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Settlement Sets New Course for Adult Day Health Care

by David Gorn, California Healthline Sacramento Bureau

It was a great day for Toby Douglas. On Thursday, the director of the state Department of Health Care Services finalized the details of a lawsuit settlement that not only takes care of a fragile and vulnerable population in California, but it also takes a big step forward in getting that population into an integrated managed care system, which has been one of the watchwords for Douglas and his department.

"We're concentrating on an integrated benefit that targets those who are most at risk," Douglas said. "The focus is on integrating all of these folks into a managed care setting, into a community-based system with clearly defined eligibility."

The settlement of the lawsuit was a big moment for Douglas, and for the 35,000 people in the state's adult day health care program, many of whom will continue to get those services.

Road to Settlement

The ADHC population includes people with dementia, Alzheimer's disease, stroke, heart problems, mobility problems and disabilities. And the population is expensive. Many people who qualify for ADHC services are one step away from nursing home care, which is even more costly for the state. The program aims to offer nursing home-like services during the day to keep costs down and enable such people to stay out of nursing homes.

Over the last several years, state lawmakers have attempted to reduce spending on the program or eliminate it entirely.

In March, the Legislature voted to replace the state's ADHC program with a similar program that would have offered some of the same services but at about half the size. Gov. Jerry Brown (D) vetoed that plan in July.

ADHC was slated for elimination as a Medi-Cal benefit on Dec. 1.

Disability Rights California, which had sued the state over proposed adult day health care cuts in 2009, amended and updated that suit, claiming the plan to transition ADHC services out of Medi-Cal was inadequate.

Settlement Details

The case was settled Thursday, the same day a federal judge was due to hear the case. The agreement includes a provision moving the date to eliminate ADHC services as Medi-Cal benefit forward by three months, to March 1, 2012.

The compromise also creates the Community-Based Adult Services program, which will provide services similar to those provided in the ADHC program at comparable rates for many beneficiaries. The state estimates that the program population will include about half the number of current ADHC beneficiaries. Advocates think the number could go higher than that, once assessments are completed.

Patients who aren't eligible for CBAS still can receive enhanced, intensive case management services through a managed care plan, state officials said.

"They (state officials) didn't have to settle," Assembly member Bob Blumenfield (D-Woodland Hills) said. "They chose to do that. This is a settlement agreement, not a forced agreement, and we have to give the [Brown] administration a lot of credit for going in this direction." Blumenfield authored the bill creating a scaled-down replacement for ADHC that eventually was vetoed.

"We're thrilled that the state and Disability Rights California have come to this agreement," Lydia Missaelides of the California Association of Adult Day Services said. "After all of the pain that everyone went through to get to this point, this feels like the best, most fair deal for everyone here. It will give the state assurance that the right people are getting the right care in the right setting."

Eligibility, Fate of Centers Still in Question

Who qualifies for CBAS still is at issue. The answer depends in part on assessments of each patient, a process underway now. It also depends on who you ask.

"I would say, way more than half will be eligible for CBAS," Disability Rights California attorney Elissa Gershon said.

"About half," Douglas said.

The distinction is important. If 60% or 70% of the ADHC beneficiaries are deemed at risk for institutionalization, that would cost the state significantly more.

Gershon said that there are some ADHC beneficiaries who are obvious candidates and will be automatically enrolled, namely about 9,300 beneficiaries who are categorically or presumptively eligible (patients under the MSSP waiver, mental health and regional center patients, heavy In-Home Supportive Services users and several other qualifiers). The rest will depend on the assessments, she said.

The number of patients who ultimately qualify for CBAS will affect how many ADHC centers continue to provide care. Of about 300 centers in business at the beginning of the year, 23 have closed and four more have announced plans to close at the end of November, according to Missaelides.

All of the principals in the agreement said there likely will be some contraction of ADHC centers. If only half of ADHC patients continue to receive ADHC-like services, that severely tips a business model that lives a bit on the edge already, Missaelides said.

She noted that ADHC centers face a 10% payment cut, after CMS approved the state's plan to reduce its Medi-Cal provider reimbursement rate. "So there's still a lot of uncertainty and anxiety," Missaelides said. "This environment we find ourselves in is still pretty turbulent."

A New Acronym Surfaces

A new acronym -- CBAS (pronounced "sea-bass") -- replaces the old one -- ADHC. A third acronym -- KAFI, for Keeping Adults Free from Institutionalization -- staked out its territory in the last legislative session but didn't make it very far.

In March, the Legislature appropriated $85 million for the scaled-down KAFI program. Brown vetoed the bill to create KAFI in July. The program would have operated with about half of the 2010 ADHC budget and provided services to less than half of ADHC beneficiaries.

The new CBAS program is looking to do a bit more than KAFI, serving half of the ADHC population and possibly more, as well as providing enhanced case management for those who don't qualify for CBAS.

"We project it will cost $85 million a year," Douglas said. "If the number of those eligible [for CBAS] increases, then yes, the cost could go up."

DHCS will need to figure out how the CBAS program will be funded within the department's budget. DHCS is currently funding the transition away from ADHC with the $85 million appropriated by the Legislature for the KAFI program. That was a one-time allocation.

KAFI was capped at $85 million, whereas CBAS is not capped, Gershon said. "So it has the capacity, in principle, to serve everybody," she said, "whereas KAFI would have put people on wait lists."

So, somewhat ironically, after all the twists and turns ADHC has taken in the past few months, it may be a better program now for its beneficiaries, under the CBAS program, than it ever was going to be under KAFI.

Blumenfield, author of the KAFI bill, gets that.

"KAFI was the rough outline and a response to the need at the time," he said. "At the time, we didn't think going this route was politically possible."