

Questions Remain About Future of Adult Day Care Service

Hearing on lawsuit scheduled for this week

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CALIFORNIA HEALTHFAX

The state's adult day services program is still in limbo nearly one month after it was eliminated in the new state budget, but a court hearing this week could clarify what's been a murky issue.

A hearing is scheduled for July 26 in U.S. District Court for Northern California for a lawsuit challenging the elimination of Adult Day Health Care (ADHC), a \$178 million program that was axed from this year's budget. The lawsuit filed by Disability rights California and the National Senior Citizens Law Center on behalf of people served by the program seeks an injunction to block elimination of ADHC unless the state can show that it will provide "skilled nursing and therapy services for people who need them." The state budget calls for ADHC to be eliminated by Sept. 1.

The lawsuit received a boost on July 12 when the U.S. Department of Justice filed a Statement of interest with the court supporting many of the plaintiffs' arguments. The filing noted that the court granted preliminary injunctions to block the state from reducing ADHC services in 2009 and 2010 and added that "now, the State is not only reducing, but entirely eliminating, a service

that this Court has found to be critical to [Plaintiffs'] ability to avoid institutionalization and to remain in a community setting.”

In other developments, Department of Health Care Services (DHCS) Director Toby Douglas extended funding for the ADHC program an additional 30 days beyond the Sept. 1 deadline for people to be transitioned out of the program.

“California has a long-standing commitment to help seniors and persons with disabilities and extensive medical needs to remain independent, vital members of the community,” wrote Douglas. “Based on the elimination of this benefit, we have already begun to transition these individuals to other services in a manner that is reflective of this commitment.” Douglas added that he would “assess the need to extend this benefit on a month-to-month basis.”

The DHCS is currently working on a transition plan to relocate more than 37,000 state residents currently served by adult day centers to alternate service providers.

They include efforts to relocate seniors and the disabled to in-Home Supportive Services and other state and local agencies that serve elderly and disabled individuals.

Another factor still in play is a bill that would create a new, smaller program to replace ADHC. Assembly Bill 96 authored by assembly member Bob Blumenfield (D-Woodland Hills), was sent to Gov. Jerry Brown on July 14.

The bill would create a program called Keeping Adults Free from institutions (KAFI) that would be funded with \$85 million already allocated in the state budget. If the bill is approved, the state would need to apply for a federal waiver to establish KAFI and qualify for matching federal funds.

Brown has already said he would veto AB 96, which was approved by the state legislature earlier this year. At the same time, Brown reached a concession with state legislators in late June that allowed for \$85 million to be allocated in the state budget for adult day services without committing the funds to a specific program.

Meanwhile, the state's 300 adult day care centers are waiting to see what happens. Lydia Missaelides, executive director for the California Association for Adult Day Services, said the uncertainty surrounding adult day care has already resulted in the closure of 11 day care centers in the state and she expects more to close this summer.

“There are still months of uncertainty ahead for thousands of patients served by this program along with their families and day care center staff,” said Missaelides. “It’s a terrible situation for everyone and we don’t expect to have any clarity anytime soon.” —Doug Desjardins