**Health Services**
LOS ANGELES COUNTY

December 14, 2010

Los Angeles County
Board of Supervisors

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The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

**REQUEST APPROVAL OF ACTIONS RELATED TO CALIFORNIA 1115 WAIVER IMPLMENTATION IN LOS ANGELES COUNTY (ALL SUPERVISORIAL DISTRICTS) (3 VOTES)**

## SUBJECT

Request approval of actions necessary for the County of Los Angeles to comply with time-sensitive conditions of the California 1115 Waiver.

## IT IS RECOMMENDED THAT YOUR BOARD:

1. Authorize the Interim Director of Health Services, or the Director of Health Services, or his designee, acting on behalf of the County of Los Angeles, to participate in the new California 1115 Waiver, commonly known as the Bridge to Reform Demonstration, and its Low Income Health Program (LIHP), and to submit all documents necessary to establish and implement the County's intent to voluntarily participate in the Waiver and its LIHP, including but not limited to, all applications and certifications required either by the California Department of Health Care Services (CDHS), the Centers for Medicare and Medicaid (CMS) or both.

2. Authorize the Interim Director of Health Services, or the Director of Health Services, or his designee to expand the Coverage Initiative (CI)/Healthy Way LA ((HWLA), under the California 1115 Waiver, to include persons aged 19-64 with incomes of 134-200 percent (%) of the Federal Poverty Level (FPL) who meet citizenship or legal residence requirements in accordance with the 1115 Waiver's terms.

3. Direct the Executive Officer of the Board to add to the A item list, commencing on January 11, 2011, to allow for discussion and action to comply with the time sensitive requirements of the 1115 Waiver.

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## PURPOSE/JUSTIFICATION OF RECOMMENDED ACTIONS

Approval of the recommended actions will enable DHS to comply with the most time sensitive requirements for implementation of the California 1115 Waiver approved by CMS on November 2, 2010.

Approval of the first recommendation will allow the Interim Director of Health Services (or the Director) to undertake all actions necessary to enable the County, through the Department of Health Services (DHS), to participate in the 1115 Waiver, including but not limited, to applying to participate in the program and certifying the County's readiness to participate.

Approval of the second recommendation will expand enrollment into the CI/HWLA program to include those adults ages 19-64 with income levels between 134 to 200% of the FPL. The current HWLA program only covers individuals whose income levels are 133% of the FPL or less.

Approval of the third recommendation will allow for a set item at the weekly Board of Supervisors' meeting in order to facilitate the discussion of Waiver related policy issues and assist DHS in meeting deadlines placed by CDHS.

### Implementation of Strategic Plan Goals

The recommended action(s) support(s) Goal 4, Health and Mental Health of the County's Strategic Plan.

## FISCAL IMPACT/FINANCING

None. The recommended actions are administrative only. However, for other elements of the Coverage Initiative, which are in development, the processes for claiming have not yet been finalized by the State. Once Waiver claiming procedures are established, more reliable funding estimates can be determined and will be provided to your Board in relation to specific items brought forth for discussion and approval.

## FACTS AND PROVISIONS/LEGAL REQUIREMENTS

In August 2005, CDHS and CMS entered into a five year, Section 1115 Medi-Cal Hospital/Uninsured Care Demonstration Project. Under that project, CDHS made available to certain counties, including Los Angeles County, federal funds for the expansion of health care coverage to single adults who had incomes of up to 200% of FPL through the Health Care Coverage Initiative.

In April 2007, DHS, acting on behalf of the County, secured $54 million per year for three years to fund its HWLA Health Care Initiative Program. DHS implemented this program at its directly operated facilities as well as through a number of its Public Private Partnership (PPP) providers. Generally, HWLA services were made available to adults, aged 19-64, with incomes at or below 133% of FPL who met citizenship or legal residence requirements.

On November 2, 2010, CDHS and CMS entered into a new 1115 Waiver, commonly known as the California Bridge to Reform, for a five year period, commencing November 1, 2010. This Waiver provides the framework to federal Health Care Reform in 2014. The Waiver will provide health care coverage expansion, continued funding of public hospitals' uncompensated costs, new funding for delivery system improvements at public hospitals, Medi-Cal Managed Care for Seniors and Persons with Disabilities, and federal matching funds for various State-only funded programs.

Much of the detail of implementation and financing remains to be negotiated. However, at this time, CDHS has determined that certain key pieces must be in place by January 1, 2011. Accordingly, to meet this deadline, DHS requires certain delegations of authority. We will address each delegated authority request in turn:

**Request Number 1: Authority to Participate in the 1115 Waiver**

CDHS has set established a tight timeframe for all counties to apply for participation in the Waiver and to certify their ability to participate. The terms of the Waiver require certain documentation to be filed no later than January 1, 2011 regarding the County's intent to participate in the LIHP, and an application should be filed as soon as possible thereafter. To meet this expedited timeframe, DHS is requesting delegated authority from your Board to apply for the program, to certify its health care network readiness, and to provide CDHS with any other documentation that it may require to assure the County's participation in the program, including a voluntary commitment by the County to provide the nonfederal share of expenditures for the HWLA program.

**Request Number 2: Authority to Expand the Eligible HWLA Patient Population**

The Waiver permits counties to expand their eligible patient populations to include persons aged 19-64 with incomes of 134-200% of the FPL who meet citizenship or legal residence requirements. At this time, DHS anticipates that it will expand its services to enroll this additional population. Therefore, DHS is requesting your Board's approval to make this expansion and include this population in the preliminary documents which CDHS requires by January 1, 2011.

We would note that, under the Waiver, DHS will have the ability to scale the HWLA population back to only those up to 133% of FPL. However, that action will require prior

approval from CDHS and CMS. Additionally, DHS will not be permitted to disenroll beneficiaries in this expansion population from the program in the event that CDHS and CMS approve any request to limit the population for the future. Thus, DHS will be permitted to limit enrollment on a "go forward" basis only.

**Recommendation Number 3: Future Report Back**

Finally, because CDHS has yet to provide many details concerning the Waiver, and because many policy decisions concerning the program may have to be made on relatively short notice, depending upon timeframes established by CDHS; DHS, after consultation with the Chief Executive Office, determined that placing a standing discussion item on your Board's weekly agenda would facilitate the discussion of these policy issues and assist DHS in meeting deadlines placed by CDHS.

In the coming weeks, DHS anticipates that a number of policy recommendations will be presented to your Board. Predominately, these recommendations will relate to the health care network that DHS must establish and certify under the terms and conditions of the Waiver and will include the following:

**Hospital Services Contracts**

A key component of the Waiver is access to hospital services for all CI/HWLA enrollees. Specifically, DHS must have in its health care network hospitals that are geographically accessible to all enrollees or provide appropriate transportation to the nearest network hospital. In three regions of the County the DHS directly operated hospitals are not geographically proximate. Accordingly, to meet these requirements, DHS anticipates contracting with hospital providers to serve the Antelope Valley, Western (the western edge of the County through Malibu) and Eastern regions (San Gabriel Valley).

In the Antelope Valley region, DHS is considering Antelope Valley Hospital District as its partner. In the Western region, DHS is considering the UC Regents, through the University of California at Los Angeles, as its partner. Neither would receive County compensation for their services and would instead fund services through their own certified public expenditures (CPE) or inter-governmental transfers (IGT), and would receive only the federal matching funds as compensation for the services rendered to HWLA enrollees.

In the San Gabriel Valley area, DHS has yet to determine a hospital provider but will be prepared to discuss viable candidates. No provider in this region qualifies to fund its services through IGTs or CPEs. Thus, DHS will compensate this provider for its services.

**The Reimbursement Rate for Out-of-Plan Emergency Care Providers**

The Waiver requires all participating counties to reimburse health care providers who treat CI enrollees who obtain emergency and related, post-stabilization health care from a hospital not operated by the County or one of the three anticipated contracted hospitals. Under the Waiver, the counties, at a minimum, may reimburse these providers at 30% of the applicable regulatory fee-for-service rate under Medi-Cal for emergency care and 30% of the applicable regional unweighted average of per diem rates paid to hospitals with a Medi-Cal Selective Provider Contract for inpatient care. These out-of-plan providers must accept these payments as payments in full for all services. The County has never previously been responsible for paying non-contracted facilities for these types of services and depending on usage, the aggregate payments could be substantial and would remove resources necessary for County operations. Accordingly, in the coming weeks, DHS will be exploring with your Board whether paying the minimum rates permitted under the Waiver would be appropriate.

**Service Agreements for Primary Care, Specialty Care and Diagnostic Services**

The Waiver requires accessibility to primary care services at a location within 60 minutes or 30 miles from each enrollee's place of residence, with appointments made available within 30 business days of an enrollee's request. In the case of urgent care requests, appointments must be made within 48 hours of request. Specialty care access is to be provided at a minimum of 30 business days of an enrollee's request. Finally, DHS anticipates that it will have an increased demand for diagnostic services, such as laboratory and radiology, as a result of the need to provide access to these patients under these new timeframes.

DHS intends to use its directly-operated sites as well as its existing HWLA contract providers to meet the primary care access requirements. For specialty services, DHS intends to use its directly operated sites. However, in the event that capacity is not sufficient to meet demand in a timely fashion, or in the event that a gap appears in DHS' network that must be filled, DHS will require new service agreements or the amendment of existing service agreements to meet those emerging needs.

**HWLA, PPP , SB 474 and Clinic Capacity Expansion Program (CCEP) Agreements**

Implementation of the Waiver will require many changes to the current HWLA program, including modifications to eligibility criteria, enrollment processes, health care delivery practices, patient financial screening requirements, as well as data collection and reporting. At this time, DHS anticipates that some, if not all, of these changes will be required on or before March 1, 2011, for all of its directly operated and its contract providers.

DHS anticipates that its HWLA, PPP, SB 474 and CCEP agreements all will be impacted, in varying degrees, by the Waiver. At a minimum, DHS anticipates that these agreements will require modification to enable DHS to ensure program continuity between its directly operated program and its contract providers' services, and to ensure that its service agreements incorporate all material terms of the 1115 Waiver as they currently exist or are provided by CDHS and CMS as the Waiver is refined.

DHS intends to return to your Board to discuss these various programs and to obtain your Board's guidance on how the Waiver will be implemented at the contract level.

**CONTRACTING PROCESS**

Because of the unique requirements of the 1115 Waiver, DHS will discuss with your Board the process that either must or should be followed in relation to contracts that will be issued, particularly noting where deviations from the County's standard process or standard contractual terms and conditions may be needed. To the extent that legal requirements in the Waiver or related regulations must be considered, County Counsel and outside counsel, Foley & Lardner, will also provide guidance.

**IMPACT ON CURRENT SERVICES (OR PROJECTS)**

Approval of the recommendations will ensure that DHS is able to meet the most time sensitive requirements of the 1115 Waiver.

Respectfully submitted,

John F. Schunhoff, Ph.D.
Interim Director

JFS:kh

c: Chief Executive Office
County Counsel
Executive Office, Board of Supervisors