

# Assembly Bill AB 1518 (Assembly Committee on Aging and Long-Term Care)

## Nursing Facility and Acute Hospital (NF/AH) Waiver Modernization Act of 2015

### SUMMARY

The "Nursing Facility/Acute Hospital" (NF/AH) Waiver is supposed to offer real choice for Californians who need long term services and supports. It pays for home and community-based services as an alternative to placement in nursing facilities or other institutions. However the NF/AH waiver does not provide real choice for many people who qualify for it now, and it will not keep up with the increasing demands from the growing population of seniors. AB 1518 updates the NF/AH Waiver to assure:

1. That people who need long term services and supports have a real choice about whether to receive those services in their own homes or go to a nursing facility or other institution; and,
2. That young people with disabilities who need a significant amount of care to stay home and avoid institutions, do not lose that care when they turn 21 and age out of EPSDT (Early Periodic Screening Diagnosis and Treatment) and into adult Medi-Cal services.

### FIVE PROBLEMS AND HOW AB 1518 FIXES THEM

1. **Too few waiver slots:** The waiver has only 3,600 "slots," (each individual occupies one "slot") a number completely unrelated to the number of people who are capable of community life instead of institutional life. People at home who qualify for the waiver wait two years for services.  
**Fix:** Add 5,000 "slots," with further additions based on need.
  2. **Individual cost cap:** Federal law requires that the overall cost to serve all the people on the Waiver does not exceed the cost of serving that population in institutions. California has an individual cost cap. Some individuals' needs exceed the individual cost cap; but many individuals are served well below the cost cap. Instead of using those savings to offset costs for people who need more, the state denies needed services to them and scores savings to the General Fund
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**Fix:** Use an aggregate cost cap, as is done in the Developmental Disabilities (DD) waiver that serves more than 100,000 clients.

- 3. Outdated "cost caps":** The cost caps are biased in favor of institutional care, which prevents some people from receiving needed Waiver services. For instance: the state pays about \$72,000 a year for a nursing home bed, but allows only \$48,000 for comparable services in the consumer's home. The state pays \$151,821 for a NF-Distinct Part bed, but only \$77,600 for that care in the community.

**Fix:** Base the aggregate cost cap on comparable institutional rates.

- 4. Slow waiver approval process:** The Waiver approval process takes so long that people who could go home are sent to nursing homes or other institutions from hospitals.

**Fix:** Establish an expedited waiver approval process for people in danger of going to institutions.

- 5. The dangerous: EPSDT "cliff":** Because of different rules and rates for EPSDT and NF/AH Waiver services, many young people with significant disabilities and high care needs lose half or more of their services when they turn 21 and switch from EPSDT to the NF/AH Waiver. This endangers their health and may force them into an institution even though they have a family that wants to keep them at home.

**Fix:** Ensure that young people continue to get the services they need when they turn 21.

## **NEED FOR BILL**

In 1999, the United States Supreme Court, in the decision known as "Olmstead", affirmed that unnecessary institutionalization of people with disabilities violates their civil rights under the Americans with Disabilities Act. Sixteen years later, California's NF/AH Waiver is still heavily biased towards institutional care. Disability Rights California (DRC), the bill sponsor, has seen the great harm, stress and risk the current policy has caused. It is time for California to comply with federal law and the wishes of California residents, who overwhelmingly prefer to stay at home and avoid institutions.

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