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Intersection of Elder Justice and Long-Term Services and Supports

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The National Senior Citizens Law Center is a non-profit organization whose principal mission is to protect the rights of low-income older adults. Through advocacy, litigation, and the education and counseling of local advocates, we seek to ensure the health and economic security of those with limited income and resources, and access to the courts for all. For more information, visit our Web site at www.NSCLC.org.

Today's Discussion

Olmstead

LTSS Programs

LTSS and
Managed care

Olmstead v. L.C., 527 U.S. 581 (1999)

- Americans with Disabilities Act of 1990
 - Prohibits the isolation and segregation of individuals with disabilities.
 - Regulations require integration and reasonable modifications
- *Olmstead*
 - Supreme Court held that states must provide services to persons with disabilities in least restrictive setting.
 - Placement must not be opposed by affected individual
 - Treating professionals determine placement is appropriate
 - Placement can be reasonably accommodated, taking into account resources available and needs of others with disabilities.

Long-Term Services and Supports

- In-Home Supportive Services (IHSS)
- Community-Based Adult Services (CBAS)
- Home and Community Based Services Waivers (HCBS Waivers)
- Nursing Facility Care

In-Home Supportive Services (IHSS)

- Who gets IHSS?
 - 65 or older; or blind; or meet Social Security definition of disabled.
 - California residents living “at home.”
 - Financially eligible for Medi-Cal.
 - IHSS services count toward share of cost.
- Available in self-directing (most common) or agency mode.

IHSS Assessment and Services

- IHSS Social Worker assesses need based on Hourly Tasks Guidelines, with exceptions based on individual need.
 - Preparation and documentation is key!
- Help available: Services to help individuals remain safely in their own home.
 - Paramedical services; domestic and related services; heavy cleaning; personal services; accompaniment services; protective supervision; yard hazard abatement; teaching/demonstration.

IHSS Providers

- Provider can be family member or friend
 - Must undergo fingerprinting and pay for background check
 - Disqualifying crimes: child abuse, elder abuse, fraud against government health care or supportive services program in last 10 years.
 - Disqualifying crimes with consumer waiver option: other violent and serious felony convictions.
 - Fill out new enrollment form with identity documents

IHSS Providers Cont.

- Listen to new provider orientation
- Sign provider enrollment agreement re: orientation and agreeing to the rules and requirements for IHSS.

Community Based Adult Services (CBAS)

- Who gets CBAS?
 - Five Categories of Eligibility
 - Nursing Facility Level of Care (NF-A)
 - Organic, Acquired or Traumatic Brain Injury/Chronic Mental Illness
 - Alzheimer's disease or other dementia
 - Mild Cognitive Impairment/moderate Alzheimer's
 - Individuals with developmental disabilities

CBAS Process

- Referral
 - Health Plan Conducts Assessment Face-To-Face with CBAS Eligibility Determination Tool (CEDT)
 - CBAS center conducts needs assessment
 - Expedited Process for nursing facility and hospital referrals marked expedited

CBAS Services

- Provides on-site services during the day:
 - Core Services:
 - Professional nursing; social services and or personal care; therapeutic services; one meal
 - Additional Services:
 - Physical, occupational and speech therapy; skilled psychological services; nutrition; transportation.
- 244 sites statewide

Home and Community Based Waivers (HCBS)

- Waivers generally:
 - May be geographically limited
 - Capped enrollment—waiting lists
 - More favorable “institutional deeming” rules apply to financial eligibility
 - May cover broader range of services than regular Medi-Cal
 - Budget neutrality— cost caps based on cost of institutional care

In Home Operations Waiver

- IHO administers:
 - Nursing Facility/Acute Care Hospital (NF/AH) waiver
 - IHO Waiver
- NF/AH waiver eligibility (basics):
 1. Nursing facility A/B: Medi-Cal eligible and NF Level A or B, or “Distinct Part NF” for 180+ days.
 2. Nursing facility subacute level for 180+ days.
 3. Acute hospital: hospital level care for 90 days + “traumatic or acquired neuromuscular impairment and/or complex debilitating illness.”

NF/AH Waiver – IHO Waiver

- Individual cost cap (amount depends on level of care)
- Currently has waiting list
- Services offered include: case management, private duty nursing, habilitation.

Assisted Living Waiver (AL)

- Provides HCBS and transition services in RCFE or publicly subsidized housing.
- Counties served: Alameda, Contra Costa, Fresno, Los Angeles, Riverside, Sacramento, San Bernardino, San Joaquin and Sonoma.
- Eligibility: 21 years or older, physically disabled with nursing home level of care.

Multi-Purpose Senior Services Program (MSSP)

- Provides case management, counseling, other supports.
- Counties served: 38 sites statewide
- Eligibility: Medi-Cal eligible who are 65+, would require nursing facility level of care but for MSSP.

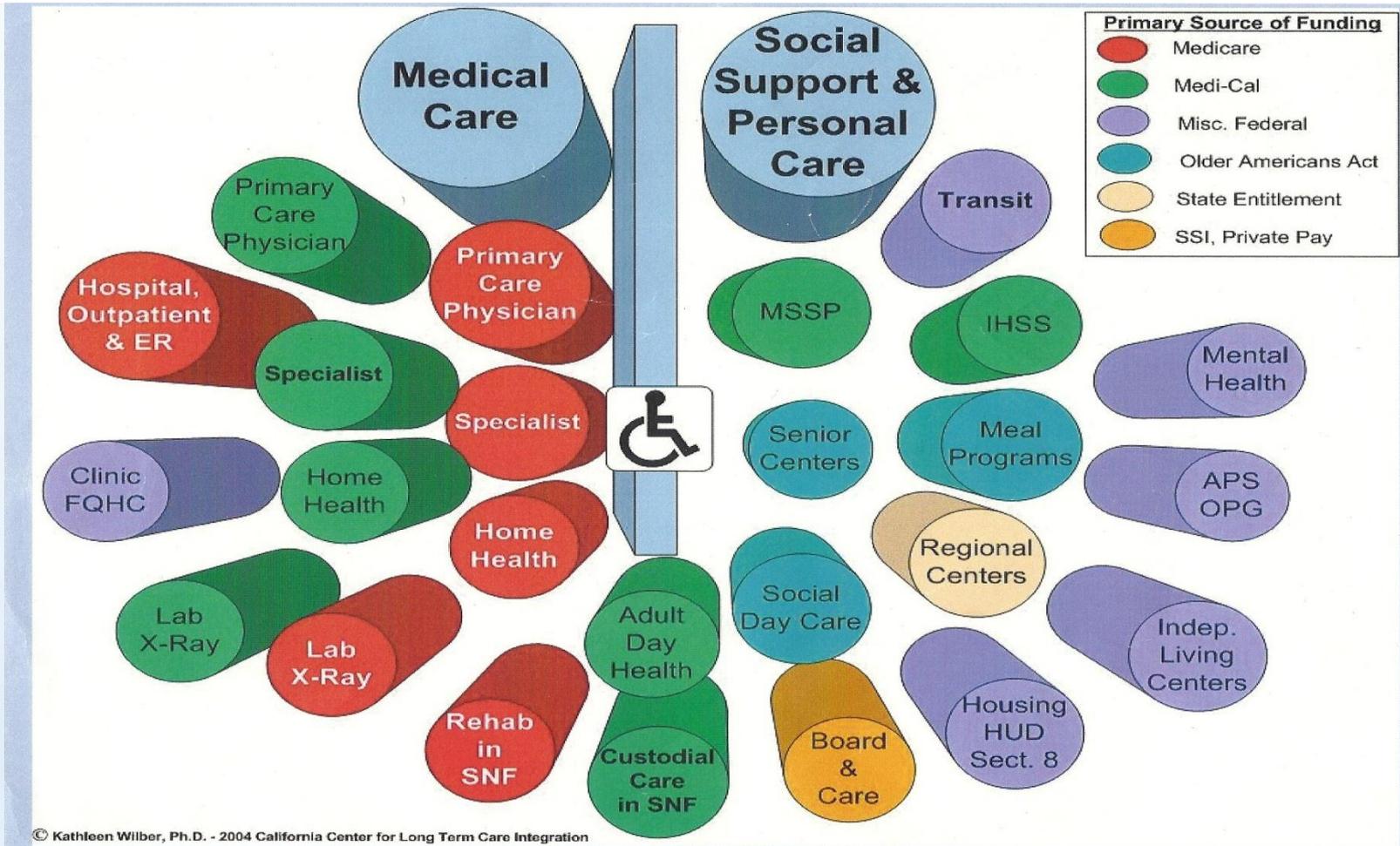
Nursing Facility Care

- Short and long-term custodial care.
- Must meet clinical criteria for nursing home placement.

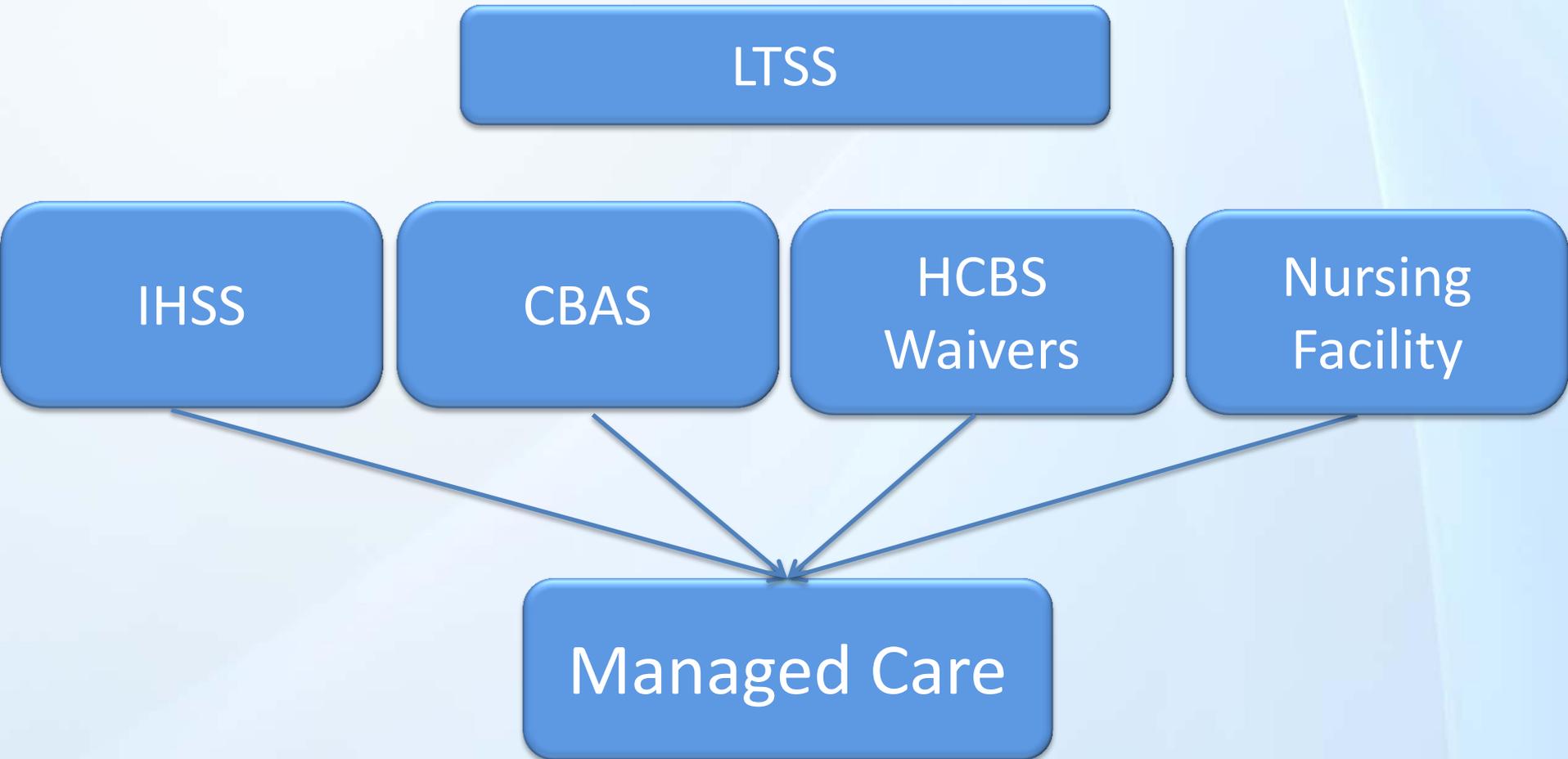
Affordable Care Act

- Focus on rebalancing LTSS spending
 - More states moving LTSS into managed care
- Creation of Medicare-Medicaid Coordination Office
 - Coordinated Care Initiative (8 counties)
 - Moving LTSS into managed care
 - Cal MediConnect
 - Medicare and Medi-Cal, including LTSS, integrated into one

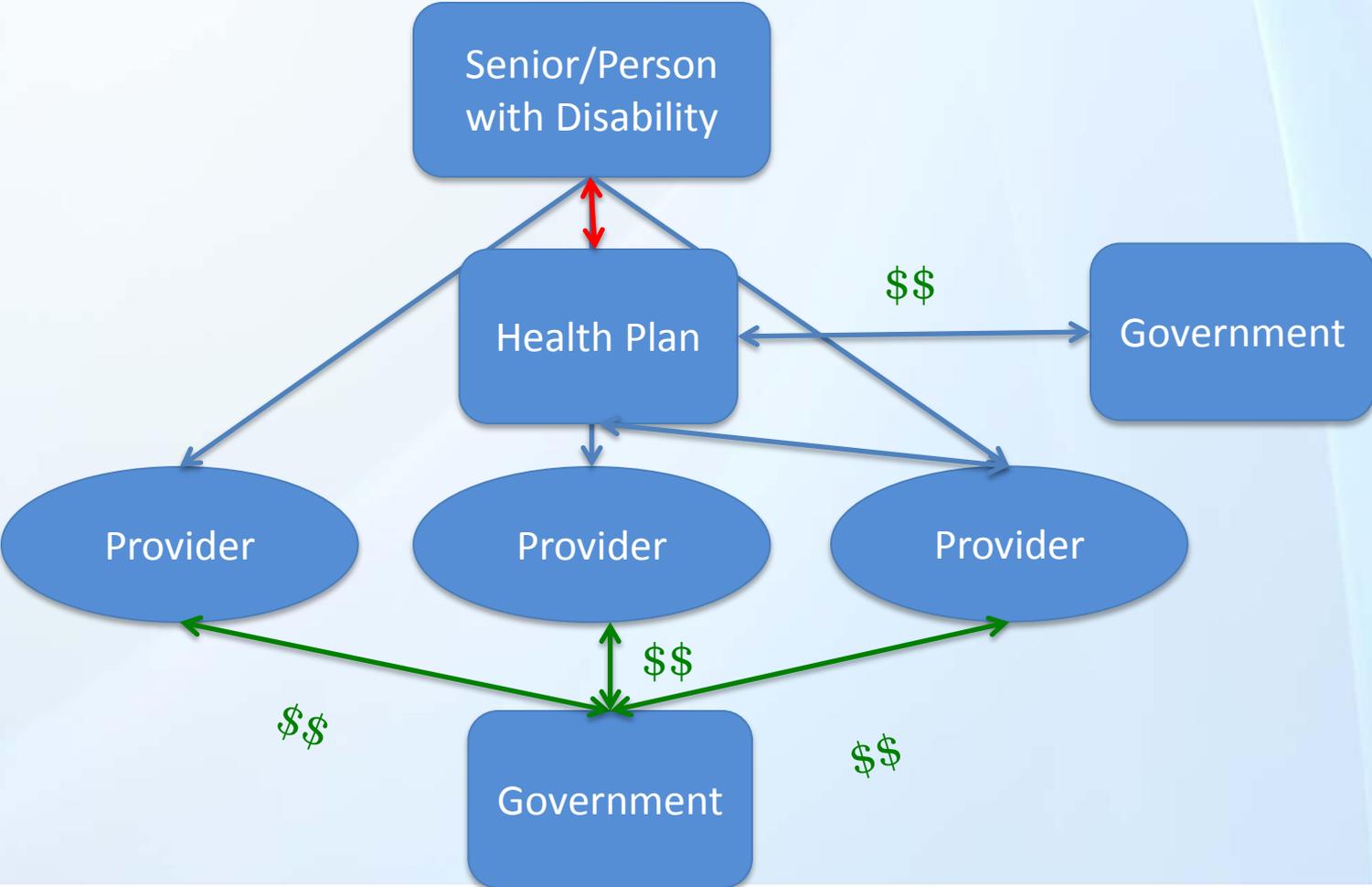
Current System



Moving LTSS Into Managed Care



Managed Care: Plans paid to provide covered services via network providers



Advocacy Issues

- Managed Care Organizations have not historically provided LTSS.
 - Lack of understanding of the programs and the population served.
 - Questions re: quality of case management.
- Service Reductions
- Provider Rate cuts
- Fraud