

**PUBLIC SCHEDULE OF MEETINGS  
WASHINGTON, DC VISIT  
MAY 5-6, 2010**

**Wednesday, May 5**

- 8:00am- Breakfast Briefing  
9:00am Grand Hyatt Hotel, Constitution D & E Meeting Rooms  
1000 H Street, N.W.
- 10:00am Senator Barbara Boxer (D-CA)  
Issues: Medicaid Waiver, Hospital Provider Fee, FMAP, TANF-ECF, SCAAP  
*Chair, Environment & Public Works with jurisdiction over transportation  
(excluding transit), highways, waterways, and civil works; Commerce, Science &  
Transportation Cmte.; Foreign Relations Cmte.; Chair, Ethics Cmte.*  
S-216 Capitol Building
- 11:00am Rep. Jane Harman (D-36) **CANCELED**  
Issues: Medicaid Waiver, Hospital Provider Fee, FMAP, TANF-ECF, SCAAP  
*Energy & Commerce/Energy & Environment Sub; E&C/Health Sub; Chair,  
Homeland Security/Intelligence, Information Sharing & Terrorism Risk  
Assessment Sub.; Border, Maritime & Global Counterterrorism Sub.*  
2400 Rayburn House Office Building
- 1:30pm Rep. Lucille Roybal-Allard (D-34) **CANCELED**  
Issues: Medicaid Waiver, FMAP, TANF-ECF, SCAAP  
*Appropriations/Homeland Security; Labor, HHS; Transportation, HUD Subs.*  
2330 Rayburn House Office Building
- 2:30pm Rep. Maxine Waters (D-35) **CANCELED**  
Issues: Medicaid Waiver, FMAP, TANF-ECF, SCAAP  
*Chair, Financial Services/Housing & Community Opportunity Sub;  
Judiciary/Crime, Terrorism & Homeland Security & Immigration Subs.*  
2344 Rayburn House Office Building
- 3:30pm Rep. Henry Waxman (D-30)  
Issues: Medicaid Waiver, Hospital Provider Fee, TANF-ECF, FMAP  
*Chair, Energy & Commerce Cmte. which has jurisdiction over Medicaid*  
2218 Rayburn House Office Building (Subcommittee Room)
- 4:00pm Rep. Judy Chu (D-32)  
Issues: Medicaid Waiver, FMAP, TANF-ECF, SCAAP  
*Judiciary/Immigration, Citizenship, Refugees, Border Security & International  
Law Sub; Education & Labor Cmte.; Oversight & Government Reform Cmte.*  
2421 Rayburn House Office Building

**Thursday, May 6**

9:00am Senator Dianne Feinstein (D-CA)  
Issues: Medicaid Waiver, Hospital Provider Fee, FMAP, TANF-ECF, SCAAP  
*Chair, Appropriations/Interior, Environment Sub; Commerce-Justice-Science;  
Energy & Water; & Transportation-HUD; Defense; and Agriculture Subs;  
Judiciary/Terrorism, Technology & Homeland Security; Crime & Drugs;  
Immigration & Border Security & Refugees Subs; Rules & Administration; &  
Intelligence Cmtes.*  
331 Hart Senate Office Building

10:00am Rep. Linda Sanchez (D-39) **CANCELED**  
Issues: Medicaid Waiver, FMAP, TANF-ECF, SCAAP  
*Judiciary/Immigration, Citizenship, Refugees, Border Security & Internatioal  
Law Subcmte.; Ways & Means/Social Security Subcmte.*  
1222 Longworth House Office Building

10:30am Rep. Xavier Becerra (D-31)  
Issues: Medicaid Waiver, Hospital Provider Fee, FMAP, TANF-ECF  
*Ways & Means/Health Sub with jurisdiction over Medicare, child support, &  
foster care; Budget Cmte.; Vice Chair, House Democratic Caucus*  
1119 Longworth House Office Building

2:00pm Cynthia (“Cindy”) Mann, Director, Center for Medicaid & State Operations,  
Centers for Medicare & Medicaid Services, Department of Health & Human  
Services; & others  
430A Eisenhower Executive Office Building

**Note:** Changes and additions to this schedule of meetings will be posted on the door  
May 5<sup>th</sup> and May 6<sup>th</sup> of the Los Angeles County Office, 25 Massachusetts  
Avenue, N.W., Suite 560, Washington, DC 20001.

# FEDERAL ISSUES

## MAY 2010



### Board of Supervisors

**Gloria Molina, Chair**  
First District

**Mark Ridley-Thomas**  
Second District

**Zev Yaroslavsky**  
Third District

**Don Knabe**  
Fourth District

**Michael D. Antonovich**  
Fifth District

# FEDERAL ISSUES

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## Executive Summary Federal Issues

Supervisors seek approval of a new Medicaid Waiver as a bridge to health care reform implementation; urge passage of legislation that provides critical State, local fiscal relief; job creation

The Los Angeles County Board of Supervisors will travel to Washington D.C., May 5<sup>th</sup> and 6<sup>th</sup>, to meet with Congressional leaders and The White House to urge the approval of a new Medicaid Waiver for California that will help prepare the County of Los Angeles to implement health care reform, and seek passage of legislation that will provide hundreds of millions of dollars in local fiscal relief, and the creation of tens of thousands of jobs across the region.

### **Approve a New Medicaid Waiver for California by August 2010**

A new Medicaid Waiver is a bridge to health care reform implementation in Los Angeles County. **The County urges the Centers for Medicare and Medicaid Services (CMS) to approve California's Medicaid Waiver request which will help the County health care delivery system to prepare to implement health care reform.** California's current Medicaid Waiver, which is set to expire on August 31<sup>st</sup>, provides \$900 million in annual financial assistance to the County's public health care safety-net system.

The State of California has shared concepts of the potential components of its new Medicaid Waiver request with CMS officials while it continues to work with stakeholders, including the County, in developing its request.

California's new Medicaid Waiver should build upon the existing Waiver to help transform the County's health care delivery system to successfully implement health care reform. This means reorganizing the delivery of care in a more efficient and effective way. It is estimated that over half of the County's current patients are uninsured adults who, thanks to health reform, will join the Medi-Cal program in 2014. Consistent with the new health care reform law, the County hopes to utilize the Waiver to provide improved coordinated care for medically indigent adults who will become eligible for Medicaid as health care reform phases in; seniors and persons with disabilities; individuals with multiple chronic health conditions; and persons with serious health or mental health problems.

### **Approve a Provider Fee for Public & Private Hospitals**

California hospitals that serve the Medi-Cal population face serious financial challenges. In an effort to stabilize hospital financing, the State Legislature and the Governor negotiated an agreement in 2009 that would enable the State to fund new supplemental payments to hospitals that serve Medicaid patients by imposing a new Hospital Provider Fee that would be used to attract federal matching funds.

The County is requesting immediate approval of this fee, which is still under consideration by the Centers for Medicare and Medicaid Services (CMS). Annually, this provider fee would finance supplemental payments totaling \$1.9 billion for California's hospitals, including \$1.3 billion for private hospitals and \$600 million for public hospitals throughout the State. Los Angeles County's public health care safety-net system would receive \$137 million annually in sorely needed funding.

### **Extend the Temporary Increase in the Federal Match Rate for Medicaid, Foster Care and Adoption Assistance for an Additional Six Months**

It is essential that Federal jobs legislation currently being considered by Congress include significant fiscal relief, through an extension of the American Recovery and Reinvestment Act's (ARRA) temporary increase in the Federal Medical Assistance Percentage (FMAP) rate for Medicaid, Foster Care and Adoption Assistance. The County is asking Congress for a six-month extension through June 30, 2011, which would provide more than \$2.5 billion in urgently needed Federal fiscal relief to California and reduce the County's share of Medicaid, foster care and adoption costs by roughly \$170 million.

### **Extend the Temporary Assistance for Needy Families Emergency Contingency Fund for an Additional Year**

The \$5 billion Temporary Assistance for Needy Families (TANF) Emergency Contingency Fund (ECF) is another critically important fiscal relief and job creation tool, created by ARRA. By financing 80 percent of increased expenditures on basic assistance and subsidized employment, TANF ECF has enabled California to avoid making deep cuts in CalWORKs cash grants at a time of increased need while also enabling thousands of unemployed low-income persons to be placed into subsidized jobs. The County urges Congress to extend this program, with increased funding, for an additional year.

As of April 26, 2010, the County had created 7,300 subsidized jobs for CalWORKs recipients and other low-income adults under its subsidized employment program. Besides using TANF ECF to create thousands of additional subsidized jobs for adults, the County also will use the fund to implement a 2010 summer youth employment program, which could provide subsidized jobs to more than 15,000 low-income youth (including eligible foster youth) in collaboration with Workforce Investment Boards in the County.

### **Fully fund the State Criminal Alien Assistance Program**

The State Criminal Alien Assistance Program (SCAAP) reimburses previously incurred state and local costs of incarcerating undocumented criminal aliens. Inadequate SCAAP funding has

resulted in an unfair shift in costs to state and local governments, especially in California. In FFY 2010, SCAAP was funded at \$330 million – far below its authorized funding level of \$950 million. Every dollar spent by the County on jailing undocumented criminal aliens not reimbursed by SCAAP means a dollar less that can be spent on other essential public safety services, which, in turn, endangers public safety.

President Obama’s Proposed FFY 2011 Budget includes \$330 million for SCAAP, which represents the first time that a President has requested any funding for SCAAP since 2001. **The County thanks the President for including funding in his budget, and requests that Congress fund SCAAP at its authorized level of \$950 million in FFY 2011.** If SCAAP were funded at \$950 million, the State of California and its counties should receive nearly \$380 million, and the County’s SCAAP reimbursement would increase from an estimated \$12.7 million in FFY 2010 to over \$36 million.

## **APPROVE CALIFORNIA'S NEW MEDICAID WAIVER – THE BRIDGE TO HEALTH CARE REFORM IMPLEMENTATION**

### **Position**

**California's new Section 1115 Medicaid Waiver should be structured in a manner that strengthens the State's health care safety net and enables the County of Los Angeles to transform its public health care delivery system to successfully implement health care reform.**

**The Centers for Medicare and Medicaid Services (CMS) should approve the State's Medicaid Waiver request because it replaces an existing Waiver, set to expire on August 31, 2010, which is providing \$900 million annually to the County's public health care safety net system.**

### **Background**

The Los Angeles County Department of Health Services (DHS) operates the nation's second largest local public health care system, and serves as the primary health care provider to the County's uninsured and indigent residents. DHS provides medical care to nearly 700,000 individual patients. Its hospitals train 40 percent of all medical residents in the County and provide 36 percent of all trauma care and 10 percent of all emergency room visits.

Medicaid is, by far, the largest source of health financing for Los Angeles County's public health safety net system. California has a Section 1115 Medicaid Hospital Financing Waiver, set to expire on August 31, 2010, that governs Medicaid payments and provides the County's DHS with \$900 million in annual funding, including "coverage initiative" funds that enabled the County to create "Healthy Way LA," a program which enrolls medically indigent adults into a system of coordinated care.

The County plays a pivotal role in the financing of California Waivers since the State relies upon the counties to provide the State match for all new federal funds that are provided to public hospitals. Los Angeles County and other counties with public hospitals generate this match through the use of Certified Public Expenditures (CPEs), which are unreimbursed healthcare expenses identified by public systems. This State/County partnership allows the State to avoid new general fund expenditures, an increasingly critical factor as the State battles to solve its own budget crisis.

The State's new Medicaid Waiver should build upon the existing Waiver by helping to transform the County's health care delivery system to successfully implement health care reform. This means reorganizing the delivery of care in a more efficient and effective way. We estimate that over half of the County's current patients are uninsured adults who, thanks to health reform, will join the Medi-Cal program in 2014. Consistent with the new health care reform law, the County hopes to utilize the new Waiver to provide improved coordinated care for the medically



indigent adults who will become eligible for Medicaid as health care reform phases in; seniors and persons with disabilities; individuals with multiple chronic health conditions; and persons with serious health or mental health problems.

Health care reform also creates new challenges for the State's health care delivery system, such as the challenge of serving a far greater number of Medicaid beneficiaries. The Medicaid financing provided through the new Waiver will be important in not only ensuring that current needs can be met, but also in strengthening California's safety net by building the increased capacity that will be needed to maximize opportunities to reduce the number of uninsured individuals under the health care reform expansions.

### **Status**

The State of California has shared concepts of the potential components of its new Medicaid Waiver request with CMS officials while it continues to work with stakeholders throughout the State in developing its Waiver request. The CMS should work closely with the State to expedite the review and approval of the new Medicaid Waiver so it can take effect in September 2010 after the current one expires on August 31, 2010.

## **APPROVE A PROVIDER FEE FOR PUBLIC & PRIVATE HOSPITALS**

### **Position**

**Governor Schwarzenegger and the Legislature reached agreement in 2009 on a Hospital Quality Assurance Fee which, subject to Federal approval, would generate Medicaid funding for supplemental payments to California hospitals.**

**The County urges the Centers for Medicare and Medicaid Services (CMS) to approve this fee.**

### **Background**

In an effort to stabilize hospital financing, the Legislature and the Governor negotiated an agreement in 2009 to create a Hospital Provider Fee that would enable the State to fund new supplemental Medicaid payments to hospitals that serve Medicaid patients. This new fee would be used to finance the non-Federal share of the Medicaid costs for supplemental payments. California already imposes provider fees (“Quality Assurance Fees”) on Medi-Cal managed care plans, skilled nursing facilities, and intermediate care facilities to help finance non-Federal Medicaid costs.

The Centers for Medicare and Medicaid Services must approve the Medicaid State Plan Amendment submitted by the State to implement the new Hospital Quality Assurance Fee in order for the fee to become effective. There are 22 other states which currently impose hospital provider fees to finance non-Federal Medicaid costs, so such a fee also should be allowed in California.

Approval of this fee is extremely important to Los Angeles County’s Department of Health Services (DHS), which operates the nation’s second largest public hospital system, and which faces major ongoing structural budget deficits. On an annual basis, this provider fee and the supplemental payment will generate \$137 million in needed Medicaid funding for DHS. The total annualized value to public hospitals statewide is \$600 million and value to private hospitals statewide is \$1.3 billion.

### **Status**

Assembly Bill 1383, the bipartisan enabling legislation, was signed into law on October 11, 2009. As of April 26, 2010, the State Plan Amendment to implement the new Hospital Quality Assurance Fee, which was submitted to CMS, has not yet been approved. Although the fee was structured to meet the basic CMS criteria, implementation issues have reportedly delayed its approval.

# **EXTEND THE TEMPORARY INCREASE IN THE FEDERAL MATCH RATE (FMAP) FOR MEDICAID, FOSTER CARE, AND ADOPTION ASSISTANCE**

## **Position**

**The County supports fiscal relief for state and local governments, by extending the temporary increase in the Federal Medical Assistance Percentage (FMAP) rate for Medicaid, Foster Care, and Adoption Assistance for an additional six months through June 30, 2011.**

## **Background**

The enactment of Federal jobs legislation which includes fiscal relief for state and local governments is critically important for California and Los Angeles County, who have been hit by the current economic downturn exceptionally hard. Unemployment in February hit 12.4 percent compared to just 4.8 percent in 2007. As a result, the County's monthly average General Relief caseload has grown from 58,599 in 2007 to an estimated 93,860 this year; a 60 percent increase in a four year period. Compounding matters, economic recovery and job creation throughout California have been hindered by the State's huge budget shortfall – the largest, by far, of any state. In the past two years, this budget shortfall has forced the State to enact \$72 billion in budget cuts. It is essential that Federal jobs legislation include significant fiscal relief which would enable the State to avoid even deeper cuts in essential services that would lead to a further weakening of economic activity and more job losses.

An extension of the American Recovery and Reinvestment Act's (ARRA) temporary increase in the Federal match rate for Medicaid, Foster Care, and Adoption Assistance is one of the most important fiscal relief measures that Congress could provide to California and its counties. A six-month extension through June 30, 2011 would provide California more than \$2.5 billion in fiscal relief of which roughly \$170 million would be available to reduce the County's share of Medicaid and Title IV-E Foster Care and Adoption Assistance costs.

The Federal Medical Assistance Percentage ("FMAP") is the Federal match rate for assistance provided under the Medicaid and Title IV-E Foster Care and Adoption Assistance programs. Under ARRA, California's FMAP was increased from the statutory minimum of 50 percent to 60.59 percent for Medicaid and 56.2 percent for Title IV-E costs from October 1, 2008 through December 31, 2010. Increased Federal matching funds are especially important during a deep recession when medical assistance, foster care, and adoption assistance needs increase at the same time State and county revenues decrease. In California, counties help finance the non-Federal share of Medicaid-funded assistance, including mental health and In-Home Supportive Services, and Title IV-E-funded Foster Care and Adoption Assistance. Extending ARRA's FMAP increase, therefore, would lessen the need for the County, as well as the State, to make deeper cuts in essential services for persons hurt by the recession.

## **Status**

Unlike last year when economic stimulus, state fiscal relief, and job creation measures were consolidated into a single omnibus bill (H.R. 1), the American Recovery and Reinvestment Act of 2009, multiple legislative vehicles are being used to move job-related and fiscal relief proposals this year, including language to extend ARRA's temporary FMAP increase.

A six-month extension of the temporary FMAP increase is included in H.R. 4213, the American Workers, State and Business Relief Act of 2010, as passed by the Senate. The House version of H.R. 4213 does not include a six-month FMAP increase extension, but the House is on record as supporting this extension based on passage of H.R. 2847, the Jobs for Main Street Act, and H.R. 3962, its health care reform bill, which no longer are available legislative vehicles.

## **EXTEND THE TEMPORARY ASSISTANCE FOR NEEDY FAMILIES EMERGENCY CONTINGENCY FUND TO CREATE MORE SUBSIDIZED JOBS**

### **Position**

**The County supports a one-year extension of the Temporary Assistance for Needy Families (TANF) Emergency Contingency Fund (ECF) with sufficient new and/or carryover funds to enable all states, including California, to maintain or expand their TANF ECF-funded subsidized employment programs.**

### **Background**

The 1996 welfare reform law created the Temporary Assistance for Needy Families (TANF) Block Grant, which funds cash grants, employment services, supportive services, and other services to low-income families and children. Each state receives a fixed annual TANF allotment that has remained the same, without adjustment, since TANF was created in 1996. The American Recovery and Reinvestment Act (ARRA) of 2009 established and appropriated \$5 billion for the TANF Emergency Contingency Fund (ECF) to help states meet the growing needs of low-income families and children during the worst recession and fiscal crisis facing states, by far, in many years. This new fund reimburses 80 percent of increased TANF-related expenditures on basic assistance (cash grants), non-recurrent short-term benefits, and subsidized employment during Federal Fiscal Years (FFYs) 2009 and 2010.

The new TANF ECF has been extremely important to California because it has provided the State with greatly needed fiscal relief while, at the same time, enabling it to fund cash grants to a growing number of low-income families and create thousands of subsidized jobs. California has been hit harder by the recession than the rest of the nation, as reflected by the fact that the State alone has more than 15 percent of all unemployed persons in the U.S. California also has roughly one-third of all TANF cash assistance recipients.

California's counties have played a leadership role in using 80 percent TANF ECF financing to create subsidized jobs. Los Angeles County has used TANF ECF to create the most subsidized jobs, by far, of any county – 7,300 subsidized jobs for TANF recipients and other low-income adults as of April 22, 2010. Besides creating thousands of subsidized jobs for adults, the County also is using TANF ECF to implement a 2010 summer youth employment program, which could provide subsidized jobs to more than 15,000 low-income youth (including eligible foster youth) in collaboration with seven Workforce Investment Boards in the County.

The County urges that the TANF ECF be extended for an additional year through September 30, 2011 with additional funding that would enable the number of subsidized jobs to be maintained or expanded. At minimum, sufficient new and/or carryover funding should be provided that would enable all states, including California, to guarantee employers that they will

continue to receive wage subsidies during FFY 2011 for anyone in a TANF ECF job created before October 1, 2010.

Employers will be reluctant to hire TANF recipients and other low-income individuals unless they can be assured of receiving a wage subsidy for more than one month or two. Without the assurance of continued 80 percent TANF ECF financing, counties in financially strapped California would be unable to guarantee wage subsidies beyond the current sunset date of September 30, 2010. As a result, there could be a major loss of TANF ECF funded subsidized jobs beginning in October 2010, including tens of thousands in California alone.

### **Status**

As passed by the House on March 24, 2010, H.R. 4849, the Small Business and Infrastructure Jobs Tax Act, appropriates \$2.5 billion for TANF ECF for FFY 2011 to cover 80 percent of increased qualifying expenditures on basic assistance, non-recurrent short-term benefits, and subsidized employment incurred in FFY 2011. The bill, however, would not allow unused TANF ECF funds to be allocated to states in FFY 2011, which means that nearly \$1.5 billion of ARRA's \$5 billion TANF ECF appropriation would not be available to states, as estimated by the Congressional Budget Office (CBO). As a result, California's available TANF ECF funding is unlikely to be sufficient to enable the State to assure counties that their subsidized employment expenditures would be reimbursed in FFY2011. Counties then would not be able to guarantee wage subsidies to employers beyond September 30, 2010. As of April 26, 2010, the Senate had not scheduled any action on H.R. 4849.

## **FULLY FUND THE STATE CRIMINAL ALIEN ASSISTANCE PROGRAM**

### **Position**

**The County supports full funding of the State Criminal Alien Assistance Program (SCAAP) in Federal Fiscal Year (FFY) 2011 to reimburse state and local criminal alien incarceration costs.**

**The County appreciates the Obama Administration's decision to include \$330 million for SCAAP in the President's proposed budget.**

### **Background**

State and local taxpayers should not have to pay for criminal justice costs resulting from the Federal government's inability to control illegal immigration. The 1994 Crime Act established the State Criminal Alien Assistance Program (SCAAP) to reimburse previously incurred state and local costs of incarcerating undocumented criminal aliens. If total eligible state and local costs exceed available SCAAP funding, each jurisdiction is reimbursed on a pro rata basis.

Funding for SCAAP was reduced from \$400 million in FFY 2009 to only \$330 million in FFY 2010, which is far below SCAAP's annual authorization level of \$950 million. It also is well below the \$577 million in average annual SCAAP appropriations in FFYs 1998 through 2002. Because total undocumented criminal alien incarceration costs nationally have grown significantly since that time, state and local governments are reimbursed by SCAAP for a smaller share of their total costs. The County's SCAAP reimbursement has fallen from a high of \$34 million in FFY 2002 to its most recent SCAAP payment of \$15.4 million in FFY 2009. The County will receive only \$12.7 million in SCAAP reimbursement in FFY 2010 if it receives the same percentage of U.S. total SCAAP funding as in FFY 2009.

Inadequate SCAAP funding has resulted in an unfair shift in costs to state and local governments, especially in California, which receives nearly 40 percent of total SCAAP funding, commensurate with its percentage share of total reimbursable costs. No other Federal formula grant program comes close to providing California with as high a share of total available funds. Every dollar spent by the County on jailing undocumented criminal aliens not reimbursed by SCAAP means a dollar less that can be spent on other essential public safety-net services, which, in turn, endangers public safety. For example, in response to its budget shortfalls, the County's Sheriff's Department must release many jail inmates before they serve their entire sentences. The State also is struggling with how to reduce the size of its State prison inmate population to comply with a Federal court order and to help balance its huge State budget deficit.

The County urges that SCAAP be fully funded at its authorized level of \$950 million in FFY 2011. If SCAAP were funded at \$950 million, the State of California and its counties should receive

nearly \$380 million, including over \$36 million in SCAAP reimbursement for Los Angeles County. Such increased funding is more important than ever as the State still faces a projected \$20 billion budget shortfall, even after enacting \$72 billion in budget cuts in the past two years.

**Status**

President Obama's Proposed FFY 2011 Budget proposes \$330 million for SCAAP, which is the same as its FFY 2010 funding level. While that amount is far below the SCAAP authorization level of \$950 million, it represents the first time that a President has requested any funding for SCAAP since 2001 when former President Bush requested \$265 million for SCAAP in FFY 2002. Congress has not yet begun action on the FFY 2011 Commerce-Justice-Science Appropriations Bill, which would fund SCAAP and other Department of Justice programs.