Health Services
LOS ANGELES COUNTY

October 16, 2009

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To improve health through leadership, service and education

TO: Each Supervisor

FROM: John F. Schunhoff, Ph.D.
Interim Director

SUBJECT: **STATUS OF HOSPITAL PROVIDER FEE**
[Agenda Item # 46-A, October 20, 2009]

This is to provide an update on the status of the hospital provider fee legislation and other information related to its potential implementation and impact on the Department.

AB 1383, the hospital provider fee bill, passed the Legislature in the last hours of the session on September 11, 2009, was signed by the Governor on October 11, and chaptered. Just before the end of the session, AB 1383 contained appropriations and urgency clause provisions and was predicted to achieve the 2/3 vote needed for these provisions. Because of issues which developed in the Senate concerning a number of 2/3 vote bills, the author removed those provisions and it passed both houses by simple majority. AB 188 is now the bill which will restore the appropriations and urgency clause which were removed from AB 1383. AB 188 passed the Senate on October 14, with more than the 2/3 vote needed and is expected to be passed soon by the Assembly and signed by the Governor.

The fee is expected to generate an additional $2.3 billion annually statewide in matching federal Medicaid dollars through December 2010. The federal matching funds will be used to provide supplemental Medi-Cal payments to hospitals, as well as provide the State with $320.0 million annually to fund the Healthy Families program. As specified in AB 1383 and dependent on approval by the Centers for Medicare and Medicaid Services (CMS), the fee would generate $34.5 million per quarter for the Department. One key unresolved variable is the effective date which CMS will approve. Thus, we are currently estimating that the benefit to the Department would range from $137 - $240 million for FY 2009-10 and $68.5 million for FY 2010-11, depending on the effective date of the fee. Although the prospects seem good for ultimate approval by CMS, we must emphasize that these additional revenues are not assured.

As noted, CMS approval is required for the hospital provider fee to be implemented. The State submitted a State Plan Amendment (SPA) to CMS at the end of June with minimal detail about the provider fee, to start the process. It is our understanding that CMS has asked the State for additional information. The State response, which can now include specific detailed information from AB 1383, must be submitted to CMS within 90 days, or by the end of December.

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Upon receipt of the State's response, CMS has an additional 90 days to review the SPA. Because of the complexities of the hospital provider fee methodology and the large amount of additional federal revenue which would be generated from the hospital fee as structured in the legislative bills, obtaining the approval of CMS may require extended and difficult negotiations. The negotiations will focus on both the structure of the fee and the distribution methodology. It is possible that the State administration might have to seek further legislation to amend the fee and distribution methodologies of AB 1383, in order to obtain CMS approval. Based on the general response timeline of 90 days, we may not know CMS' decision until approximately March or April 2010.

If you have any questions or need additional information, please let me know.

JFS:aw
Hospital Provider Fee Status Report to Board.doc

c: Chief Executive Officer
Acting County Counsel
Executive Officer, Board of Supervisors
Auditor-Controller