Date: January 15, 2014

To: CMHDA Members

From: Robert E. Oakes, Executive Director

**Re: Governor's FY 2014-15 January Budget**

The Governor released his proposed 2014-15 state budget on January 9 – one day early after it had been leaked to the press. Below is a summary of the provisions that impact mental health programs and the communities they serve. Both houses of the legislature will now hold hearings among its various budget subcommittees. The January budget is instructive about the policy priorities of the Governor. His "May Revise" will be based upon the latest financial projections, at which time accurate budget numbers will be included. For reference, the Governor's budget is available online at http://www.ebudget.ca.gov. The California State Association of Counties also has a useful, more detailed summary in the CSAC Budget Action Bulletin.

Molly Brassil, Don Kingdon, and Monica Scott contributed substantially to this memorandum's content. Please contact me if you have questions (roakes@cmhda.org, 916-556-3477x108).

## Overall Budget Picture

The budget is focused on prudence. A modest budget surplus allows for some additional investments in programs; however, it prioritizes repaying the state's existing liabilities, including eliminating school deferrals, contributing to the state's "Rainy Day Fund" (the first deposit since 2007), paying off the Economic Recovery Bonds early, and investing in infrastructure.

The Governor's budget introduction includes a litany of risks to the state's delicate fiscal health: a modest economic recovery, federal fiscal challenges, the volatility of capital gains revenue, a court-ordered prison population cap, continuing redevelopment dissolution litigation, potential health care inflation, the "Wall of Debt," and other long-term liabilities. Proposed for schools' federal Individuals with Disabilities Education Act (IDEA) mental health service obligations include $357M in Proposition 98 General Funds and $69M in federal funds.

## Mandates

The Governor plans to pay off the "Wall of Debt" in 2017-18. Critically important to counties are the payments owed to local government for pre-2004 mandates that comprise about $900M. The 2014-15 budget proposes to pay these costs over 2015-16 ($748M) and 2016-17 ($152M) with the majority of those funds paid to counties. The Governor also proposes suspending two mandates that have recently received statewide cost estimates: Local Agency Ethics and Tuberculosis Control. There are no other mandate provisions proposed for repeal.

## 2011 Realignment

The Governor's proposed budget includes allocation estimates of base and growth amounts for 2011 Realignment through 2014-15. The table below estimates Realignment revenues.

**2011 Realignment Estimate[1]- at 2014-15 Governor's Budget**

| | 2012-13 | 2012-13 Growth | 2013-14 | 2013-14 Growth | 2014-15 | 2014-15 Growth |
|---|---|---|---|---|---|---|
| **Law Enforcement Services** | **$1,942.6** | | **$2,124.3** | | **$2,075.4** | |
| Trial Court Security Subaccount | 496.4 | 11.6 | 508.0 | 8.6 | 516.6 | 21.3 |
| Enhancing Law Enforcement Activities Subaccount[2] | 489.9 | - | 489.9 | - | 489.9 | 7.2 |
| Community Corrections Subaccount[3] | 842.9 | 86.7 | 998.9 | 64.3 | 934.1 | 159.8 |
| District Attorney and Public Defender Subaccount[3] | 14.6 | 5.8 | 17.1 | 4.3 | 15.8 | 10.7 |
| Juvenile Justice Subaccount | 98.8 | 11.6 | 110.4 | 8.6 | 119.0 | 21.3 |
| *Youthful Offender Block Grant Special Account* | *(93.4)* | *(11.0)* | *(104.3)* | *(8.1)* | *(112.4)* | *(20.1)* |
| *Juvenile Reentry Grant Special Account* | *(5.5)* | *(0.6)* | *(6.1)* | *(0.5)* | *(6.6)* | *(1.2)* |
| **Growth, Law Enforcement Services** | **115.7** | **115.7** | **85.8** | **85.8** | **220.3** | **220.3** |
| **Mental Health[4]** | **1,120.6** | 10.7 | **1,120.6** | 8.0 | **1,120.6** | 19.8 |
| **Support Services** | **2,604.9** | | **2,829.3** | | **2,996.1** | |
| Protective Services Subaccount | 1,640.4 | 176.2 | 1,837.0 | 98.5 | 1,950.8 | 191.8 |
| Behavioral Health Subaccount[5] | 964.5 | 27.9 | 992.3 | 52.8 | 1,045.3 | 184.3 |
| *Women and Children's Residential Treatment Services* | *(5.1)* | - | *(5.1)* | - | *(5.1)* | - |
| **Growth, Support Services** | **214.8** | **214.8** | **159.3** | **159.3** | **395.9** | **395.9** |
| **Account Total and Growth** | **$5,998.6** | | **$6,319.3** | | **$6,808.3** | |
| **Revenue** | | | | | | |
| 1.0625% Sales Tax | 5,516.6 | | 5,880.5 | | 6,311.2 | |
| Motor Vehicle License Fee | 482.0 | | 438.8 | | 497.1 | |
| **Revenue Total** | **$5,998.6** | | **$6,319.3** | | **$6,808.3** | |

This chart reflects estimates of the 2011 Realignment subaccount and growth allocations based on current revenue forecasts and in accordance with the formulas outlined in Chapter 40, Statutes of 2012 (SB 1020).

[1] Dollars in millions.

[2] Allocation is capped at $489.9 million. 2014-15 growth will not add to subsequent fiscal year's subaccount base allocations.

[3] 2012-13 and 2013-14 growth is not added to subsequent fiscal year's subaccount base allocations.

[4] Growth does not add to base.

[5] The Early and Periodic Screening, Diagnosis, and Treatment and Drug Medi-Cal programs within the Behavioral Health Subaccount do not yet have a permanent base.

## Realignment/Community Corrections-Related

The Governor's budget continues the commitment to supporting counties' long-term efforts to successfully implement public safety realignment. Among the key new initiatives and notable proposed policy changes are:

- Additional local capacity investment – An additional $500M in lease revenue bonds for local facility construction, modeled after the SB 1022 (2012) construction program. Priority would be given to counties that document use of a risk assessment to make pre-trial release decisions; a 10% local match would be required, as it was under SB 1022.

- Split sentence presumption – Proposes legislation to require that county felony jail sentences be "split" (meaning an offender is sentenced to a period of custody in jail followed by mandatory supervision in the community) unless the court makes a finding

that a straight sentence is more appropriate. Current split sentence rates vary greatly among counties; the split sentence option is viewed as a tool to reduce jail population pressures and a way to reduce recidivism through structured supervision and appropriate programming in the community.

- Cap on long-term jail sentences – In response to concerns about lengthy AB 109 jail sentences, the budget proposes a "bright line" maximum jail term for 1170(h) offenders. Sentences more than 10 years would be served in state prison instead of county jail, a change expected to affect about 300 offenders per year. The budget narrative indicates an interest in examining charging practices that result in lengthy sentences.

- Reduced fire camp rate – Formalizes the state's proposal to offer a more attractive fire camp rate. Previously, the state had proposed a $46.19 rate and, under this construct, three counties entered into a contract to send local offenders to fire camps. The budget proposes that counties pay an $81 daily rate for the period of time local inmates are in training, with the rate dropping to $10 per day while the inmate serves on a fire crew. This revised rate structure should make fire camps more attractive to counties, as this option can help with managing inmates with longer sentences.

- Increased SB 678 funds – Counties would receive $128M in continued community correction program funding under the SB 678 allocation methodology revised pursuant to SB 105 (2013). The previous formula would have yielded only $42M in SB 678 grants. It is assumed that county probation departments' SB 678 efforts substantially contribute to the state's recent efforts to lower the prison population.

- CCP Planning Grants – The budget proposes an additional one-year appropriation to fund grants that support the work of local Community Correction Partnerships (CCPs) in their AB 109 implementation efforts. As in previous years, counties receive a fixed amount ($100,000; $150,000; or $200,000 – depending on size) or $7.9M statewide. Receipt of grants is conditioned upon a county-submitted report to the state about its implementation efforts.

- AB 109 Allocation – The budget describes the AB 109 allocation approach for the first three years of implementation and notes that a distribution formula is needed beginning in 2014-15. The narrative signals the Administration's ongoing support for a county-based decision-making model, and that it is premature for a permanent AB 109 formula without a better understanding of counties' implementation of evidence-based practices. Consistent with the input provided by the Realignment Allocation Committee (informed by county administrators), the Administration agrees that the formula should promote local control and flexibility and contain appropriate incentives.

- Updated growth estimates for 2011 realignment – Revises growth estimates across all 2011 Realignment programs, projecting $64.3M in 2013-14 growth for AB 109 (distributed Oct. 2014) and $159.8M for 2014-15 (distributed Oct. 2015). Growth amounts are only estimates based on the state's current sales tax and VLF projections. The budget numbers are lower than the state's May 2013 estimates.

- SB 105 Stakeholder Meetings – The public safety section of the budget discusses the stakeholder process in SB 105, which seeks to assess a variety of justice system components to develop recommendations on balanced solutions that are "cost effective

and protect public safety." The chair of the Board of State and Community Corrections is leading the SB 105 stakeholder process. Themes from stakeholder discussions include the need for expanded mental health and substance use disorder treatment in the community; ways to incentivize expanded use of split sentences; and additional efforts to help offenders access employment opportunities, housing, and other supportive services. An interim report to the Legislature is due April 1, 2014.

## State Corrections

Both adult prison and state juvenile populations are projected to increase in the budget year over previous projections. The bulk of the corrections section is a detailed discussion of the state's efforts to comply with the federal court's order to reduce the state's prison population to 137.5% of design capacity. The budget assumes the federal court will grant the state an additional two years (beyond the current April 2014 deadline) to bring the prison population under the mandated cap. If no such extension is granted, the state will commit its entire $315M expenditure authority granted in SB 105 (2013) via contracts for bed space. If the extension is granted, the state estimates it will have about $81.1M in 2014-15 for the Recidivism Reduction Fund (established in SB 105) and would make the following investments:

- Increase state prison substance use disorder treatment – $11.8M for 10 non-reentry hub institutions, an additional investment to the remaining 10 non-reentry hubs, and $9.7M for in-state contract facilities; Expand Integrated Services for Mentally Ill Program – $11.3M to increase program capacity from 600 to 900, offering comprehensive treatment with varied care levels with a goal of stability and self-sufficiency.

- Establish state reentry hub – $8.3M to renovate 600-bed facility in Stockton over the next two years.

- Establish state reentry in the community – $40M for a variety of reentry approaches with inmates who are within one year of prison release. Proposal would accommodate an array of models, including jail-based reentry programs or residential reentry services in facilities within the community. The budget also describes immediate steps and ongoing implementation efforts that will help meet the 137.5% design capacity threshold.

- Expanded Medical Parole — Chapter 405, Statutes of 2010 (SB 1399), authorized the state's existing Medical Parole Program. The court has ordered a program expansion to cover more inmates with severe physical or cognitive conditions. Since January 2011, the Board of Parole Hearings has heard 63 requests for medical parole and issued 56 grants. Elderly Parole — A process will be established to assess state prison inmates 60 or older and have served at least 25 years of their sentence for parole suitability. Certain categories of inmates will be excluded, and those evaluated would only be granted parole if the parole board finds the person poses no unreasonable risk to public safety.

- Prospective Credit Enhancements — Non-violent second-strike inmates will be prospectively eligible for increased credit earning (good-time credits will be earned 33.3% instead of 20%, as permitted now). Milestone credits will be granted for completing rehabilitative programs. Offenders released under these provisions will be on state parole supervision until such time as they would otherwise have been released to county jurisdiction under Post Release Community Supervision. Parole revocations would be served in state prison.

- Ongoing implementation efforts – The budget acknowledges additional anticipated population reductions from ongoing implementation of Three Strikes reform authorized by Proposition 36 (2012) and by Senator Loni Hancock's SB 260 (2013), requiring parole reviews for certain juvenile offenders sentenced to state prison. The Board of Parole Hearings will also reduce its suitability hearing timeline for inmates sentenced to life in prison from 180 to 120 days by streamlining the hearing preparation process.

## State Hospitals

The Department of State Hospitals (DSH) is experiencing caseload backlogs and related wait lists. The state hospital population consists of more than 90% forensic patients. These population challenges mean lengthy wait times in county jails, particularly for the Incompetent to Stand Trial (IST) population, which is a topic of stakeholder policy discussion convened by the Governor's office. The budget augments the state hospital budget in a number of ways:

- Enhanced Treatment Programs - $1.5M to better equip the hospitals to manage the forensic population, specifically related to designing and planning specialized short-term housing units at most hospitals for a total of about 44 new beds. Physical changes would be geared toward improving screening and treatment space and increasing safety for employees and other patients.

- Alarm System – $8M to complete the deployment of the personal duress alarm system for reliable, campus wide emergency alarm systems for improved staff safety.

- Deferred Maintenance – $10M dedicated for DSH facilities deferred maintenance.

- Population Management Unit – $1.1M for a Patient Management Unit to centralize intake and improve utilization of beds on a statewide basis.

- Ongoing discussions through IST Workgroup – CSAC, CMHDA and other key local stakeholders across the justice and health and human services continuum have been working to identify causes and potential solutions to the persistent IST waitlist. The budget includes $27.8M to increase IST capacity by 105 beds, and reaffirms the Administration's commitment to continue work with county partners on IST issues.

- Increase investment for state forensic beds – $26.3M to keep 137 beds active in state correctional psychiatric programs to enhance DSH's ability to address the needs of state prison mental health inmate referrals.

## Medi-Cal

The budget assumes Medi-Cal caseload will increase about 10% from the current year to budget year – growing to 10.1 million beneficiaries, largely because of the implementation of federal health reform and the shift of children from Healthy Families to Medi-Cal. General Fund expenditures are estimated to be $16.2B in 2013-14 and $16.9B in 2014-15.

## Medi-Cal Provider Cuts (AB 97, Chapter 3, Statutes of 2011)

The budget proposes to forgive specific retroactive 10% Medi-Cal provider cuts made in the 2011 Budget Act. Please recall that under Senator Hernandez's SB 239 (Chapter 657, Statutes

of 2013), Distinct Part/Skilled Nursing Facilities (DP/SNFs) were removed from the Medi-Cal provider rate cuts enacted in AB 97. SB 239 relieves DP/SNFs from the rate cuts moving forward, but these facilities are still subject to the retroactive provisions of AB 97.

The Administration proposes forgiving specific retroactive recoupments to support the health care delivery system during federal health care reform implementation. Exemptions include physicians/clinics, certain (typically high cost) drugs used to treat serious conditions, dental, intermediate care facilities for the developmentally disabled and medical transportation. Forgiving the recoupment costs $5.8M General Fund in 2013-14 and $36.3M in 2014-15. Total General Fund cost over the next several years is $217.7M. The federal government will need to approve the retroactive payment forgiveness; legislative action is not required.

## Drug Medi-Cal

The Governor intends to seek a waiver from the federal Centers for Medicare and Medicaid Services (CMS) to increase state and county oversight of Medicaid substance use disorder treatment (Drug Medi-Cal) programs and providers. CSAC and CMHDA-CADPAAC will work with DHCS to design a waiver that increases accountability and program integrity while ensuring access to quality, evidence-based services in communities statewide. Please refer to the link for more information: Department of Health Care Services (DHCS) Organized Delivery System Waiver for the Drug Medi-Cal (DMC) Program.

## Supplemental Security Income/State Supplementary Payment (SSI/SSP)

The budget includes $2.8B General Fund for SSI/SSP. The federal portion increases 1.5% in 2014 and 0.6% in 2015, raising maximum grant levels $11 for individuals and $16 for couples. The current maximum monthly grant levels are $866 (individuals) and $1,462 (couples).

## Health Reform Implementation

Pursuant to the FY 13-14 Budget Act, California made changes to the Medi-Cal program as part of the state's implementation of the Affordable Care Act. Major changes have been made to the Medi-Cal program to simplify eligibility, enrollment, and retention rules, making it easier to get (and stay) on the program. Eligibility has been extended to adults without children and parent and caretaker relatives with incomes up to 138% of the federal poverty level.

- The budget assumes net costs of $404.9M in General Fund ($867.4M total) in 2014-15 associated with implementing the necessary eligibility and enrollment changes to the Medi-Cal program. California will split these costs with the federal government. Additionally, the federal government has committed to pay 100% of the cost of the new adult group optional expansion for the first three years; by 2020-21, the federal share will decrease to 90%; the state will pay 10%. The Budget assumes net costs of $6.7B in 2014-15 for the optional Medi-Cal expansion (to be paid by the federal government).

- Asserting that the expansion of the Medi-Cal program will result in indigent care costs previously paid by the county shifting to the state, the budget provides counties with two options for redirecting a portion of their health realignment funds to account for this anticipated cost shift. The budget estimates county savings of $300M in FY 13-14 and $900M in FY 14-15. Counties have the following options to redirect funds:

1. Uses a formula that measures actual county health care costs and revenues. The state receives 80% of any calculated savings, with the county retaining 20% to invest in the local health care delivery system or spend on public health activities.

2. Transfers 60% of a county's health realignment allocation plus county maintenance of effort to the state as savings; the county retains 40% of its realignment funding for public health, remaining uninsured, or other health care needs.

- Pursuant to the FY 13-14 Budget Act, California has increased the mental health and substance use disorder benefits available to all Medi-Cal beneficiaries. Beginning January 1, 2014, covered Medi-Cal benefits shall include mental health services included in the essential health benefits package adopted by the state for the individual and small group market (i.e., the selected Kaiser Small Group product). These expanded mental health benefits shall be covered by the Medi-Cal managed care plans, while the expanded substance use benefits shall be covered by the Drug Medi-Cal program. The Governor's Budget for FY 14-15 reflects the costs of expanding both the services provided and the population served.

- To achieve the desired benefits associated with the expansion of substance use disorder services, "DHCS will seek a waiver from the federal Centers for Medicare and Medicaid Services to better coordinate substance use disorder treatment services and build upon the experience and positive results California has achieved in the specialty mental health system." The budget also proposes 21 positions and $1.1M in General Fund ($2.2M total) to continue the state's intensive focus on program integrity and expansion of drug treatment services by recertifying all providers in the state.

## DHCS FY 14-15 Budget Request Highlights

**AB 85: County Realignment**
DHCS requests eighteen (18) positions and contract funds to implement and maintain the provisions of AB 85 (Chapter 24, Statutes of 2013), the 1991 Realignment/California Work Opportunity and Responsibility to Kids (CalWORKs) trailer bill. AB 85 implements a mechanism for counties to share savings from implementation of the ACA.

**Implementation of SB 82 and SB 364**
DHCS requests the authority to establish three (3) permanent positions due to the enrollment of SB 82 (Chapter 34, the Investment in Mental Health Wellness Act of 2013 *[W&IC 5892, Part 3.8 "Community Based Services" commencing with 5848.5])* and SB 364 (Chapter 567, Statues of 2013) that broadens the types of facilities that can be used for the purposes of 72-hour treatment and evaluation under Welfare and Institutions Code 5150.

**SB 82**
The goals of SB 82 are to add at least 25 mobile crisis support teams, and 2,000 residential, crisis stabilization and other treatment beds for use in California communities.

**SB 364**
The goals of SB 364 are to broaden the types of facilities that may be designated as 5150 facilities, to lessen overcrowding in emergency rooms, and to provide for more options on the continuum of care.

**SB 94 - Enrollment of Persons Eligible for Medicare and Medi-Cal (Duals) into Medi-Cal Managed Care**
DHCS requests four (4) limited-term positions and expenditure authority to implement SB 94 (Chapter 37, Statutes of 2013). SB 94 allows the mandatory enrollment of persons eligible for Medicare and Medi-Cal (Duals) into Medi-Cal managed care and the integration of Long-Term Supports and Services (LTSS) into managed care in the eight (8) Coordinated Care Initiative (CCI) counties to proceed separately from CCI Duals Demonstration (Cal MediConnect).

**SBX1 1 - Substance Use Disorders Health Care Reform Implementation**
DHCS requests ten (10) permanent positions and twelve (12) limited-term positions to implement new requirements in the ACA (enacted in SBX1 1 as a part of the 2013-14 Budget) for enhanced Medi-Cal substance use disorders services. These positions enable DHCS to develop an effective, efficient, and sustainable delivery system of enhanced substance use disorder services to current and newly eligible individuals.

**MEDS Modernization**
DHCS requests sixteen (16) limited-term positions and expenditure authority for a new, multi - year, Information Technology project to modernize the Medi-Cal Eligibility Data System (MEDS). The funding would support the Project Planning and Requirements Elicitation activities. Modernization of the MEDS is a critical priority for DHCS, as the existing MEDS is aged, inflexible, and very costly to modify.

**CMS Monitoring**
DHCS, Mental Health Services Division, requests seven (7) permanent positions to increase the scope, frequency, and intensity of monitoring/oversight of County Mental Health Plans (MHPs) in direct response to concerns the Centers for Medicare and Medicaid Services (CMS) has communicated to DHCS about timely access to services in the Medi-Cal Specialty Mental Health Services (SMHS) Program; the availability of interpreter services (especially for Spanish speaking beneficiaries); and the continuing, significantly elevated rates of non-compliance observed during system reviews of MHP operations by DHCS, and the continuing high rates of claim disallowance resulting from both outpatient and inpatient medical record reviews.

**Performance Outcomes System Plan; Medi-Cal Specialty Mental Health Services (MHS)**
DHCS requests four (4) permanent positions and expenditure authority to implement the Performance Outcomes System, consistent with the Performance Outcomes System Implementation Plan, also released with the Governor's Budget.

The Performance Outcome System is essential for DHCS to understand the statewide outcomes of the services provided and to best assure compliance with the federal Early and Periodic Screening, Diagnosis and Treatment (EPSDT) requirement. Although the non-federal share of funding for the Medi-Cal Specialty Mental Health program has been realigned to the counties, the state maintains a responsibility to assure access to the federal entitlement for the Medi-Cal Specialty Mental Health program. For children and youth in this program, federal law further provides for the EPSDT requirement to assure access to medically necessary specialty mental health services for children and youth (up to age 21).

Trailer bill language as a part of the 2012-13 Budget (Welfare and Institutions [W&I] Code, Section 14707.5) added by SB 1009, Committee on Budget and Fiscal Review (Chapter 34, Statutes of 2012), requiring DHCS to develop a Performance Outcomes System for Medi-Cal specialty mental health services for children and youth. Consistent with this trailer bill language, DHCS has produced a Performance Outcome System Plan. DHCS is releasing a Performance

Outcome System Implementation Plan with the Governor's Budget that includes the resources requested in this budget change proposal to implement and operate this system.

**Re-Certification Drug Medi-Cal Providers**
DHCS requests twenty-one (21) limited-term positions to recertify providers in the Drug Medi-Cal program (DMC). These are essential to improve DMC program integrity by recertifying only providers meeting standards of participation in Medi-Cal, and decertifying fraudulent providers by conducting a thorough screening, including referrals to the DHCS A&I for onsite reviews. These positions will enable DHCS to complete the recertification of all DMC providers. DHCS will also be able to increase its oversight of DMC providers for compliance with federal and state laws and regulations; issue policies, rules, and regulations on program matters; and perform policy review, analysis, and interpretation in accordance with the State Plan.

**Substance Use Disorder Program Integrity**
DHCS requests six (6) limited-term positions to investigate counselor complaints and alcohol and other drug facility complaints. The requested position authority and resources will be funded from the Residential and Outpatient Program Licensing Fund (ROLF), but contingent on Legislative approval of fee increases for licensed and certified facilities.

**Managed Care**
The estimate increases the base cost for the three major types of managed care plans by $93.7M in FY 2013-14 and $457M in FY 2014-15. Of the FY 2014-15 increase, $231.8M is a placeholder for an estimated 3.63% rate increase. Built into the rates and removed from the relevant policy changes are the impacts of prior long-term care rate increases. In addition, retroactive rate adjustments have increased by $116.6M in FY 2013-14, due primarily to adjustments for SPD rates in FY 2011-12 and 2012-13. Changes in implementation dates for the Managed Care expansion to rural counties and revised capitation rates reduced the FY 2013-14 cost by $70M. These changes decrease FY 2014-15 by $18.8M.

**Mental Health Services Expansion**
The cost estimate to incorporate of non-specialty mental health services into managed care plans and the expansion of coverage to include group mental health counseling has been revised to reflect FY 2013-14 capitation rates, reducing costs in FY 2013-14 by $3.5M General Fund. Costs in FY 2014-15 are $90.6M higher (based on preliminary placeholder rates).

**Coordinated Care Initiative**
General Fund costs in FY 2013-14 are $29.9 million less than the appropriation and there is an increase of $158.8 million in FY 2014-15. The changes are from delayed phase-in of most eligible until April 2014 (instead of January). In addition to phase-in changes, rates used in the estimate have been adjusted.