

CEJW News and Updates January 2012

California

Lawsuits Halt Cuts to ADHC and IHSS

ADHC

On November 17, 2011, the parties settled a federal class action lawsuit that challenged the elimination of Adult Day Health Care (ADHC) as a Medi-Cal optional benefit. The lawsuit came in response to the March, 2011 vote by the State Assembly to eliminate ADHCs, which provide a wide array of services to 35,000 low-income elderly and disabled adults who would otherwise need nursing home or other institutional care.

Under the agreement, the state's approximately 275 ADHC centers will remain open in their current form through Feb. 29, when participants deemed to be at risk of institutionalization will be transitioned into a new program, known as Community-Based Adult Services (CBAS). The new program will be virtually identical to ADHC and is expected to be provided largely through the same centers. Still there is reason for concern. According to Lydia Missaelides, Executive Director of the California Association for Adult Day Services, 23 centers around California have already shut their doors, and four more are slated to close.

IHSS

A federal judge has temporarily postponed the 20% trigger cuts that were supposed to be enacted for California's In-Home Supportive Services (IHSS) program, with a hearing now scheduled for January 19. The state has also filed a declaration that 66,000 Californians would be exempted from the cuts, including children younger than 21. The exemptions would further give county social workers some authority to restore IHSS hours when recipients show significant need. The judicial action came right before the state was set to send notices to IHSS participants, most of whom are seniors, notifying them of the reduction in services.

What Funding Cuts will Mean

As California faces the most devastating cuts to aging services in decades, advocates, academics, and journalists are struggling to analyze their potential impact:

UCLA Health Policy Brief -- Independence at Risk: Older Californians with Disabilities Struggle to Remain at Home as Public Supports Shrink

This policy brief from the UCLA Center for Health Policy Research presents findings from a yearlong study that followed a small group of older Californians with disabilities who depend on fragile arrangements of paid public programs and unpaid help to live safely and independently at home. The brief was funded by the SCAN foundation.

["Independence at Risk: Older Californians with Disabilities Struggle to](#)

Remain at Home as Public Supports Shrink, please [click here](#).

Ethnic Media Consortium Collaborates With USC to Cover California Cuts
(from GENERATIONS BEAT ONLINE, the e-newsletter of the Journalists Network on Generations).

"Home Alone: Adult Health Center Cuts Devastate Elderly, Disabled" is the title of a multiethnic, multimedia journalism collaboration aimed at exposing the impact of eliminating ADHC centers. According to a 2010 study by the Lewin Group, the closures, which are aimed at saving the state \$169 million, may actually cost California \$51 million because inadequate alternatives, such as high-cost nursing home beds (and too few of them), will lead to higher emergency-room usage, family members having to quit their jobs and likely joining many of the laid-off AHDC staff in applying for public benefits, rather than paying taxes.

OVSRS Outreach Efforts on Unclaimed Restitution

The Office of Victim and Survivor Rights and Services (OVSRS) worked jointly with the California State Controller's Office to establish an Unclaimed Criminal Restitution link on the Controller's Unclaimed Property Web site. The link provides information about the California Department of Corrections and Rehabilitation's (CDCR) restitution collection process and directs users to the OVSRS Web page on unclaimed restitution. Here's how to access the information:

1. From www.sco.ca.gov, go to 'Search for Unclaimed Property' under Featured Links (left hand navigation bar)
2. On the left hand navigation bar under 'Unclaimed Property' click on the link 'Unclaimed Criminal Restitution'
3. The Unclaimed Criminal Restitution page contains the overview and link to the CDCR Victim Restitution webpage

The Web page is part of OVSRS' ongoing outreach efforts to inform victims of adult offenders about restitution that the CDCR has collected and is unable to distribute because they do not have victims' names or addresses. Their goal is to eventually have a searchable database to the Controller's Unclaimed Property database so that victims can login and search to see if they have any restitution collected on their behalf.

Mary Joy Quinn, Pioneer in Elder Abuse and Guardianship, Retires

Many in the field of elder abuse prevention know Mary Joy Quinn for her seminal book *Elder Abuse and Neglect: Causes, Diagnosis, and Intervention Strategies*, which she co-authored with Susan Tomita in 1986 (a 2nd edition was released in 1997). But Mary Joy is equally esteemed for her pioneering work in guardianship. It isn't a coincidence that her career path parallels the development of the field of guardianship—she was among the movement's leaders.

In 1976 the California legislature substantially overhauled the state's conservatorship (California's term for adult guardianships) law. The following

year, Mary Joy was hired by the San Francisco Superior Court as one of the first court investigators in the country; she later became the Director of Probate Court Services. In her 34 years with the court, she designed a format for conservatorship investigations, techniques for interviewing adults with impaired mental and physical status, policies and procedures for the Probate Court, guidelines for private professional conservators and court appointed attorneys, an educational program for friends or family conservators, a guardianship mentoring program for law and medical students, pro bono mediation panels, and a self-help clinic for conservators. Many of the policy, education, and service innovations she designed have been adopted statewide and nationally. In 2005, she authored *Guardianships of Adults, Achieving Justice, Autonomy, and Safety*. Mary is immediate past president of the National College of Probate Judges and has served for many years on the American Bar Association's Commission on Law and Aging.

National

JEAN has New Editors

The National Committee for the Prevention of Elder Abuse (NCPEA) and Taylor and Francis have announced that Karen Stein and Sharon Merriman-Nai will co-edit the *Journal of Elder Abuse & Neglect*. Karen is an Associate Professor in the School of Public Policy and Administration at the University of Delaware and has been a partner in the National Center on Elder Abuse. Sharon is the project director of the Clearinghouse on Abuse and Neglect of the Elderly (CANE) at U.D.

Stein and Merriman-Nai follow an illustrious line-up of previous editors, including Georgia Anetzberger, Terri Fulmer, Pam Teaster, and Rosalie Wolf. According to Karen Stein, "*Our vision is twofold and builds upon the legacy brought to the field by JEAN's founder, Rosalie Wolf and by JEAN editors over time: first, to purposefully include a diversity of perspectives and authorship focused on rigorous research and innovative and evidence-based practices; and second, to facilitate JEAN's evolution as the first-choice journal for manuscript submissions by both established and emerging scholars in the elder abuse field of study.*"

Advocates in Vermont Sue State For Slow APS Response

Two advocacy groups in Vermont--Disability Rights Vermont and the Community of Vermont Elders--collaborated in suing the state for not responding in a timely manner to cases reported to Adult Protective Services. The two groups claim that APS investigators have caseloads that are twice as large as the national average, and that the state has not met the terms of a corrective plan put in place earlier in the year.

AP Report Raises Questions About Criminal Background Checks

As elder advocates struggle to ensure that dangerous criminals do not have access to society's most vulnerable members, the Associated Press conducted an investigative report, [When Your Criminal Past Isn't Yours](#), that raised questions about criminal

background checks. The article, which appeared in the *New York Times* on December 16, 2011, raised the following concerns:

- High rates of criminal conduct. The report cites new data from the National Longitudinal Survey of Youth, which claims that about one-third of young adults have been arrested by the time they are 23 years old.
- Problems with accuracy. According to the article, the “business of background checks” has been “weakened by the conversion to digital files and compromised by the welter of private companies that profit by amassing public records and selling them to employers.” To illustrate, the report points to Kathleen Casey, who applied for a job in a Boston drugstore that required a criminal background check. The check turned up a 14-count criminal indictment for larceny in a scam against an elderly man and woman in California, which was actually committed by another Kathleen Casey.
- Failure to reflect good behavior. Although government agencies may erase criminal convictions after a designated period of good behavior, many of the commercial databases don't perform the updates that would reflect this.

The AP report was also featured on the website of the National Institute of Justice (NIJ) along with the findings of an NIJ-funded study, which concluded that “once individuals have stayed clean for as few as 3 or 4 years in some cases, they are largely indistinguishable from the general population in terms of their odds of another arrest. At that point a background check is useless at predicting future crime.” For more, visit the NIJ website at <http://nij.gov/>

The Year in Guardianship

The ABA Commission on Law and Aging has posted its annual Adult Guardianship Legislative Summary. According to the summary, at least 27 states passed a total of 39 adult guardianship bills in 2011 compared with 21 states and 29 bills passed in 2010. Nebraska, Arizona and Colorado passed substantial bills with a focus on guardian responsibilities, oversight and compensation. Texas enacted a host of provisions addressing multiple aspects of its guardianship system. Ten states enacted the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act (UAGPPJA), bringing the total number of states with enactments to 30. Read about these provisions and many more in the Summary at the following link:

http://www.americanbar.org/content/dam/aba/uncategorized/2011/2011_aging_gship_legis_update_12_28_11.authcheckdam.pdf

Focus on Restitution

In recent months the National Crime Victim Law Institute (NCVLI) has been focusing attention on restitution, money paid from offenders to victims for losses that they suffered as a result of offenders' crimes. Its November 20, 2011 *Community Bulletin* focuses on restitution ([see Restitution](#))

The National Center on Victims of Crime has announced the release of two new sections of its *Restitution Collection Toolkit*, which is being released in stages. The new sections are:

*Making Payment Plans Work
What Happens After Default*

The toolkit is available online at www.ncvc.org/RestitutionToolkit.

Crime Victim Restitution and Court Fee Intercept Act

- S. 755, sponsored by Sen. Ron Wyden of Oregon, amends the Internal Revenue Code to allow an offset against income tax refunds to pay for restitution and other State judicial debts that are past-due.

- **Bob Blancato, EJC Coordinator, Weighs in on OAA reauthorization**

In his October 11 testimony to the Health, Education, Labor & Pensions Committee (HELP) on the Reauthorization of the Older Americans, Bob Blancato, National Coordinator of the Elder Justice Coalition, urged the committee to implement recommendations that were made the last time the OAA was amended in 2006:

- Create an Advisory Board on Elder Abuse, Neglect and Exploitation--and the Elder Justice Coordinating Council;
- Conduct an elder abuse national incidence study to provide benchmarks for future data collection; and
- Strive for consistency and coordination between OAA and EJA provisions and definitions, particularly with respect to data collection.

He offered the following additional recommendations:

- Designate the Administration on Aging as the federal home for APS;
- Request that the Government Accountability Office (GAO) conduct an evaluation on the role and capacity of the aging network, including APS, to administer elder justice services. The evaluation should include recommendations on capacity building and training and examine the extent and nature of potential and actual conflicts of interest. It should further evaluate the roles and capacities of states' human services agencies in administering APS.
- Provide authority to the Assistant Secretary to use OAA funds to implement EJA-related activities.
- Promote greater integration between the Title VII education and public awareness provisions and other service programs in Title III, including nutrition programs, Information and Referral programs, and Programs for Native American, Native Alaskan & Native Hawaiian Elders (as recommended by the Leadership Council of Aging Organization, or LCAO).
- Ensure that all staff and volunteers in OAA-funded programs who come in direct contact with seniors receive appropriate elder abuse-related training (also supported by LCAO).
- Explore the recommendation from the 2001 National Summit on Elder Abuse that the National Family Caregiver Support Program promote the development of abuse sensitive services for caregivers.
- Ensure cultural sensitivity in the provision of elder rights services, including training in cultural issues associated with abuse.

- With respect to the Long Term Care Ombudsman Program:
 - Instruct AoA to address the Institute on Medicine's recommendation on the ratio of ombudsmen to nursing home beds.
 - Support the full independence of the ombudsman program
 - Authorize OAA programs to received funds from Medicare and Medicaid

Journalist Jane Gross Asks: Are Family Caregivers "Mad As Hell?"

In a recent posting on her *New York Times* blog *New Old Age*, Jane Gross challenges feminists to take up the fight for caregiver rights. In arguing that caregiving is a feminist issue, she quotes the *Boston Globe's* Pulitzer Prize-winning former columnist Ellen Goodman:

Why did we fight so hard for sexual liberation, birth control and abortion rights, new models of childbirth, respect in the workplace and child care — only to become demure good girls in middle and old age? We're caring for our parents, yes — but secretly, whispering behind our corporate cubicles to their doctors or pharmacists, cooing appreciation or hissing excoriation at people we're paying to help take care of them.

We haven't rocked the boat. "We went from being working mothers to working daughters, and it blindsided us," said Ms. Goodman.

Reports

Transforming California's Long-Term Services and Supports System Summit Report SCAN Foundation

In September, 2011, the SCAN Foundation hosted the Transforming California's Long-Term Services and Supports System summit. A report on the event is now available on SCAN's website at.

http://www.thescanfoundation.org/sites/default/files/CA_LTSS_Summit_Report.pdf

A Blueprint for Advocates: Recommended Next Steps to Advance California's Implementation of the Supreme Court's Olmstead Decision. Californians for Olmstead

the Supreme Court's 1999 Olmstead decision, which validated the rights of people with disabilities to live in community settings instead of institutions, has been slow in making the large-scale changes that advocates expected and the recession has set back California's implementation efforts. However, the Patient Protection and Affordable Care Act is driving immense changes to long-term living programs and services that will potentially have a lasting impact on Olmstead implementation in the state. This Blueprint for Advocates provides an overview and context for the major change processes the state is undergoing, and suggests key strategies for advocates to continue to promote Olmstead implementation in a rapidly evolving landscape. Read the full report...

<http://www.californiansforolmstead.org/atf/cf/%7BEEC14C65-D4AF-4821-9DA5-F3B111AAE05F%7D/Californians%20for%20Olmstead%20Final%20Report.pdf>

New Resources from NIJ

The National Institute on Justice has a resource page on elder abuse on its Website that highlights NIJ funded projects and includes links to NIJ funded reports and products. See [Elder Abuse topical resource page](#)

In addition, NIJ offers a wide range of general interest resources for criminal justice professionals and victims advocates. Recently released publications include:

Collaboration Toolkit for Community Organizations: Effective Strategies to Partner with Law Enforcement, NCJ Number 236159, Author: Michael S. McCampbell, Publication Date: 09/2010
http://www.cops.usdoj.gov/files/RIC/Publications/e081026301_comm-collab-toolkit_100610.pdf

News Media Guide for Victim Service Providers

Anne Seymour; Bonnie Bucqueroux

137 pg. handbook

This guide, one of a series created under the National Public Awareness and Education Campaign project, educates service providers, journalists, allied professionals, and crime victims about news coverage of crime victims. It can be used as a reference to guide them in their interactions and dealings with the media. Topics include: crime victims and public awareness, impact on your organization, educating the media, ethics, how impact of coverage can affect victims, types of news stories, major concerns of coverage, impact on victims of specific crimes, cultural competency, victim privacy versus media, the role of victim service providers, victim referrals to the media, tips for crime victims and survivors, types of media, organization communication, guidelines for media interviews, press releases, editors' advisories, public service announcements, letters to the editor, Internet strategies, talk shows, media plans, and editorial boards.

Identity Theft Reported by Households, 2005-2010" National Crime Victimization Survey (NCVS)

This data brief examines changes in the percentage of households experiencing identity theft from 2005 to 2010. It describes differences in the types of identity theft experienced by households in 2010 compared to 2005, as well as changes in the demographic characteristics of victimized households. The brief also presents estimates on the monetary losses attributed to household victims of identity theft.

Second Chances. If you missed the following events, you can still benefit):

- **Stopping Elder Financial Abuse: Promising Practices and How to Bring Them to Your Community.**

This December 12 Webinar sponsored by the Center for Excellence on Elder Abuse & Neglect featured Julie Schoen, Esq. and Shawna Reeves, MSW. It is available

online at: http://www.centeronelderabuse.org/elder_financial_abuse_webinar.asp

Also available on the site are the following handouts:

- “Guerilla Market” Your Elder Financial Protection Concepts
- Reeves, S., & Wysong, J. (2010). Strategies to address financial abuse, *Journal of Elder Abuse & Neglect*, 22(3), 328 – 334.
- Reeves, S. (2011). Three simple ways you can prevent elder abuse. *American Society on Aging*: <http://www.asaging.org/blog/three-simple-ways-you-can-prevent-elder-financial-abuse>
- Financial Abuse Specialist Team (FAST) Description
- Senior Center Protection Plan
- Garcia, N.P., Cole, P., & Reeves, S. (2010). Faulty foundations in today’s reverse mortgages. *Consumers Union*: www.consumersunion.org/pdf/reverse-mortgage-report-2010.pdf

- **The State and Future of Financial Fraud — Connecting Research and Practice Conference**

On November 3-4, the newly formed Research Center on the Prevention of Financial Fraud at the Stanford Center on Longevity and the Financial Industry Regulatory Authority (FINRA) Investor Education Foundation hosted this inaugural conference in Washington D.C. Speakers included Mary Schapiro, Chairman of the Securities and Exchange Commission, Robert Cialdini, Ph.D., President of Influence at Work and Professor Emeritus, and Rick Ketchum, Chairman of the FINRA Investor Education Foundation and Chairman & CEO of FINRA, as well as sessions on profiling, prevention and detection which paired academic researchers with field practitioners. A Post-Conference Report, which includes Power Point presentations and in some cases, full texts of speakers’ remarks are available at: http://fraudresearchcenter.org/wp-content/uploads/2011/08/post_conference_report1.pdf

Upcoming Events

- NASW-CA Legislative Lobby Days - April 15 & 16, 2012. Sunday, April 15: Learn the basics of lobbying and prepare for legislative appointments.
- ASA Capitol Hill Advocacy Day. March 28, 2012 from 8:30 am to 1:00 pm. Registration for this ASA Capitol Hill Advocacy Day event is open on a first come-first serve basis to the first 250 applicants among those registered for the ASA conference.