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**Educating Elder Justice Professionals About Long Term Services
and Supports (LTSS)
An Action Plan**

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Educating Elder Justice Professionals About Long Term Services and Supports (LTSS): Action Plan

California Elder Justice Coalition (CEJC)

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Background

In recent years, elder justice (EJ) researchers, advocates, and service providers have increasingly acknowledged the critical importance of a robust Long Term Services and Support (LTSS) system in preventing elder abuse, neglect, self-neglect, and exploitation (Acierno, et al, 2010; California Elder Justice Workgroup, 2011). Ensuring that vulnerable older adults have access to LTSS services was included among the core strategies for preventing abuse identified by delegates to the California Elder Justice Summit¹ on April 29, 2010. Summit delegates further acknowledged that ensuring LTSS consumers' safety, security, and rights requires special protective measures, which include assessing risk during routine client assessments, training LTSS program personnel to recognize and respond appropriately when they observe or suspect abuse, and ensuring that consumers, their families, and their advocates have access to protective and legal services if problem arise. Following the 2010 summit, CEJC produced *Improving California's Response to Elder Abuse, Neglect, and Exploitation: A Blueprint*, which offers initial plans for safeguarding the LTSS system (referred to as the "long term care" system in the Blueprint). The document was released in 2011.

¹ The Elder Justice summit was hosted by the California Elder Justice Workgroup (now the California Elder Justice Coalition) with administrative support from the Center for Excellence in Elder Abuse at the University of California, Irvine and funding from the Archstone Foundation.

Subsequent developments posed new challenges to safeguarding California's LTSS system. As part of the 2012–13 budget for California, the Governor proposed the Care Coordination Initiative (CCI), which called for providing both medical care and LTSS to seniors and adults with disabilities under a managed care model. Under the initiative, public and private providers, selected by the state, will charge fixed rates for comprehensive medical and LTSS services. Two demonstration projects to test the approach are currently in progress. In one, Community Based Adult Services (formerly known as Adult Day Health Care Centers), In Home Support Services (IHSS), the Multipurpose Senior Services Program (a case management program for Medicaid beneficiaries), and care in nursing facilities will be provided under managed care plans in 8 counties, with plans to extend the program statewide. The other pilot project, called Cal Mediconnect, provides integrated health and LTSS services to Medicare and MediCal beneficiaries. In addition to these pilot projects, the state has expanded its MediCal program in 28 rural counties. Although these programs hold promise for creating a more seamless system of care, a wide range of implementation problems have arisen, ranging from ensuring proper oversight and rate development for managed care plans, to maintaining continuity of care for beneficiaries, to determining the level of program control granted to plans, to delays in implementation and enrollment.

CEJC has taken steps to understand how these changes are impacting elder justice programs and those they serve, and to educate EJ professionals about the new developments. Owing to the volume, complexity, and rapidity of information being generated about the new developments, as well as the scope and diversity of the EJ network, it was soon recognized that a more robust approach was needed to meet the information needs of EJ stakeholders. With sponsorship from The SCAN Foundation, CEJC initiated the *Educating Elder Justice Professionals About Long Term Services and Supports (LTSS) Project*.

About the Project

Major activities of the *Educating EJ Professionals About LTSS Project* included 1) convening a planning group of stakeholders from the EJ and LTSS networks to assess EJ professionals' specific information needs and oversee the project (see Attachment 1); 2) *The Intersection of Elder Justice and Long-Term Services and Supports* plenary panel at the *From Practice to Policy Elder Justice Policy Summit* on September 26, 2013; 3) *Elder Justice in the Age of Managed Care Webinar*; and 4) the production of this *Action Plan*.

The LTSS Planning Committee began meeting in late August, 2013 to begin identifying the specific information needs of EJ professionals and developing strategies for meeting them.

Among the concerns raised by the group were:

- To what extent are EJ providers aware of developments in LTSS? What sources of information are currently available to them? What additional questions and concerns do they have? What are the gaps?
- EJ providers are reporting that they are increasingly encountering questions and concerns about new developments from LTSS and EJ providers and clients. They need guidance in how to respond and channels for communicating concerns to those who can offer explanations or recourse.
- Are managed care providers aware of their duty to report abuse? Do they understand the rights of residents of long term care facilities and other consumer protections? Will they receive training in how to recognize and respond to elder abuse, neglect, exploitation, and self-neglect?
- How will plans respond if LTSS consumers are incapable of making informed decisions about their health care as a result of cognitive impairments? What will happen if do not have surrogates?
- How will safe transitions between acute and long term care facilities be assured?
- What new forms of fraud related to the launch of new programs are being observed?

Drawing from these discussions, the group planned *The Intersection of Elder Justice and Long-Term Services and Supports* plenary panel, which was presented at the *From Practice to Policy Elder Justice Policy Summit* on September 26, 2013. The summit was co-hosted by CEJC and the California Commission on Aging in partnership with the California Association of Area Agencies on Aging (C4A), the California County Welfare Directors Association (CWDA), and the California Long Term Care Ombudsman Association. The event was attended by 120 experts, opinion leaders, program developers, and policy makers from the LTSS and EJ networks. It provided an unprecedented opportunity to explore the interface between LTSS and EJ, identify unmet informational needs, and enlist the support of both networks in producing and disseminating information.

The panel consisted of a brief introduction to the current and coming changes to LTSS by Amber Cutler, staff attorney for the National Senior Citizens Law Center, who has provided training to hundreds of LTSS advocates across the state and country. The presentation was followed by a panel of responders who described how APS, Long Term Care Ombudsmen, public guardians, legal services providers, and other EJ advocates are being impacted. The panelists included Ellen Schmeding, who directs San Diego's Aging & Independence Services, Public Administrator, Public Guardian, Public Conservator, and Health & Human Services programs; Molly Davies, Vice President of Elder Abuse Prevention and Ombudsman Services at WISE & Healthy Aging in Los Angeles and President of the California Long-Term Care Ombudsman Association. Also included was Jack Hailey, of the Government Action and Communication Institute, who provides staff support to the California Collaborative for Long-Term Services and Supports CCLTSS, who described opportunities for EJ professionals to learn more about developments in LTSS, including CCLTSS and Regional Coalitions. Sandi Fitzpatrick, Executive Director of CCoA, moderated. A follow-up evaluation of the panel solicited summit delegates' perceptions and recommendations for meeting the ongoing information needs of EJ professionals and asked for delegates' commitments for meeting those needs.

Following the event, the LTSS Planning Committee met again to review audience members' responses and commitments. The group also planned the *Elder Justice in the*

Age of Managed Care, a 90-minute webinar that was conducted on December 11, 2013. It featured Amber Cutler, who provided an introduction to and update about LTSS with responders Molly Davies and Ellen Schmeding describing how EJ professionals were being impacted and offering insights into the informational needs of these groups. The session was hosted by Project Master at San Diego State University, with CEJC Steering Committee member Lori Delagrammatikas moderating. 120 stakeholders registered for the event (the number who participated cannot be determined) during which they were invited to offer comments and recommendations for the Action Plan.

Action Plan for Educating EJ professionals About LTSS

Issues of Concern

The project activities described above highlighted key areas of concern for EJ advocates that need to be addressed through education and training. They further identified information needed by LTSS providers and consumers to help them understand EJ services, resources, and interventions. The concerns and informational needs of all of these networks are addressed below in hopes of fostering greater understanding between the networks and enlist both networks' assistance in providing education to stakeholders that is consistent, comprehensive, and responsive to the needs of California's most vulnerable members. It is further recognized that some of these concerns cannot be addressed through education alone, but rather, will require explanation or interpretation by state leadership, and in some cases, advocacy to rectify systemic problems.

Meeting the informational needs of EJ professionals and their partners will require attention to the following overarching concerns:

- Managed Care Organizations (MCOs) participating in new programs have not historically provided Long Term Services and Supports (LTSS) and lack understanding of publicly funded programs. Although extensive efforts are in progress to help them understand CBAS, MSSP, IHSS, and other LTSS programs, they have received less information about EJ programs, including Adult Protective Services (APS), public guardians, courts, multidisciplinary teams, long term care ombudsmen, forensics centers, legal assistance programs, and consumer and patients' rights advocacy organizations.
- Uncertainties exist as to whether participating MCOs will reduce services, cut provider rates, or discontinue using those community based organizations that have traditionally provided services, choosing instead to contract with proprietary services.
- MCOs lack information about federal Medicaid benefits and protections, which has, in some instances, resulted in unsafe and illegal practices. EJ advocates are increasingly encountering these practices and need education and training to help them respond appropriately. For example, under federal Medicaid laws, nursing homes must hold beneficiaries' beds for seven days when beneficiaries are hospitalized. Lacking information about this "seven day bed hold" requirement, MCOs have failed to pay facilities during members' hospitalizations, resulting in residents' being refused readmission. In addition, once long-term care placements are deemed necessary for Medicaid beneficiaries, they are transitioned out of MCOs. However, this process can take one to two months. In some instances, MCOs have failed to pay facilities during these periods of transition, resulting in residents being discharged inappropriately. Instances in which residents were released into homeless shelters have been reported.

- Confidentiality issues. LTC Ombudsmen, APS, PGs and other providers of protective services are prohibited from sharing information about abuse with Managed Care Providers without client consent. In contrast, other LTSS service providers, including In-Home Supportive Services (IHSS) and Multipurpose Senior Service Program (MSSP), that have contractual agreements with MCOs, are permitted to share information. This may result in confusion by MCOs, particularly in counties in which a single public entity administers all of these programs. EJ professionals will need information and training to help them understand confidentiality restrictions in the new LTSS environment, so that they can provide information and guidance to all of the entities involved.
- Lack of clarity for determining LTSS consumers' capacity to give (or deny) consent to join MCOs, or to accept care, treatment, or placement in long term care facilities. EJ providers are increasingly being called upon to provide guidance in capacity assessments and determinations and need guidance and training in doing so as it pertains to the LTSS environment.
- Lack of guidance for surrogate decision makers in making decisions for LTSS consumers with respect to the above. EJ advocates need information and guidance in responding to the information needs of these groups.
- Little is known about the extent to which MCOs across the state have implemented policies, procedures, and practices for identifying elder abuse, neglect, exploitation, and self-neglect; making reports; and/or collaborating with EJ service providers. EJ professionals need instruction, guidance, and resources to help them meet the demand for information and training.
- Advocates for Long Term Care Residents are encountering situations that require new skills, strategies, and relationships. For example, they are increasingly being called upon to advocate on behalf of residents for patient-centered care in Skilled Nursing Facilities (SNF's), to ensure continuity care and safe discharges, and to avoid evictions during gaps in coverage.

- State Health Insurance and Assistance Programs (SHIPS), which are funded by the federal government to assist Medicare beneficiaries understand their Medicare benefits, are unfamiliar with federal Medicaid benefits, protections, and requirements. As a result, they have been referring beneficiaries to the Department of Health Care Services (DHCS) or EJ programs, including LTC Ombudsmen and California Advocates for Nursing Home Reform (CANHR). Coordination among these entities is needed to ensure a consistent and coordinated response.
- EJ advocates have reported that that DHCS Ombudsman, which was established to respond to LTSS problems, has been unresponsive to callers. The wait time, even for voicemail responses, is long and consumers frequently report they are not called back.
- EJ advocates have received reports of inconsistencies on the part of CBAS programs and other community based programs in client eligibility determinations.
- Transitions to managed care plans have created new opportunities for fraud. Fraudsters have attempted to sell fraudulent plans, provided misinformation (e.g. telling consumers that they won't be affected by the CCI if they sign up for plans now or that they will be penalized for failure to buy plans even if they have adequate insurance (e.g., Medicare). EJ professionals need information about these risk so that they can provide guidance and recourse to clients.

Information Needed

Responding to these concerns will require information and training to both the EJ and LTSS networks. Customized information and training will further be needed to meet the needs of specific stakeholder groups:

- EJ advocates and managed care providers need general information about the following:
 - Information to help them understand each other's programs, including their benefits and limitations, eligibility criteria, operations, chains of command,

grievance procedures, patient assessment procedures, and resources and mechanisms for staff training.

- Protocols for working together closely in interventions for high-risk and difficult clients. First responders, in particular (LTC Ombudsmen, APS, and law enforcement), need responsive points of contact within MCOs to ensure a timely response to abuse reports to ensure client safety and security.
- Opportunities to work together in care planning (e.g. multidisciplinary teams).
- Ongoing, timely, and streamlined information to help them understand developments in LTSS and CCI implementation.
- Customized training is needed to meet the special needs of specific groups, including the following:
 - APS workers need:
 - Information and training to help them determine who is responsible for overseeing care in the managed care environment and clear up jurisdiction issues and confusion (e.g. is APS or managed care plans responsible for coordinating home care?)
 - LTC Ombudsmen need:
 - Guidance, assistance, and opportunities to develop relationships with SHIPs, HICAPs, healthcare ombudsmen, and HMOs.
 - New strategies for educating HMOs about protections for Medicaid residents, requirements to pay SNFs during hospitalizations and transitions from Medicare, etc.
 - Information and training about what facilities are/will be part of the new CCI network and how they operate and coordinate ‘resident-centered’ care
 - Resources to provide information about the new providers and systems
 - Legal services providers need:
 - Information and guidance to help them advocate effectively on behalf of seniors & disabled adults for adequate LTSS (including IHSS) with MCOs.
 - Managed care personnel need:

- Ongoing, timely, and streamlined information and training to help them understand mandatory reporting requirements, confidentiality with respect to when APS and LTC Ombudsmen can and cannot share information, and “resident centered care” in facilities. They need further training in how to identify abuse, neglect, and exploitation; high risk situations; and how to respond appropriately.

Recommendations

CEJC will work with its members and partners (including CCoA, C4A, CWDA, the Ombudsman Association, CCLTSS, and Regional Coalitions) at the local, state and national levels to educate EJ professionals, their partners, and other stakeholders about LTSS. In addition, it will work with LTSS advocates to promote information sharing and collaboration at the state level to ensure that the information needs of all stakeholders are met on an ongoing basis as new needs and developments arise, and, toward that end, participate on the CCLTSS Communications Workgroup. CEJC will further advocate for protections and safeguards to be included in LTSS. Examples include the use of risk indicators in LTSS programs’ assessment and screening tools, training to workers, interagency agreements among state entities overseeing EJ and LTSS, and the production and distribution of resource directories and best practice guidelines that can be used by health plans, state and county officials, public authorities, and others.

Participants in project activities made the following recommendations for actions that EJ and LTSS advocates and professionals, as well as managed care providers, can take at the local and state levels to ensure that stakeholders have the the information they need to provide high quality care to LTSS consumers.

- Actions that can be taken at the local level by EJ advocates, including APS, Ombudsmen, law enforcement, forensics center personnel, legal professionals, and others can take:

- Educate themselves about developments in LTSS by reading materials on www.calduals.org, and other information produced by the National Senior Citizens Law Center website, CEJC, and others.
- Help develop materials on LTSS for their clients using materials developed by the National Senior Citizens Law Center, Harbage Consulting, the SCAN Foundation, and others.
- Conduct webinars/training for staff to help them understand the anticipated changes. When available, participate in webinars and trainings offered by others and encourage trainers to incorporate EJ concerns and resources.
- Develop materials, and webinars and training for staff so they understand the anticipated changes.
- Promote the development of new partnerships to ensure coordination and information sharing through the following:
 - Assist in the development of local stakeholder and advisory groups. CEJC will assist them to do so by identifying opportunities for EJ professionals to participate in local LTSS stakeholder groups, including Regional Coalitions, and providing them with the information they need to provide meaningful input.
 - Promote understanding among LTSS and EJ advocates and professionals about their services, including their eligibility requirements, operations, service delivery and coordination procedures, what they can (and cannot) provide for consumers and other service providers.
 - Collaborate with HICAP programs in their areas to learn their role in educating clients.
 - Meet regularly with health plans to develop relationships. Offering to train MCO staff on elder/dependent adult abuse can provide entre' into the managed care environment.
 - Invite managed care providers to meet with their organizations' staff and other stakeholder groups.

- Assist in developing outreach plans to inform clients and caregivers about new services in their communities. This includes leveraging existing partnerships to get the word out.
- Advocate on behalf of LTSS clients:
 - Encourage MCOs in their communities to provide “plan option services” (services above and beyond what they are required to offer), including home modification, home delivered meal, grab bars, that promote client safety and reduce vulnerability.
 - Encourage allied partners to strengthen or implement service coordination and anti-fraud plans.
 - Advocate for anti-fraud assurances in all plans, MOUs as appropriate, and contracts with health plans and providers.
- Work hard to be a part of the success!
- At the state level, elder justice advocacy organizations and individual advocates can:
 - Offer their assistance in developing universal assessment tools (that include measures of risk), screening procedures, training to workers, interagency agreements, and resource inventories to health plans, state and county officials, Public Authorities.
- Urge state entities that oversee LTSS to:
 - Develop uniform risk assessment tools (or incorporate risk assessment measures into existing tools) that reflect current understanding of vulnerability to elder abuse, neglect, exploitation, and legal standards of decision-making capacity and consent;
 - Provide information and referral resources for reducing vulnerability, including referrals for legal assistance in drafting “safe” advance directives, counseling or mediation to address conflicts related to caregiving, etc.;
 - Clarify the steps that APS, Ombudsman, law enforcement and others can take to discharge abusive IHSS workers whose clients are incapable of doing so as a result of incapacity, coercion, or undue influence; and prevent them from

securing employment with others. Criteria and procedures should also be developed to override clients' choices when failure to do so poses an unacceptable risk to the person, to others, or to the integrity of the LTSS system.

- Develop information systems to “red flag” abusers (those whose abusive actions have been substantiated by protective service, oversight, or law enforcement entities) and prevent them from gaining employment that endangers others.
- Provide information on training for LTSS consumers and providers on best practices for screening direct care providers.
- Demonstrate accountability.
- Evaluate and measure performance, including consumer-centered service delivery and organizational “readiness.”

CEJC and its partners can further encourage MCOs to take the following steps:

- ⑩ Implement procedures for screening LTSS consumers and providers that reflects current understanding of risk factors associated with elder and dependent adult abuse, self-neglect, and cognitive and decision-making capacity;
- ⑩ Develop protocols for reporting elder and dependent adult abuse and neglect that include provisions for data sharing and care coordination;
- ⑩ Initiate or participate in partnerships and linkages with elder justice agencies, including APS, Ombudsmen, elder abuse prevention multidisciplinary teams and forensics centers, mental health service providers, discharge planners;
- ⑩ Develop inventories of local elder justice resources;
- ⑩ Provide training to personnel; and
- ⑩ Highlight and clarify consumer protections and rights in all communications, MOUs, standards, and policies.

Next Steps

CEJC will take the following steps toward to implementing the Action Plan.

- Post the *Action Plan* on CEJC's website and publicize its availability through *News & Updates*, reports by CEJC Steering Committee members to their networks and professional associations, and email alerts and listserves. CEJC Steering Committee members are also frequent presenters at professional conferences and events and will use these opportunities to publicize the Action Plan. CEJC will further work with The SCAN Foundation, Community Partners, and its partners to explore other channels and formats for publicizing its availability.
- Continue to convene, and expand, the EJ/LTSS Planning Committee to oversee implementation of the Action Plan and continue to explore and respond to new informational needs.
- Follow up with summit delegates and webinar participants about progress toward meeting their commitments and offer assistance as needed.
- Begin seeking funding to implement recommendations contained in the plan, including support for a part time staff person to assist with CEJC membership recruitment, participate in LTSS forums, provide LTSS content for News & Updates, CEJC's website and other media, and provide support for the EJ/LTSS Committee and other activities.
- Continue to expand CEJC membership to ensure ongoing communication and coordination with and beyond the EJ and LTSS networks and provide opportunities for information exchange and collaboration.

References

- Acierno, R., Hernandez, M. A., Amstadter, A. B., Resnick, H. S., Steve, K., Muzzy, W., & Kilpatrick, D. G. (2010). Prevalence and correlates of emotional, physical, sexual, and financial abuse and potential neglect in the United States: The National Elder Mistreatment Study. *American Journal of Public Health, 100*(2), 292-297.
- California Elder Justice Workgroup. (2011). Improving California's response to elder abuse, neglect, and exploitation: A blueprint. Available from <http://elderjusticecal.org/blueprint.php>.

Attachment 1 LTSS Planning Committee

- Lisa Nerenberg, CEJC Chair
- Terri Restelli-Deits, CEJC Steering Committee member
- Cynthia Benzler, Director of CastleKeep (a Regional Coalition)
- Amber Cutler, National Senior Citizens Law Center
- Ellen Schmeding, Director of Aging & Independence Services/Public Administrator, Public Guardian, Public Conservator, Aging & Independence Services, Health & Human Services, San Diego County
- Molly Davies, Vice President of Elder Abuse Prevention and Ombudsman Services at WISE & Healthy Aging and President of the California Long-Term Care Ombudsman Association.