



County of Los Angeles CHIEF EXECUTIVE OFFICE

Kenneth Hahn Hall of Administration
500 West Temple Street, Room 713, Los Angeles, California 90012
(213) 974-1101
<http://ceo.lacounty.gov>

WILLIAM T FUJIOKA
Chief Executive Officer

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First District

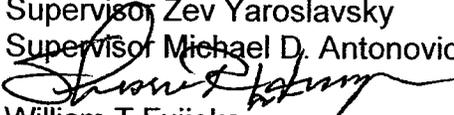
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July 16, 2009

To: Supervisor Don Knabe, Chairman
Supervisor Gloria Molina
Supervisor Mark Ridley-Thomas
Supervisor Zev Yaroslavsky
Supervisor Michael D. Antonovich

From: William T Fujioka
Chief Executive Officer

WASHINGTON, D.C. UPDATE

Health Care Reform Legislation

On July 14, 2009, the House Democratic leadership introduced H.R. 3200, "America's Affordable Health Choices Act of 2009," which is the major health care reform legislation. The three House committees (Energy and Commerce, Ways and Means, and House Education and Labor), which share jurisdiction over health, are scheduled to begin mark up of the bill on July 16, 2009.

Expanded Health Coverage: The bill would establish an individual mandate to obtain health insurance and expand health coverage to more persons (excluding undocumented immigrants) by expanding Medicaid eligibility and creating health insurance exchanges, including a new "public plan," through which persons can purchase subsidized insurance. The Federal government would fully fund the expansion of Medicaid eligibility to all persons (including single adults and childless couples) with incomes up to 133 percent of the Federal Poverty Level (FPL). States would be required to maintain their current eligibility levels for others. Individuals and families enrolled in exchange plans with incomes between 133 percent and 400 percent of the FPL would receive Federal subsidies. Employers with payrolls over \$250,000 a year would be subject to a "play or pay" requirement that they offer health coverage or pay a payroll tax of 8 percent with lower tax rates for employers with annual payrolls between \$250,000 and \$400,000. These provisions would take effect in 2013.

"To Enrich Lives Through Effective And Caring Service"

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Disproportionate Share Hospital (DSH) Payment Reductions: H.R. 3200 would reduce total Medicaid DSH payments by \$1.5 billion in Federal Fiscal Year (FFY) 2017, \$2.5 billion in FFY 2018, and \$6 billion in FFY 2019. This reduction is one of the bill's savings intended to meet "PAYGO" budget rules, which provide that increased entitlement spending must be offset by a corresponding amount of spending cuts and/or revenue increases. The bill requires the Secretary of Health and Human Services (HHS) to apply the largest percentage of DSH reductions to states that: (1) have the lowest percentages of uninsured persons (determined based on audited hospital reports); and (2) do not target DSH payments on hospitals with high volumes of Medicaid inpatients and hospitals that have high levels of uncompensated care (excluding bad debt). The HHS Secretary is required to issue a notice on FFY 2017 DSH allotments to states by January 1, 2016. By that same date, the HHS Secretary also is required to submit a report to Congress on whether "there is a continued role for Medicaid," which includes recommendations regarding the appropriate targeting of Medicaid DSH within states and the distribution of Medicaid DSH among states.

The bill's \$6 billion reduction in FFY 2019 Medicaid DSH payments would represent a relatively large percentage reduction. In comparison, FFY 2009 DSH allotments total \$11.3 billion, and a May 20, 2009 Senate Finance Committee document indicates that the Congressional Budget Office estimates that FFY 2009 Medicaid DSH payments will total \$9.1 billion. The County Department of Health Services (DHS) indicates that its hospitals will receive \$412 million in Federal Medicaid DSH payments in FFY 2009 -- roughly 4.5 percent of total estimated Medicaid DSH payments, nationwide.

The annual Medicaid DSH revenue loss to the County cannot be estimated with certainty because it will be affected by the methodology established by the HHS Secretary to apply the Medicaid DSH reductions to states as well as by how the State decides to allocate DSH funds to hospitals. However, it is our opinion that California should be subject to smaller percentage reductions than most states because: (1) the State probably would have a relatively high percentage of uninsured persons due to its disproportionately high percentage of undocumented immigrants who would not receive coverage under the bill; and (2) California targets its DSH payments to hospitals with high volumes of Medicaid inpatients and high levels of uncompensated care more than the average state.

The bill also requires the HHS Secretary to reduce Medicare DSH payments by an estimated total of \$10 billion in FFYs 2017 through 2019 if there has been a decrease in the national rate of uninsurance for persons under age 65 from 2012 to 2014 of more than 8 percentage points. In contrast to this trigger for Medicare DSH reductions, the Medicaid DSH reductions would take effect even if rate of uninsurance does not drop by 8 percentage points. The HHS Secretary also is required to submit a Medicare DSH

report to Congress by January 1, 2016 on the impact of health care reforms in reducing the number of uninsured individuals, the appropriate amount, targeting, and distribution of Medicare DSH to compensate for higher Medicare costs associated with serving low-income beneficiaries and given their non-continued uncompensated care costs. Medicare DSH revenue is far less important than Medicaid DSH revenue for the County's public hospitals. The County DHS indicates that it will receive \$18 million in Medicare DSH revenue in FFY 2009.

Preservation of Graduate Medical Education (GME) Residency Slots: The bill also includes County-supported language that preserves unused Medicare GME residency slots for the Martin Luther King, Jr.-Harbor Hospital and the LAC+USC Medical Center, which otherwise, would be subject to redistribution under the bill.

Other provisions in H.R. 3200 of County interest include:

- Clarifies that GME costs are eligible for Medicaid reimbursement;
- Requires Medicaid coverage of preventive services, which otherwise would not be covered under State plans, that the HHS Secretary determines are appropriate;
- Provides a new option for states to cover home-visits by nurses to families with a first-time pregnant woman or child under age 2 eligible for Medicaid;
- Requires states to reimburse primary care services provided by physicians and other practitioners at no less than 80 percent of the Medicare rate in 2010, 90 percent in 2011, and 100 percent in 2012 and future years;
- Provides a 75 percent Federal match rate for translation or interpretation services provided to Medicaid eligible adults for whom English is not the primary language;
- Provides a new option for states to cover non-disabled HIV-infected individuals with incomes and resources that meet eligibility standards for disabled individuals;
- Establishes a new Public Health Investment Fund into which \$89 billion is deposited for use over the next ten years, which are authorized to be appropriated for a variety of public health and prevention activities, including workforce training, community health centers, and a newly established Prevention and Wellness Trust Fund which could be used for community prevention and wellness services grants and grants to improve core public health infrastructure at the state, local and tribal level; and
- Expands the 340B Drug Discount Program to expand covered entities which qualify for prescription drug discounts, including entities receiving funds for maternal and child health services, community mental health services, and substance abuse treatment, and to extend discounts to inpatient drugs. Under current law, covered entities include DSH hospitals, such as the County's, but discounts are limited to outpatient drugs.

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County departments have begun analyzing H.R. 3200, which is more than 1,000 pages in length. All three House committees (Energy and Commerce, Ways and Means, and House Education and Labor), which share jurisdiction over the bill, are scheduled to begin marking up the bill on July 16, 2009.

The Senate Health, Education, Labor, and Pensions (HELP) Committee approved its health care reform bill, entitled the Affordable Health Choices Act, on July 16, 2009, along party lines with all Republicans opposing the bill. The Committee, however, has not yet released its committee report and text of the bill which it approved. The Senate HELP bill is more limited than the House bill because the HELP Committee lacks jurisdiction over Medicaid, Medicare, and tax revenues. Senator Baucus, who chairs the Senate Finance Committee, which has jurisdiction over those areas, may release a detailed summary of his health care reform bill by the end of the week.

We will continue to keep you advised.

WTF:RA
MT:sb

c: All Department Heads
Legislative Strategist