File No. 110780 Committee Item No. 4
Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Land Use and Economic Development **Date** June 11, 2012

Board of Supervisors Meeting **Date** _____

Cmte	Board	
☐	☐	**Motion**
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OTHER **(Use back side if additional space is needed)**

* ☒	☐	Seniors and Adults with Disabilities in SROs, dtd 11/2011
* ☒	☐	What a Difference a Day Makes
☒	☐	Cash-Out in California: A History of Help and Harm
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Completed by: Derek Evans **Date** June 8, 2012
Completed by: _____ **Date** _____

An asterisked item represents the cover sheet to a document that exceeds 25 pages.
The complete document can be found in the file.

INTRODUCTION FORM

By a member of the Board of Supervisors or the Mayor

Time Stamp or
Meeting Date

I hereby submit the following item for introduction:

_____ 1. For reference to Committee:
An ordinance, resolution, motion, or charter amendment.
_____ 2. Request for next printed agenda without reference to Committee
___X___3. Request for Committee hearing on a subject matter.
_____ 4. Request for letter beginning "Supervisor _____ inquires…".
_____ 5. City Attorney request.
_____ 6. Call file from Committee.
_____ 7. Budget Analyst request (attach written motion).
_____8. Substitute Legislation File Nos.
_____ 9. Request for Closed Session
_____ 10. Board to Sit as A Committee of the Whole

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

□ Small Business Commission
□ Ethics Commission
□ Building Inspection Commission
□ Youth Commission
□ Planning Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a different form.]

Sponsor(s): Supervisor : Eric Mar

SUBJECT: Hearing regarding the needs and issues faced by San Francisco Seniors living in SROs.

The text is listed below or attached:

Signature of Sponsoring Supervisor :_____

For Clerk's Use Only:

110780

File 110780
11/21/11 - Presented in Committee

Victoria Tedder

From: Victoria Tedder
Sent: Friday, November 18, 2011 4:18 PM
To: Diane Rovai
Subject: Board of Supervisors hearing

Importance: High

Points that need to be made about PWD in SROs:

--They need accessible path of travel. Many market-rate SROs have the elevator between the ground floor and the 2d floor (where the front desk usually is) locked so that anyone coming in or out will have to come up the stairs past the desk clerk. This is great for preventing crime but bad for the mobility impaired.

--They need accessible bathrooms, including hall (shared) bathrooms. Many SROs, even those master-leased by the City, do not have accessible bathrooms. If PWD who use wheelchairs are able to use the inaccessible toilets or showers at all, they run the risks of a) falling (since there are no grab bars) or b) having their wheelchairs stolen (since the wheelchair will be parked in the hallway while they are using the facilities).

--They need a system by which tenants who need personal care can have their attendants come and go freely. Desk clerks do need to control "traffic," but often the right to have one's attendant come to one's room becomes a bargaining chip; clerks view it as a "favor" rather than an accommodation required by law.

--They need to be able to request a room transfer if needed as a reasonable accommodation rather than being informed that a transfer is a reward for good behavior.

--The hotel managers (and on-site case managers, if applicable) need to be familiar with the Fair Housing laws governing PWD in general. Many aren't.

Will give you more if I think of more.

Vic

Rm 263

File 110780
11/21/11 - Distributed in Committee

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Seniors and Adults with Disabilities in SROs: Survey and Recommendations

(DRAFT)

Presented to:
San Francisco Board of Supervisors
San Francisco Department of Aging and Adult Services
Single Room Occupancy (SRO) Taskforce

By:
Sari Bilick, Central City SRO Collaborative
Joyce Lam, SRO Families United Collaborative
Christina Olague, Senior Action Network
Josh Vining, Dolores Street Community Services / Mission SRO Collaborative

November 2011

File 110780
11/21/11 - Distributed in Committee

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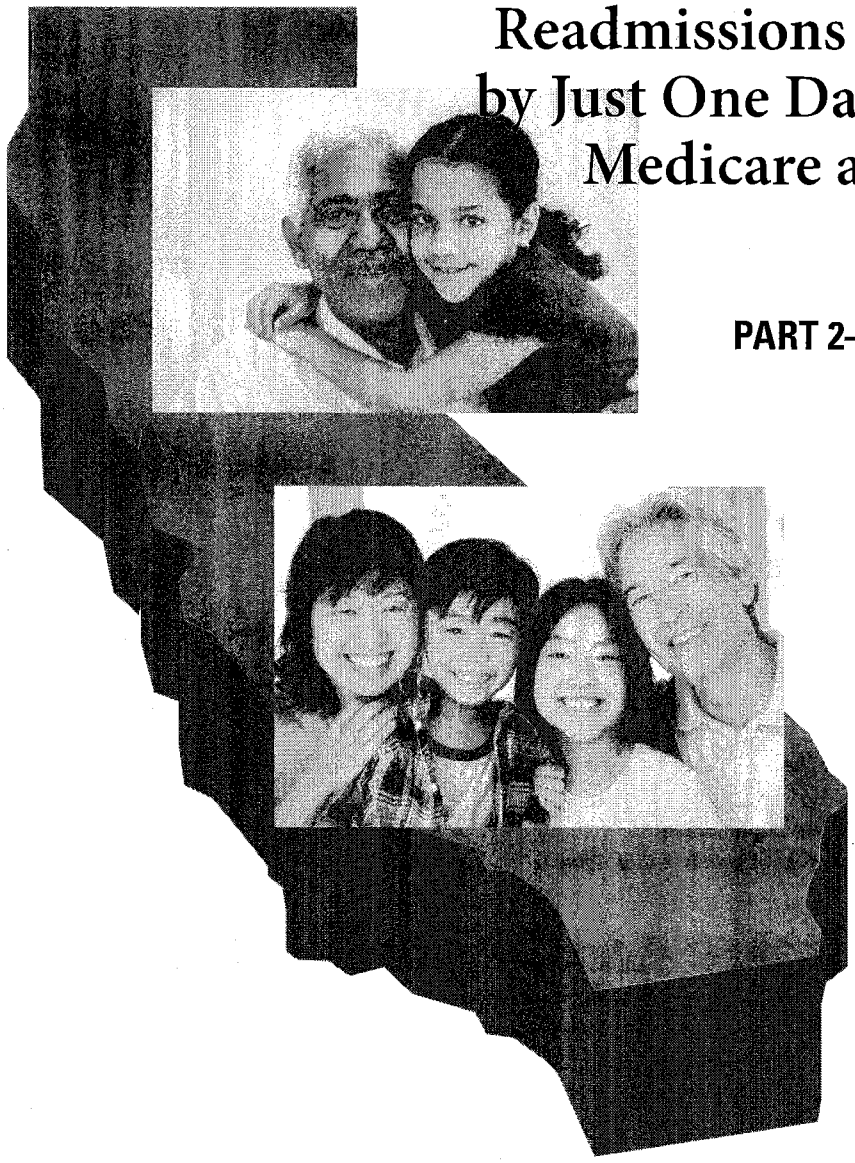
What a Difference a Day Makes

Cutting Avoidable Hospital Readmissions in California by Just One Day Could Save Medicare and Medi-Cal $227 Million

PART 2–What Must Be Done



California Discharge Planning Collaborative San Francisco, California, January 2011

File 110700
11/21/11 - Distributed in Committee

Cash-Out in California: A History of Help and Harm

An Analysis of California's Food Stamp "Cash-Out" Policy for Recipients of SSI/SSP

CALIFORNIA FOOD POLICY ADVOCATES

APPENDIX C: THE HISTORY OF CASH-OUT IN CALIFORNIA

The long and extremely complicated history of California's cash-out policy started in 1972, when SSI was created as a federal cash assistance program for low-income elderly, disabled and blind people under Public Law 92-603.

Prior to the creation of a federal SSI program, states operated means-tested assistance programs for low-income elderly, blind and disabled people. These programs, which were operated by states but subsidized by the federal government, were established by the Social Security Act of 1935. Each state was responsible for setting its own standards for determining who would get assistance and how much they would receive. By the early 1960s, this system drew criticism for its "crazy-quilt" method of different eligibility requirements and payment levels in different states.[25]

The federal SSI program became operative in January 1974, with a monthly federal payment of $140 for a single individual. Under P.L. 92-603, the federal government encouraged states to supplement this federal payment with a state-funded grant, or State Supplementary Payment (SSP). Given the possibility of duplication between the assistance provided through SSI/SSP and that of the Food Stamp Program, Congress took steps to prevent "overpayment" of benefits to SSI/SSP recipients.[26] P.L. 92-603 amended the Food Stamp Act to establish that no SSI/SSP recipient would be eligible for food stamps.[27]

As the implementation date of P.L. 92-603 approached, however, it became clear that the total SSI/SSP benefit amount in some states would be less than the amount that elderly, blind and disabled people had received under prior law. After the passage of P.L. 92-603 in 1972 but before its implementation in 1974, Congress took two steps to remedy this situation:

- First, Congress mandated that each state must provide an SSP high enough to prevent a decrease in recipients' base grant amount as a result of the transition from state to federal administration. (At the same time, states were not required to contribute more toward the cost of the SSP than they had contributed to their state-run programs for the aged, blind and disabled during 1972. This led to some federal supplementation of states' SSP. For more detailed information on this supplementation, please see Footnote 28.)

[25] Social Security Administration's 2003 Annual Report of the SSI Program, available at http://www.ssa.gov/OACT/SSIR/SSI03/ProgramDescription.html#wp2341

[26] California Legislative Council for Older Americans v. Harris (U.S. District Court 1981).

[27] Public Law 92-603, Section 411.

- Second, Congress passed Public Law 93-233[28] to allow states to maintain food stamp ineligibility for SSI/SSP recipients under the new SSI/SSP program if their state supplementary payment had been specifically increased to include the "bonus value" [29] of food stamps. The increase in the SSP, called "cash-out", was based on the likely amount of food stamps for which SSI/SSP recipients would be eligible. In California, that amount was $10.

  At that time, $10 in cash benefits was a fair substitute for the amount of food stamp benefits for which the SSI/SSP recipient would have been eligible. Through cash-out, SSI/SSP recipients received cash in lieu of food stamps without burdensome food stamp application and verification requirements. Cash-out allowed California to avoid the cost of administering food stamps to its SSI/SSP population.

  Because California increased its SSP by $10 to include the "bonus value" of food stamps, the state retained food stamp ineligibility for SSI/SSP recipients when the SSI/SSP went into effect in 1974. Wisconsin, New York, Massachusetts and Nevada were the other states that opted for cash-out.[30]

Changes in Cash-Out Criteria

By 1976, a federal cost-of-living increase in the SSI portion of the grant meant that California no longer met the criteria for cash-out.[31] Nevada and New York also lost

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[28] Prior to the passage of P.L. 93-233, Public Law 93-86 was passed in 1973. According to House Report 95-1516, this law stated that food stamp eligibility for SSI recipients would be retained if the recipient failed to receive cash benefits commensurate with the total of the cash grant plus the food stamp bonus for which he or she would have been eligible in December 1973. This policy was soon replaced by P.L. 93-233 because states believed the policy under P.L. 93-86 would be extremely difficult and costly to administer.

[29] Public Law 92-603, Section 401. Until 1977, food stamp recipients paid for their food stamps; the face value of the food stamps was higher than the cash amount they paid. The difference between this cash payment and the face value of food stamps was considered the "bonus value". In 1977, the purchase requirement was removed.

[30] House Report 95-1516.

[31] House Report 94-1310. According to House Report 95-1516, states were not required to contribute more toward the cost of the SSP than they had contributed to their state-run programs for the aged, blind and disabled during 1972. In order to maintain this agreement and ensure that benefit levels did not drop, the federal government then paid the difference between the cost of the new supplementary payment and what the state had spent in 1972. The amount each state paid was referred to as its "adjusted payment level", while the federal share of state supplementation was referred to as a federal "hold harmless" payment. As an incentive for states to increase their SSP to include the value of food stamps, they were permitted to include the value of food stamps in their "adjusted payment level." Under P.L. 93-233, states with cash-out could maintain their cash-out status as long as the federal government was contributing to the cost of the SSP through the "hold harmless" provision of P.L. 92-603. When the federal government increased the SSI benefit level in 1976, California was no longer eligible for "hold harmless" payments, and as a result, faced the loss of its cash-out status.

their cash-out privileges in 1976, but they chose to restore food stamp eligibility to SSI/SSP recipients.

Because California wanted to retain its cash-out privileges, it asked Congress to establish new criteria for cash-out. In making its arguments to Congress, California estimated that only one third of SSI recipients would obtain food stamps if made eligible to participate.[32] They predicted that administrative costs would be high compared to the federal benefits issued: $66 million to administer $24 million in food stamp benefits.[33] This claim, while clearly inflated, convinced Congress to pass Public Law 94-379[34].

This new law amended P.L. 93-233 to base California's cash-out status on two key conditions. To keep cash-out, California is required to:

- Pass through federal cost-of-living adjustments[35] to the SSI grant[36] *and,*
- Add cost-of-living adjustments to its state supplement in an amount based on AB 134, the state law in effect on June 1, 1976.[37]

Although federal law does not require states to apply an annual cost-of-living adjustment to the SSP, the state law in effect on June 1, 1976[38] does provide a cost-of-living calculation for SSP grant amounts. *This new cash-out criteria linked cash-out privileges to state cost-of-living increases that would help to retain the real value of the SSP.*

A Lawsuit Against Cash-Out

With the exception of 1975, California raised its SSP each year between 1974 and 1980. As a result, the real value of the SSP kept pace with inflation, which meant that SSI/SSP recipients, on average, were not losing purchasing power or being harmed by their inability to receive food stamps. In 1981, however, California cut the SSP from $182 to $174.

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[32] National statistics have generally shown a 30 percent food stamp participation rate among seniors. According to a recent study by USDA, however, nearly all SSI/SSP recipients participate when they are eligible. *Trends in Food Stamp Participation Rates, 1994-1999*, U.S. Department of Agriculture, October 2001.
[33] Congressional Record, July 29, 1976, pp. 24386.
[34] Public Law 94-379, 90 Stat. 1111.
[35] To ensure that SSI benefits would maintain their value along with the rising cost of living, Congress passed P.L. 93-638 in 1975. This law added an annual cost-of-living adjustment (COLA) to the SSI payment based on the Consumer Price Index. The first COLA was provided in July 1976. While this law provided an important protection against inflation in the SSI grant, P.L. 93-638 did not establish a similar requirement that state supplementary payments be adjusted annually for inflation.
[36] House Report 94-1310.
[37] P.L. 94-379, § (1)(3)
[38] A.B. 134, Cal. Stats. 1973, ch. 1216 § 37.

Prior to the July 1, 1981 implementation of this SSP cut, advocates filed a lawsuit[39] that sought to restore SSI/SSP recipients' food stamp eligibility. The plaintiffs argued that by cutting the SSP in 1981, California had not maintained the SSP cost-of-living adjustments required by AB 134, the law in effect on June 1, 1976. The plaintiffs then argued that the SSP cut violated P.L. 94-379, which linked California's cash-out privileges to the maintenance of AB 134's cost-of-living adjustments. In its defense, the state argued that the intent of P.L. 94-379 was that the absolute dollar amount of the SSP grant could not drop below the level in effect on June 1, 1976.

The court found that California was in violation of P.L. 94-379. But instead of requiring the state to restore SSI/SSP recipients' food stamp eligibility, it gave the state a choice of either restoring food stamp eligibility for SSI recipients *or* adjusting the SSP to reflect the real value of the benefit in 1976. This judgment was issued on July 24, 1981, and was retroactive to January 1, 1981.

Just before this ruling was implemented, Congress passed P.L. 97-18 and P.L. 97-35[40]. These laws amended P.L. 94-379 to allow California to continue cash-out without adhering to the court's conclusion that the state must either restore food stamp eligibility or retain the real value of the SSP benefit over time.

In seeking this legislation, California once again emphasized high administrative costs for providing food stamp benefits to its SSI/SSP population. California Senator Hayakawa reported to Congress that it would cost approximately $80 million to administer just $30 million in benefits.[41]

P.L. 97-18 and P.L. 97-35 enabled the Secretary of Agriculture to find that California's SSP included the value of food stamps if, in December 1980, the SSP was increased to include the value of food stamps *and* if the state continued to pass through the federal COLA.

An additional complication in interpreting these requirements is the changing nature of the rules for passing through federal COLAs. Congress modified its federal COLA pass-through requirements with Public Law 94-485 in 1976 and Public Law 98-21 in 1983. States are considered to be in compliance with federal pass-through requirements if they either maintain their aggregate expenditures for state payments over time *or* maintain the individual supplementary payment at the March 1983 levels. To ensure compliance, Congress required states to meet these pass-through requirements or lose their eligibility for Medicaid reimbursements.[42] In times of expanding SSI caseloads,

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[39] California Legislative Council for Older Americans (CALCOA) v. Harris (U.S. District Court 1981).
[40] The criteria for maintaining cash-out is the same in the two bills. P.L. 97-18 was an emergency measure which authorized the continuation of cash-out through August 1981, while P.L. 97-35 made the authorization permanent.
[41] Congressional Record, June 25, 1981, pp. 14043.
[42] Elsa Orley Ponce, "State Optional Supplementation of SSI Payments, 1974-95," Social Security Bulletin, 59, No. 1 (Spring 1996), p.53.

states gain a fiscal advantage by using the total expenditure method; they are allowed to spend a constant pool of supplemental funds on an increasing number of participants, reducing the supplementary payment given to each participant. In times of declining caseloads, they are allowed to revert to the supplementary payment level in place as of March 1983, which could decrease total state expenditures. California currently uses the individual payment method of satisfying federal pass-through requirements.

Because California did increase its SSP in 1980, P.L. 97-35 effectively establishes that California may continue cash-out as long as it maintains an individual supplement payment level of at least $156, the amount it provided to low-income elderly and disabled people as of March 1983, *or* maintains a total expenditure on its SSP program[43] equivalent to the amount it spent on the SSP in 1983.

State Legislation to End Cash-Out

In 1992, California's Department of Social Services (CDSS) requested a set of waivers from USDA's Food and Nutrition Service that would allow California to operate a demonstration project to end cash-out for all SSI/SSP recipients and implement an automated food stamp enrollment system.[44] Some of these waivers were not granted—for a number of reasons—and as a result, California did not end its cash-out policy.

Most notably, USDA rejected California's proposal to treat all SSI/SSP recipients as separate households for eligibility and benefit determination purposes, even if they purchased food together with other, non-SSI/SSP household members. Their concern was that SSI/SSP recipients in "mixed-status" households would receive benefits that did not reflect their actual need for food assistance.

Shortly after the waivers were rejected, California passed Senate Bill 485, which reduced the SSP grant by $10 for "pure" SSI households—i.e., households in which all of the members receive SSI/SSP—and directed the Department of Social Services to seek a targeted end to cash-out for these "pure" SSI/SSP households. SB 485 also required a centralized food stamp application processing system so that counties would not be overwhelmed by having to administer food stamps to newly eligible SSI/SSP recipients. Under this system, CDSS would mail a partially completed, simplified food stamp application to all eligible SSI/SSP recipients. The applicant would complete and sign the form, then return it to CDSS where it would be processed centrally. If an SSI/SSP recipient moved from a "pure" to a "mixed" household, they would become ineligible for food stamps and their SSP grant would increase by $10.

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[43] Federal law also permits California to reduce its total SSP expenditures to its total SSP expenditure level during 1983, which could result in an SSP of even less than $156. California chooses each year to use the individual payment method of meeting federal pass-through requirements, but this is not required.
[44] California Welfare and Institutions Code §12200.5.

After the passage of SB 485, CDSS submitted to USDA a request to end cash-out for "pure" SSI households and allow them to receive food stamps through a centrally administered, automatic enrollment system. In its response to this request, USDA noted that it had "consulted with the Social Security Administration...it is our joint position that we cannot legally split the SSI population in one State into cash-out and food stamp status. Therefore, your request is denied." The letter goes on to cite Section 6(g) of the Food Stamp Act, "which provides that no individual receiving SSI or State Supplementary Payments residing in a State which provides SSI supplemental benefits that include the bonus value of food stamps shall be eligible to participate in the Food Stamp Program."[45]

Under this argument, because "mixed-status" households would continue to receive the "bonus value" of food stamps as determined in 1980, California cannot provide food stamps to any SSI/SSP recipient. As a result, California did not implement the end to cash-out—but it did cut the SSP grant from $223 to $186 in 1993.

California's Current Cash-Out Status

The Legislature's 1992 effort to end cash-out while reducing the SSP grant by $10 reflects the long-standing belief that the SSP continues to include $10 in lieu of food stamps. Many advocates and administrators continue to describe California's cash-out policy by saying that SSI/SSP recipients get $10 cash in place of food stamps.

While it is clear that USDA predicated California's cash-out status in 1974 on an increase of $10 in the SSP, it is no longer accurate to describe cash-out as a trade of food stamp eligibility for $10 in cash, for two important reasons:

- ***First, California's cash-out privileges are currently based on the state's obligation to pass through cost-of-living adjustments to the federal SSI benefit, not the inclusion of an "extra" $10 in the SSP.***

  Because California raised its SSP in 1980 in accordance with P.L. 97-35, California may now continue cash-out as long as it maintains an individual supplement payment level of at least $156, the amount it provided to low-income elderly and disabled people as of March 1983, *or* a total expenditure on its SSP program[46] equivalent to the amount spent on the SSP in 1983. This policy (which is based on the federal pass-through requirements described on page 24) effectively ties the state's cash-out privileges to its payment of a minimum SSP of $156, not the inclusion of a $10 food stamp-related supplement.

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[45] Letter from Phyllis R. Gault, Acting Administrator of USDA's Food and Consumer Services, to Eloise Anderson, Director of California Department of Social Services, November 9, 1992.

[46] Federal law also permits California to reduce its total SSP expenditures to its total SSP expenditure level during 1983, which could result in an SSP of even less than $156. California chooses each year to use the individual payment method of meeting federal pass-through requirements, but this is not required.

- ***Second, California's SSP does not include a discrete $10 earmarked for the replacement of food stamps or the purchase of food.***

  Although California's SSP did increase by $10 in the early 1970s as part of the initial implementation of cash-out, state law does not require the provision of a $10 amount in lieu of food stamps. Because state law doesn't earmark this amount for food purchases in lieu of food stamps, there is no longer a $10 amount for food separate from the rest of the SSP. And because it is not a discrete amount, the $10 originally included in California's "adjusted payment level" in 1974 is subject to the same cost-of-living adjustments and loss of value due to inflation as the rest of the SSP.

  As discussed in Appendix G, the federal SSI grant has kept pace with inflation while the SSP has lost 45 percent of its real value since 1974. Although California's SSP is higher than the SSP of all but one other state, California's SSI/SSP recipients are now living much closer to the federal poverty line than they were when the program began. In 1980, for example, an SSI/SSP grant put a recipient's income at 128 percent of the federal poverty line. In 2002, an SSI/SSP grant put a recipient's income at 102 percent of the federal poverty line. Given the Food Stamp Program's sliding-scale approach to awarding benefits, SSI/SSP recipients, on average, would be eligible for more food stamp benefits today than they were in 1974.

In more recent years, some decision makers have attempted to close California's sizable budget deficit by suspending cost-of-living adjustments or making direct cuts to the SSP grant. In 2003, for example, Governor Gray Davis proposed cutting state supplementary payments down to $156 – the minimum amount needed to meet federal pass-through requirements and preserve cash-out. While the final 2003-04 budget did not enact this cut, it did suspend mid-year COLAs for SSI/SSP, leaving the 2003 state supplement at $205.