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# RECOMMENDATIONS ON HEALTHCARE

## CALIFORNIA WORKING FAMILIES POLICY SUMMIT
FEBRUARY 25, 2010

## INTRODUCTION

California is at a crossroads. Coming off of the worst economic downturn since the Great Depression, California's families are struggling at the same time the state is facing a fiscal crisis. As a result of the economic decline, the number of uninsured Californians had increased to over seven million, when California already had one of the highest uninsured rates in the country. Furthermore, even more Californians would have lost coverage and gone without care if it were not for Medi-Cal, Healthy Families, and the state's health care safety net. Yet at a time when Californians are struggling, the Governor proposes to further cripple our health system and our economy by cutting millions of people from health care programs, and losing billions of dollars in jobs and economic activity. Federal health reform and the renewal of the Medi-Cal waiver offer opportunities to strengthen the state's health care system.

### *The Budget Context*

Last year the Governor and California's legislature agreed to over $60 billion in combined cuts and other budget fixes, including millions in cuts to critical health programs such as Medi-Cal and Healthy Families.[1] Now, less than one year later, facing a budget deficit of $20 billion over the next eighteen months, the Governor is proposing an additional $2.9 billion in cuts to health and human services programs while California's middle- and low-income families are struggling to make ends meet. California has one of the highest unemployment rates in the country, and since many of the newly unemployed have lost their health insurance, over seven million Californians are living without health insurance coverage.

The Governor's budget proposal threatens to eliminate critical health coverage for millions of Californians in their greatest time of need. Based on the Governor's budget proposal, for example, almost one million Californians could lose Medi-Cal coverage in the first year if the program is scaled back to the minimum allowed under federal law and about 950,000 children could lose Healthy Families coverage if the program is eliminated.[2] Those who keep coverage would lose benefits. The proposed health care cuts will increase racial and ethnic health disparities; in California, African-Americans, Latinos, and Native Americans are over three times as likely as Whites to be enrolled in Medi-Cal or Healthy Families.[3]

### *The Hope of Federal Health Reform*

With the threat of these massive budget cuts and the swelling of the ranks of the uninsured in California, federal health care reform may be one of our only hopes to reverse these trends. The health reform bills that passed through Congress would help 80% of the state's uninsured get some sort of coverage, and many more would get help affording coverage. However, in wake of the special Senate election in Massachusetts, the fate of federal reform is unclear. The state must do it all it can to ensure that health care reform is passed and that we appropriately prepare for implementation.

### *The Medi-Cal Waiver Renewal as an Opportunity*

Parts of the implementation of reform could be included in elements of the renewal of the Section 1115 Medicaid Waiver currently being negotiated with the federal government. The state's current waiver expires in August, offering an opportunity for the state to gain the flexibility and resources needed to increase and improve health care access in these desperate times.

The recommended objectives below will protect access to quality, affordable health care for California's families, while persevering and strengthening the state's health care system.

**POLICY OBJECTIVE #1**
**Protect the current eligibility levels, benefits, and protections in the Medi-Cal and Healthy Families Programs.**

***Background***
The Governor's fiscal year 2010-11 proposed budget seeks $19.9 billion in budget solutions. The Governor's plan includes no revenue increases and instead relies on deep cuts to programs vital to our communities. Medi-Cal and the Healthy Families Program are especially hard hit. The proposals include reducing Medi-Cal eligibility and benefits to the lowest level allowable under federal law, and cutting or even eliminating the Healthy Families program.

These proposed cuts come on top of prior cuts that are already hurting our most vulnerable families. For example, nine benefits were eliminated from Medi-Cal for adults last year including dental, vision services, speech therapy, psychological services, and podiatry services.[4] California's budget gap is too large to be closed through cuts alone, and additional revenues are needed to ensure that programs vital to the health of low-income Californians and communities of color are fully funded.

***Recommended Actions***
The California Legislature should:

A. **Reject the Governor's "trigger proposals" including his budget proposal to:**

1. Reduce eligibility for the Medi-Cal program to the federal minimum which would cut approximately two million low-income Californian children, parents, pregnant women, seniors, and people with disabilities from Medi-Cal coverage.

2. Eliminate most "federally optional" Medi-Cal benefits for adults, specifically: durable medical equipment (DME) such as wheelchairs, hearing aids, physical therapy, occupational therapy, orthotics, independent rehabilitation facilities, medical supplies, and prosthetics.

3. Eliminate the Healthy Families Program, which would terminate more than 875,000 children from coverage.

B. **Reject the Governor's budget proposal to save $750 million in Medi-Cal General Fund spending by imposing co-payments on beneficiaries, limiting access to services, changing provider fees and making "other programmatic changes."** No detail has been given about this proposal so it is difficult to evaluate, however health care advocates are concerned that the proposed changes will threaten access to care in the program.

C. **Reject the Governor's budget proposal to deny full-scope Medi-Cal to lawfully residing immigrants.** California provides full Medi-Cal benefits to lawfully residing immigrants who lost eligibility for federal coverage as a result of the 1996 federal welfare law. California should continue to provide the full range of health services for these poor state residents both to preserve the health of these individuals and to protect public health.

D. **Reject the Governor's proposal to eliminate the Medi-Cal adult day health care benefit**, affecting about 35,000 frail adults.

E. **Reject the Governor's proposed cuts to the Healthy Families Program**, including:

1. Increasing premiums for families between 150% and 200% of the Federal Poverty Level (FPL), affecting 167,000 children enrolled in the Healthy Families Program;
2. Eliminating vision benefits for all children enrolled in the Healthy Families Program; and
3. Reducing eligibility from 250% of the FPL to 200% of the FPL, which would terminate approximately 225,000 children from the program.

F. **Urge the federal government to increase federal contributions** through a variety of means. Help through the Medi-Cal program could include extending the higher FMAP (Federal Medical Assistance Percentages) granted to states as part of the ARRA, increasing California's baseline FMAP, and requiring that states not decrease eligibility or benefits as a condition of receiving the higher FMAP rate (known as a "maintenance of effort").

G. **Focus on securing additional revenues as a true solution to the budget deficit**. Enacted cuts are often permanent, such as the premium increase in Healthy Families; while, revenues, if they are considered at all, are often temporary, and are often made up in perpetuity. A balanced budget solution should include taxes to prevent cuts. California should focus on raising revenues to match the cuts already made before considering additional cuts.

H. **Support efforts to change the California constitution to eliminate the two-thirds vote requirements to pass a budget and raise revenues**. California is the only state to require a two-thirds vote in the Legislature for both passing a budget and for raising revenues. This requirement has led to years of bipartisan fighting and delayed passage of budgets, and various efforts are currently underway to change the requirement in the near future.

**POLICY OBJECTIVE #2**
**Implement provisions of federal health reform in a way that maximizes federal funding opportunities and improves the coverage and well-being of Californians.**

***Background***
With approximately seven million uninsured and growing, California can simply cannot afford to wait any longer to provide access to coverage for the millions of uninsured.

Key provisions in both the House and Senate health care reform bills include the expansion of Medicaid to cover single, childless adults (with significant federal financing), the prohibition of pre-existing condition exclusions, the inclusion of subsidies and caps on out-of-pocket costs for individuals who wish to purchase private coverage on the newly created Health Insurance Exchange, the requirement that insurers must provide information in non-English languages to consumers about plans in the Exchange, and increased funding for prevention efforts and our nation's safety net.

These provisions will go a long way towards expanding access to affordable health care for millions of Californians and could provide an infusion of federal funds into the state. Under the Congressional health

reform bills over 80% of uninsured Californians would become eligible for some type of coverage – and most would get help affording that coverage.[5] For instance, up to 2 million uninsured Californians would become newly covered under a Medi-Cal expansion and another 1.7 million uninsured Californians would get subsidies to purchase coverage on the Exchange.

Federal health reform is exceptionally important for low-income communities of color. Under the current bills, 2.78 million low-income uninsured people of color would gain access to health coverage in California.[6] Eighty-one percent of low-income African Americans and 60% of low-income Latinos and Asian/Pacific Islanders who are currently uninsured would be newly eligible for coverage either through an expansion of Medi-Cal or subsidies to buy coverage in the Exchange. Of those newly insured, 750,000 will speak a language other than English.

In addition, both the Senate and House bills include dedicated funding for prevention programs that will help create communities that promote health. State and local government agencies, as well as community organizations, will be eligible for these competitive grants, known as Community Transformation Grants. An example of an eligible program could be a school district that wanted to keep their playground open after hours for community physical activity (which is essential to reduce diabetes and obesity) but cannot afford additional maintenance costs. By creating healthy environments and focusing on neighborhoods that have the greatest need, California can address one of the most important factors that determines our health – where we live – and improve our nation's health and reduce health care costs.

***Recommended Actions***
The California State Legislature should:

A. **Encourage California's Congressional delegation to pass meaningful, comprehensive health reform**. California has many strong Congressional leaders in the fight for federal health reform, from Speaker Pelosi to key committee chairs. As the debate moves forward, our representatives can support passage of federal health reform and also push for improvements, including the following that are particularly important for California:

    1) Improved affordability subsidies, crucial for families in a high cost-of-living state like California; accompanied by more progressive financing;
    2) Increased aid to states to help finance the Medicaid expansions, with recognition for states that have already done some coverage expansions; and
    3) Strong insurance oversight with protection of hard-won state consumer rights.

B. **Swiftly enact legislation to implement provisions of federal reform that protect consumers purchasing private coverage.** Federal health reform makes a number of changes to the private market that end abusive and discriminatory practices by insurers, including: prohibiting exclusions of pre-existing conditions; requiring disclosure, review, and justification for rate increases; and limiting rate variation. The Legislature should move swiftly in implementing those provisions in which it has a role in order to protect California consumers soon after reform is passed. That includes existing legislation like AB 786 (Jones), which would better categorize existing health plans and set standards against "junk" insurance.[7]

C. **Ensure that the State's role in establishing the Exchange is understood and a process for receiving consumer input is implemented**. Although the final health reform legislation has yet to be signed by President Obama, new Health Insurance Exchanges will likely be created, and there will undoubtedly be a role for the State (the extent of which is still uncertain). California will likely have the opportunity to run its own Exchange, and the Legislature should be well informed on the advantages and disadvantages of pursuing certain policies.

D. **Ensure that California's health care safety net remains well funded to care for those transitioning to other coverage and those individuals, such as many immigrants, who will still be uninsured.** Millions of Californians rely on the health care safety net, including the state's public hospitals and community clinics. These safety-net providers will continue to serve patients as they transition into new coverage available as a result of federal reform, as well as those patients, primarily immigrants, who will still be without coverage even after federal reform is enacted. State and federal funding should continue to be made available so that safety net providers can continue serving these populations.

E. **The State should devise a coordinated, interagency plan to address prevention and build healthy communities:**

1) The California Department of Public Health (DPH) should work with other state and local agencies, as well as community organizations, to coordinate prevention efforts, securing Community Transformation Grants to achieve the greatest impact and broadest reach.
2) California should ensure that health is factored into all policies. DPH should have a strong role in policy decisions about our built environment, and should be a resource to offer guidance on all state policies, including those impacting transportation, housing, and planning, so that they promote health.

F. **Explore state options to address policy issues not included in federal health reform.** The public option, for example, became a highly contentious issue during the federal health reform debate and was not included in the final bill that passed the Senate. The bill does not, however, preclude California from pursuing its own public option, such as proposed in SB 56 (Alquist), which would be similar to the structure of California's worker's compensation program and could use the county-based Coverage Initiatives to create a network.

**POLICY OBJECTIVE #3**
**Negotiate a Medicaid Waiver with the federal government that will best improve the delivery of service and health outcomes in the Medi-Cal Program and expand coverage for low-income Californians.**

***Background***
California has a current Section 1115 Medicaid hospital financing waiver that will expire in August 2010, and negotiations of the terms for the next waiver are already underway. Last year the Legislature enacted ABx4 6 (Evans, 2009) which directed the Department of Health Care Services to pursue a broader waiver and laid out the main policy objectives of the waiver. The Department submitted its concept paper for the waiver to the Centers for Medicare and Medicaid Services in December 2009 outlining the following goals:

- Promoting organized systems of care for (1) seniors and persons with disabilities, (2) children with special needs, (3) dual-eligible beneficiaries who have both Medicare and Medi-Cal coverage, and (4) adults with severe mental health conditions and/or substance abuse disorders;
- Strengthening and expanding the health care safety net;
- Implementing value-based purchasing strategies; and
- Enhancing the delivery system for the uninsured to prepare for national health reform.

The Department has convened a Waiver Stakeholder Advisory Committee, as required by ABx4 6, as well as at least four technical workgroups. Many stakeholders are deeply concerned that the Administration's vision of the waiver is merely a cost-saving tool, forcing people into managed care and doing little to expand access and improve quality.

However, the waiver can alternatively be an opportunity to bring in additional federal resources, expand coverage and access to care, promote care coordination, improve efficiency in the Medi-Cal program that is

patient-centered, and ultimately serve as a bridge to federal health reforms when they become effective at the end of the five-year waiver period.[8]

***Recommended Actions***

The Department should negotiate, and the Legislature should require, a waiver with the following elements:

A. **Expand Medi-Cal to medically indigent adults without categorical eligibility (i.e., adults without dependent children).** Currently only some adults are eligible for Medi-Cal because they qualify under certain categories: parents, pregnant women, seniors, and people with disabilities. Low-income adults without children are not eligible for Medi-Cal regardless of how little they make. Federal health reform legislation would eliminate the eligibility categories currently required in Medicaid, and the waiver is an opportunity to get a head start on implementing that provision, thereby getting Californians enrolled in advance or at least ready on day one of the federal expansion.

B. **Improve coordination of care and consumer access to appropriate and necessary care.** Virtually all seniors and persons with disabilities on Medi-Cal already have established relationships with doctors and other providers. Many Medi-Cal beneficiaries find barriers to obtaining needed specialist care in the existing fee-for-service Medi-Cal system because of inadequate provider reimbursement and other barriers to obtaining timely reimbursement from Medi-Cal. Medi-Cal HMOs have received rate increases in years when the Governor proposed cutting Medi-Cal rates for other providers.

   1) **Explore the "medical home" model as a way to improve care and health outcomes for seniors and people with disabilities.** A definition of a "medical home" developed by several provider organizations is "a health care setting that facilitates partnerships between individual patients, and their personal physicians, and when appropriate, the patient's family."[9] Health care homes serve many functions: care management, disease specific case management, medication management, maintenance of medical records, and provision of screening and referral services. Other versions of a "medical home" approach rely on mandatory enrollment into commercial HMOs paid at 95% of Medi-Cal fee-for-service spending. The specifics of the proposal are important.

   2) **Establish clear, strong, and enforced consumer protection standards for seniors and people with disabilities** in Medi-Cal. Any organized system of care, especially managed care plans, that serves these vulnerable populations with very specific needs, should be accountable to provide assurances for access to care, continuity of care, care coordination, disability and language access, and a range of other services and protections.

   3) **Implement a "frequent user" program** to address the needs of frequent users of emergency departments – most of whom have multiple chronic health conditions, a mental health condition and/or a substance abuse disorders, are very poor, and/or do not have stable housing.

C. **Simplify the Medi-Cal eligibility and enrollment processes** to ensure that people eligible are enrolled. Some ideas include eliminating barriers to enrollment such as the asset test (which would be eliminated under federal health reform proposals) and simplifying procedures, such as allowing self-certification of income on applications. Preliminary data for pilots on self- certification done in Orange and Santa Clara Counties indicated that the pilots worked well. Simplifying procedures would also help reduce churning in Medi-Cal, where individuals cycle on and off coverage, which is costly from an administrative perspective and detrimental for a patient's continuity of care.

   1) **Establish auto-enrollment of infants in Medi-Cal.** Any infant born to a parent that is uninsured or on Medi-Cal should be deemed eligible and automatically enrolled in Medi-Cal at birth. Given that any infant born in this country meets citizenship requirements as a result of the U.S. Constitution,

automatic enrollment will assure health coverage during the critical first months of life, and obviate a need to verify citizenship. Additionally, while some infants are currently eligible for Medi-Cal, unnecessary barriers impede enrollment of infants in Medi-Cal or Healthy Families. Auto-enrollment would shift the burden of enrolling infants to the government (not the parent) and eliminate the county-by-county variation in enrollment of infants.

D. **Improve integration of behavioral and physical health services**. Specialty mental health in Medi-Cal managed care has been "carved out" as part of an existing Section 1915(b) waiver. This means that those individuals with mental health disabilities must navigate two entirely independent systems for their health care – the mental health plan for mental health treatment and the health plan or fee-for-service provider for physical health care treatment. What has resulted is a complex set of separate rules about eligibility and access limitations, services, providers, and grievance and appeal rights, making it virtually impossible to have effective care coordination for physical and mental health care needs. Yet given the continuing separate Medi-Cal waiver for specialty mental heath care, there must be greater accountability by the mental health plans to ensure that care is coordinated and that access to all necessary care and services is adequate, whether health or mental health services.

E. **Improve access to Medi-Cal's breastfeeding support benefits**. Breastfeeding has significant benefits for children's health, affecting both acute and chronic conditions, and breastfeeding also reduces the risk of breast and ovarian cancer and Type II diabetes for mothers. Scientific evidence shows that breastfeeding strengthens an infant's immune system and protects infants' health in many ways, by preventing disease and other adverse health conditions. Breastfed babies also have fewer ear, respiratory, and intestinal infections; less frequent allergies and asthma; and less risk of developing chronic diseases and conditions, such as sudden infant death syndrome, diabetes, leukemia and other childhood cancers, obesity, and high cholesterol.[10] Improving access to Medi-Cal's breastfeeding support benefits would increase the initiation of exclusive breastfeeding, and thereby significantly help to contain Medi-Cal program costs by reducing the number of medical visits, prescriptions, hospitalizations, and related health care costs for children and their mothers. In fact, exclusive breastfeeding for just three months has been shown to reduce health care costs for infants in the first year of life by up to $475, compared to non-breastfed infants.[11]

F. **Create an accounting system, approved by the federal government, to track expenses related to language access so that the state can be reimbursed for those funds**. Last year the Medi-Cal Language Access Services Task Force provided the State with information and guidance on how it can establish a reimbursement system to track expenses related to language services so that California can utilize matching Medicaid funds, as is done by thirteen other states. In addition, The Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA) allows states to receive enhanced matching rates for language access services provided to children in Medi-Cal and Healthy Families, if the state can demonstrate what funds are used to provide those services. But not sufficiently tracking these services and payments means that the state is not maximizing available federal funds. Some of the additional funds received from enhanced federal reimbursement should be used to improve language services, such as implementing an interpreter referral line or a complaint line dedicated to resolving issues around access to linguistically and culturally competent services.

G. **Emphasize efforts to reduce racial and ethnic health disparities, as well as reduce the incidence of preventable conditions and chronic diseases**. DHCS should improve its collection of data on race, ethnicity, and primary language to identify and address disparities—as well as improve measures for assessing quality of care. Prevention services should be fully funded, and DHCS should work with DPH on effective prevention strategies that include addressing community conditions that impact health.

[1] Health Access, “The Damage Already Done: A Report on the 2009 Health Care Budget Cuts Six Months In,” (January 7, 2010).
[2] 100% Campaign, “Governor’s Budget Proposals Attack Children’s Health: At Least 200,000 Children Would Lose Health Coverage,” (January 2010).
[3] The State of Health Insurance in California: Findings from the 2005 California Health Interview Survey, UCLA Center for Health Policy Research.
[4] Health Access, “Real Cuts, Real Pain: Vital Medi-Cal Benefits Eliminated for Over 2 Million Californians,” (June 30, 2009).
[5] K. Jacobs & D. Graham-Squire, “Californians’ Access to Coverage Under the Health Reform Proposals,” UC Berkeley Labor Center (December 2009).
[6] “National Health Reform Proposals Hold Promise for California’s Communities of Color,” California Pan-Ethnic Health Network (CPEHN) Fact Sheet, November 21, 2009: http://www.cpehn.org/pdfs/Health%20Reform%20Factsheet.pdf
[7] See Health Access, “AB 786 (Jones): Setting Standards for Individual Health Insurance,” (July 2009).
[8] See also Health Access, “Health Access California Perspective: Proposed Medi-Cal Section 1115 Waiver,” (November 17, 2009).
[9] Joint Principles of Patient-Centered Medical Home, American Academy of Family Physicians, American Academy of Pediatrics, American College of Physicians and American Osteopathic Association, March 2007.
[10] Ip S, Chung M, Raman G, Chew P, Magula N, DeVine D, Trikalinos T, Lau J. *Breastfeeding and Maternal and Infant Health Outcomes in Developed Countries*. Rockville, MD: Agency for Healthcare Research and Qualify; 2007. Evidence Report/Technology Assessment No. 153.
[11] Ball TM, Wright AL, Health care costs of formula-feeding in the first year of life, *Pediatrics*. 1999;103 (4 pt 2):870-866.