

The following chart, also excerpted from the Senate Appropriations analysis, highlights total General Fund savings associated with the program.

FY 2019-20	General Fund (GF)
Total Cost from Waiver Services	\$2,015,000
Total Savings from SNF Transitions	(\$3,652,000)
Net Impact Savings	(\$1,637,000)
FY 2020-21	GF
Total Cost from Waiver Services	\$17,045,000
Total Savings from SNF Transitions	(\$29,548,000)
Net Impact Savings	(\$12,503,000)

The Assisted Living Waiver program offers a residential care option to Medi-Cal beneficiaries who would otherwise be institutionalized unnecessarily. This program is important to the State of California as it meets the intent of the Olmstead decision by providing less institutional care options at lower costs. This program is important to Californian's themselves as it provides choice and care options where there have been few.

We support the following actions:

- Phase-in an increase of participants from 5,744 to 18,500, to accommodate all individuals on the wait list and the 11,000 nursing home residents identified in the [2017 Long-Term Services and Supports Scorecard](#) with low-care needs that can be met in Assisted Living or in the community as an alternative to institutionalization.
- Expand the program statewide.
- Ensure there is wait list transparency so people know their position on the list and when they are likely to reach the top.
- Address provider reimbursement rates that have not accounted for increases in the minimum wage.
- Add an additional reimbursement Tier specific to caring for residents with dementia.
- Define an institutional stay for purposes of the program to be 20 or more consecutive days in a health facility to ensure individuals are not being institutionalized longer than necessary just to qualify for the program.

Thank you for your consideration of the Assisted Living Waiver as part of the Master Plan for Aging. We look forward to working with you and your colleagues to improve the lives of older Californians.

Sincerely,

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SENATE COMMITTEE ON APPROPRIATIONS

Senator Anthony Portantino, Chair
2019 - 2020 Regular Session

AB 50 (Kalra) - Medi-Cal: Assisted Living Waiver program

Version: April 25, 2019

Urgency: No

Hearing Date: July 8, 2019

Policy Vote: HEALTH 8 - 0

Mandate: No

Consultant: Samantha Lui

Bill Summary: Assembly Bill 50 would require, to the extent federal financial participation is available and federal approvals are obtained, the Department of Health Care Services (DHCS) to submit a request for an amendment to the Assisted Living Waiver (ALW) program to increase the total number of participants from 5,744 to 18,500 by March 1, 2023, and to expand participation beyond the 15 existing counties. Would require the waiver amendment reserve at least 60 percent of expanded enrollment for persons transitioning from an institutional setting. Would require DHCS to increase its provider reimbursement tiers to compensate for specified mandatory minimum wage increases.

Fiscal Impact: The DHCS estimates costs for FY 2019-20 would need to be absorbed, as this bill does not contain an urgency clause; \$1.0 million in FY 2019-20; and, \$1.9 million in FY 2020-21, and ongoing, for 13.0 positions: 4.0 Nurse Evaluator II (NE II) positions to review the initial eligibility of each applicant and any tier change request for current participants; 1.0 Associate Governmental Program Analyst (AGPA) position to perform program operation duties; 4.0 NE II and 4.0 AGPA staff to perform provider onsite reviews to ensure initial and ongoing provider eligibility and compliance with waiver requirements. Funding is 50/50 General Fund/federal fund for the AGPA positions and 25/75 General Fund/federal fund for contract costs. The costing is for five permanent AGPA positions with high travel costs for 4.0 AGPAs. The costing also includes contract funding of \$600,000 for Fiscal Year (FY) 2019-2020 and \$1.2 million for FY 2020-21, and ongoing (equivalent to eight NE II positions).

The table below reflects costs and significant General Fund savings associated with newly transitioned SNF participants who would receive services through the ALW. The DHCS estimates, based on estimated achievable program expansion, 5,736 slots would become available through FY 2022-23.

FY 2019-20	Total Funds (TF)	General Fund (GF)	Federal Fund (FF)
Total Cost from Waiver Services	\$4,029,000	\$2,015,000	\$2,014,000
Total Savings from SNF Transitions	(\$7,303,000)	(\$3,652,000)	(\$3,651,000)
Net Impact Savings	(\$3,274,000)	(\$1,637,000)	(\$1,637,000)
FY 2020-21	TF	GF	FF
Total Cost from Waiver Services	\$34,090,000	\$17,045,000	\$17,045,000
Total Savings from SNF Transitions	(\$59,096,000)	(\$29,548,000)	(\$29,548,000)
Net Impact Savings	(\$25,006,000)	(\$12,503,000)	(\$12,503,000)

FY 2021-22	TF	GF	FF
Total Cost from Waiver Services	\$80,312,000	\$40,156,000	\$40,156,000
Total Savings from SNF Transitions	(\$130,711,000)	(\$65,356,000)	(\$65,355,000)
Net Impact Savings	(\$50,399,000)	(\$25,200,000)	(\$25,199,000)
FY 2022-23	TF	GF	FF
Total Cost from Waiver Services	\$115,779,000	\$57,890,000	\$57,889,000
Total Savings from SNF Transitions	(\$220,572,000)	(\$110,286,000)	(\$110,286,000)
Net Impact Savings	(\$104,793,000)	(\$52,396,000)	(\$52,397,000)

For additional detail on assumptions, please see Staff Comments.

Background: The Assisted Living Waiver program is one of seven 1915(c) Medicaid home-and community based services (HCBS) waivers in California. The HCBS waiver program allows a state to furnish an array of home and community-based services that assist Medicaid beneficiaries to live in the community and avoid institutionalization. The ALW program offers Medi-Cal eligible beneficiaries, over age 21, the choice of residing in an assisted living setting as an alternative to long-term placement in a nursing facility. The goal of the ALW is to facilitate nursing facility transition back into a homelike and community setting and to prevent skilled nursing admissions for beneficiaries with an imminent need for nursing facility placement. The current ALW permits the expansion of the program into additional counties through a waiver amendment. The assisted living provider is responsible for meeting the needs of the participant, including activities of daily living (ADLs), instrumental ADLs, meals, transportation, medication administration and skilled nursing, as needed. Medi-Cal reimburses for the services provided to residents enrolled in the ALW program; however, the resident is responsible for their own room and board.

AB 2233 (Kalra) established a pilot program from 2006-2009 in three counties. In March 2009, CMS approved the waiver for additional five year terms. Previously, the ALWP had a cap on the number of unduplicated participants, ranging from 3,700 in year one, increasing to 4,464 in year five. In 2014, CMS approved a five year waiver renewal that became effective on March 1, 2014, expired February 28, 2019, and was renewed for another five years in March 2019. In March 2016, the ALWP reached its cap of 3,700 participants. In anticipation of waiver extension, in May 2018, DHCS held two stakeholder meetings on the ALW program. The 2018 May Revision proposed, and 2018 Budget Act enacted, the expansion of waiver slots to 5,744 for 2017-18, 2018-19, and 2019-20.

The ALW program is currently available in 15 counties: Alameda, Contra Costa, Fresno, Kern, Los Angeles, Orange, Riverside, Sacramento, San Bernardino, San Diego, San Francisco, San Joaquin, San Mateo, Santa Clara, and Sonoma.

Proposed Law: AB 50 would include the following provisions, among others:

- Requires DHCS to submit to the federal Centers for Medicare and Medicaid Services (CMS) a request for an amendment to the ALW program.

- Requires the ALW program to include an phase-in increase in the total number of participants from 5,744 to 18,500 participants by March 1, 2023:
 - An increase of 5,000 participants on March 1, 2020;
 - An increase of an additional 2,750 participants on March 1, 2021;
 - An increase of an additional 2,750 participants on March 1, 2022; and,
 - An increase of an additional 2,256 participants on March 1, 2023.
- Requires the initial phase of additional participants to prioritize participation from the 15 existing counties.
- Requires the ALW amendment to reserve 60 percent of the participant slots from each phase-in for individuals who are transitioning from an institutional setting (defined as a stay of 20 or more consecutive days in a health facility) into the community. Authorizes DHCS to reduce the 60 percent requirement if the ALW is combined with, or converted to, another HCBS program.
- Requires DHCS to outline a process to expand the program's geographic availability, and requires the regional expansion to be phased-in and to occur during the ALW's current five-year term, which ends on February 29, 2024.
- Requires DHCS to notify the Legislature, prior to submitting the ALW amendment, the methodology and supporting data for allotting the number of additional participants among the 15 existing counties and the process for regional expansion.
- Requires the ALW amendment to include an increase to its provider reimbursement tiers to reflect mandatory minimum wage increases that occurred in 2007, 2008, 2014, and 2016, and future mandatory minimum wage increases.
- Requires, at a minimum, the provisions of the ALW amendment pertaining to the number of participants and provider rates, to continue to apply if, prior to March 1, 2024, the ALW program is combined with or converted to another HCBS waiver program.
- Requires DHCS to implement the provisions of the ALW amendment to the extent that FFP is available and within six months of receiving federal approval.
- Requires DHCS to establish a process so a person on the ALW program waiting list each month can know their position on the waiting list and when they are likely to reach the top of the waiting list.
- Specifies public and stakeholder comment processes for DHCS, as part of the ALW waiver application or a renewal process, and if the ALW program is converted or combined with another HCBS program.

Related Legislation: AB 2233 (Kalra, 2018) would have required DHCS to submit to CMS a request for renewal of the ALWP, with an increase in the number of slots from 3,700 to at least 18,500 slots. Governor Brown vetoed AB 2233 stating any further changes should be considered in the budget since the 2018 Budget Act expanded slots.

Staff Comments: The DHCS estimates included the following assumptions:

- On January 1, 2020, the DHCS will hire staff and begin enrolling participants to the program.
- Assumes an average of 90 participants per month will transition to the ALW in FY 2019-20, 113 participants per month will transition in FY 2020-21, 142 participants per month will transition in FY 2021-22, and 178 participants per month will transition in FY 2022-23.
- Although AB 50 allows 12,756 new participants, from FY 2019-20 to FY 2022-23, assumes 5,736 participants will transition into the ALW where 3,442 will be from an institution and 2,294 will be from the community, based on estimated achievable program expansion.
- Assume the average annual cost for waiver services is \$18,747 in Current Year (CY) 2020, \$20,333 in CY 2021, \$21,930 in CY 2022, and \$23,793 in CY 2023.
- Assume the average annual cost in a skilled nursing facility (SNF) is \$77,280.

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