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Approved as to Form and Legality

DRAFT
Oakland City Attorney's Office

OAKLAND CITY COUNCIL

Resolution No. _____ C.M.S.

RESOLUTION DECLARING THE CITY OF OAKLAND'S OPPOSITION TO GOVERNOR JERRY BROWN'S PROPOSAL TO ELIMINATE THE MEDI-CAL ADULT DAY HEALTH CARE PROGRAM FROM THE STATE BUDGET AND URGING THE GOVERNOR AND STATE LEGISLATURE TO MAINTAIN FUNDING OF THE ADULT DAY HEALTH CARE PROGRAM

WHEREAS, California has long been a leader in providing innovative solutions for the state's elderly and disabled populations; and

WHEREAS, the Medi-Cal Adult Day Health Care (ADHC) program was established in 1974 to address the care needs of the elderly and disabled populations by preventing institutionalized care, and now serves 37,000 low-income vulnerable elderly or disabled adults in California, 700 of them in Oakland; and

WHEREAS, Gov. Brown's proposed Fiscal Year 2011-2012 State budget completely eliminates the Adult Day Health Care (ADHC) program. Over the last two years, Gov. Schwarzenegger also proposed elimination of the ADHC program and in both years the Legislature wisely rejected the idea as unacceptable because of the severe cost shift to the state's taxpayers and its cost in human suffering; and

WHEREAS, Should ADHC be eliminated, the 310 adult day health centers that operate in California would be forced to discharge patients and close their doors because low-income beneficiaries would be unable to pay out-of-pocket expenses; and ADHC centers serving Oakland including LifeLong Medical Care, Family Bridges, West Oakland Health Center, and Alzheimer's Services of the East Bay would be unable to replace the lost Medi-Cal revenue with a sufficient number of private pay patients, and Medicare and health insurance do not pay for long-term care benefits such as ADHC; and

WHEREAS, There is no medically-based long-term care service comparable to ADHC except for nursing homes; and

WHEREAS, According to a May 2010 report by The Lewin Group, elimination of ADHC would cost the State \$51 million more than it saves because of cost-shifting away from adult day health centers, which are small businesses, to other more expensive settings; loss of tax revenue resulting from the closure of 310 small businesses; and loss of worker employment and income taxes due to caregivers having to quit their jobs or reduce their work hours; and

WHEREAS, The loss would continue into future budget years because the State would forfeit \$177 million annually in federal matching funds as a result of a federal court ruling in 2010 that the State is responsible for the care of these ADHC patients and also for the provision of alternative services to institutional care. In court briefs, the State has claimed it does not bear responsibility for assisting displaced frail elders, mentally ill or disabled adults with finding other services, even though it has approved their level of need for ADHC; and

WHEREAS, The same public interest senior law groups that won a temporary injunction for ADHC patients in 2010 would most likely litigate to protect the health and well-being of these patients should the benefit be eliminated, under the Americans with Disabilities Act (ADA) and the U.S. Supreme Court *Olmstead v. L.C.* decision, which requires that states make reasonable program and policy modifications to prevent unnecessary institutionalization; and

WHEREAS, Restarting these programs, should funding be restored at a future date, would be prohibitive because of significant bureaucratic and regulatory barriers and unreimbursed costly start-up expenses estimated to be \$1 million per site. By contrast, the Legislature invested \$3.4 million in “start-up” grants to encourage the opening of ADHC centers; and

WHEREAS, ADHC provides a cost-effective solution among the health care reforms that the State is launching, as proven by the Program of All-Inclusive Care for the Elderly managed care model and its use of ADHC as a care service; and

WHEREAS, The ADHC model of multi-disciplinary team care is widely regarded as the solution to managing chronic conditions and rising health care costs. Cutting ADHC will result in unintended and irreversible consequences for seniors, families, workers, businesses and the state as a whole; and

WHEREAS, The State’s share of the cost for ADHC is \$38 per day per client compared to its share for a skilled nursing facility, which is \$150-\$200 per day per client. Elimination of ADHC will not save money but cause further deficits as frail seniors and disabled would frequent emergency rooms, be admitted to hospitals and ultimately end up in nursing homes; Now therefore be it

RESOLVED: That the City Council of the City of Oakland declares its opposition to the Governor’s proposal to eliminate the Medi-Cal Adult Day Health Care program; and be it

FURTHER RESOLVED: That the City Council directs the City Administrator to assure that the City’s State lobbyist advocates against the Governor’s proposal to eliminate the Adult Day Health Care program; and be it

FURTHER RESOLVED: That the City Council directs the City Clerk to send a copy of this Resolution to the members of the California State Legislature and the Governor.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2011

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, BRUNNER, DE LA FUENTE, KAPLAN; KERNIGHAN, NADEL AND SCHAFF AND PRESIDENT REID

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California