

# LEGISLATIVE UPDATE

Week of January 8, 2018

## State Issues

Governor's  
Proposed  
State Budget  
Released

On Wednesday, Governor Jerry Brown released his January Budget proposal for the 2018-2019 state fiscal year – the last of his term of office. As expected, he again reiterated the need to be fiscally prudent. He began his press conference highlighting California's very volatile tax structure and the fact that we've had ten recessions since WWII, and we need to be prepared for the 11<sup>th</sup>. The Governor is proposing to do that by fully fund the state's rainy-day fund. He plans to add an additional \$3.5 billion to that fund for a total of \$13.5 billion. However, he does augment some programs, including ensuring additional revenues go for public education, by fully funding the local control funding formula, and for a new on-line Community college program that will target improving and updating the skills of Californians currently in the workforce.

Regarding the health care budget, the Governor highlights the ongoing uncertainty in key federal programs, including the Children's Health Insurance Program (CHIP) and the Affordable Care Act, as reasons to be cautious and prudent in our current year spending. As in years past, he continues to highlight the remarkable growth in coverage and spending in the Medi-Cal program, which now covers nearly 13.5 million people, including undocumented children, and the 1.3 million people accessing health insurance through Covered California. He mentions the increases in services with the previous restoration of most optional benefits, dental care, and enteral nutrition. There are a few specific policy and budget changes outlined in the budget document related to health care.

- Overall, the Medi-Cal General Fund spending is projected to increase 11 percent from \$19.5 billion at the 2017 Budget Act to \$21.6 billion in 2018-19. The Budget assumes that caseload will decrease approximately 0.5 percent from 2016-17 to 2017-18 and increase 0.05 percent from 2017-18 to 2018-19. Medi-Cal is projected to cover nearly 13.5 million Californians in 2018-19.
- The Budget reflects increased expenditures in the Medi-Cal program of approximately \$543.7 million General Fund compared to the 2017 Budget Act. The current year increase is attributable primarily to retroactive payments of drug rebates to the federal government and a higher estimate of Medi-Cal managed care costs.
- The budget continues to include funding for the ACA Medi-Cal expansion. As of January 1, 2018, the state's cost-sharing ratio for the Medi-Cal expansion population will increase to 6 percent, and by 2020 the state's share will be 10 percent based upon current federal law. The Budget assumes costs of \$17.7 billion (\$1.4 billion General Fund) in 2017-18 and \$22.9 billion (\$1.6 billion General Fund) in 2018-19 for the 3.9 million Californians in the optional Medi-Cal expansion.

*(next)*

Governor's  
Proposed  
Budget  
*(continued)*

- One of the key policy changes proposed by the Administration through the budget is an elimination of the use of the 340B Drug program for Medi-Cal beneficiaries. The budget states that this proposal allows the state to comply with existing federal requirements, helps protect program integrity, prevents unnecessary overpayments, collects additional drug rebates, and mitigates the amount of time and resources expended to resolve drug rebate disputes related to 340B claims. They anticipate the proposal being effective beginning July 1, 2019. According to Department of Health Care Services (DHCS), they appreciate the reason the program was started, but believe it has become complicated and has strayed from its original intent of augmenting support for medications for uninsured people.
- The budget includes an augmentation of the Proposition 56 (Tobacco Tax) funds for Medi-Cal provider rates. \$232.8 million will go to increase medical and dental provider rates, in the hopes that it increases access to care. The proposal notably includes \$40 million from the Tobacco Tax funds for Graduate Medical Education within the University of California Budget. However, like last year, the Governor has eliminated an equal amount in the UC budget, so in effect, no increase will be given if this proposal stands as is.
- Within the Department of Public Health, the administration is proposing to amend how it regulates health care facilities in Los Angeles County. Currently, the Department contracts with LA County's Department of Public Health to monitor and regulate certain health care entities. The Department and LA County will be working together to develop a "comprehensive contract" for the County to conduct 100 percent of the regulatory work in Los Angeles, beginning in the 2019-2020 fiscal year.
- The budget includes an additional \$54 million to improve the work of counties in processing Medi-Cal eligibility determinations, redeterminations, billing coding, and processing data and necessary reports.
- The budget also continues to include revenue from the Medi-Cal Managed Care tax (MCO Tax), which provides \$1.4 billion for the Medi-Cal program, including funding for developmental services and In-Home Supportive Services. The current program is authorized through June 2019.
- Home Health providers will receive a 50 percent increase in rates and associated increased utilization for medically, necessary, in-home services for children and adults in fee-for-service Medi-Cal and home and community-based services waiver programs.
- The Governor continues and expands on his investment in precision medicine, designed to improve health and health care through the better use of technology and data. The budget proposes to establish the California Institute to Advance Precision Health and Medicine with an additional \$30 million one-time General Fund appropriation to continue developing demonstration projects, incorporate successful demonstration projects into the health delivery system, and further advance how data science can be utilized in healthcare.

We will continue to work to get more information on these budget items and proposed policy changes, and expect more detailed Budget Trailer Bill language on most of these issues to be released in February. The first legislative hearings on the budget proposal have already been set, with the Senate Budget Committee having an overview hearing on Thursday, January 18<sup>th</sup> and the Assembly Budget Committee having its hearing on January 23<sup>rd</sup>. *(next)*

Legislative Leadership Update	On Wednesday, Senate Pro tem Kevin de Leon announced that the Senate Democratic Caucus voted unanimously to select Senator Toni G. Atkins (D-San Diego) the next President pro Tempore of the California State Senate. The formal vote will be on March 21, 2018. We should expect Committee membership to be shifted shortly thereafter.
Two Upcoming Legislative Hearings	<p>The <b><i>Select Committee on Health Care Delivery Systems and Universal Coverage</i></b> will be having its first hearing of the year to continue the Legislature’s review of reforming our current health care system, in light of the single payer health care debate. This hearing will focus on the cost of the current health care delivery system, including the role that hospital mergers, acquisitions, and large systems has on the overall cost. The hearing is set for Wednesday, January 17<sup>th</sup> at 1:00 pm in Capitol Room 4202 and livestreamed on CalChannel.com.</p> <p>In addition, the <b><i>Select Committee on End of Life Health Care</i></b> has also officially confirmed a hearing, focusing broadly on the implementation of the End of Life Option Act. That hearing, Chaired by Assembly Member Susan Eggman, is set for Wednesday, January 24<sup>th</sup> from 9:30 am to 12:30 pm in Room 447. It will also be livestreamed on CalChannel.com. We will provide additional details as we learn more about the format and speakers at the hearing.</p>
<b>Federal Issues</b>	
Possible Continuing Resolution and CHIP Funding	<p>As reported by the Catholic Health Association of the U.S., Congress is looking at another extension of temporary funding, possibly to mid-February, to give lawmakers more time to put together an omnibus spending package for FY2018. The current continuing resolution (CR) expires next Friday, January 19<sup>th</sup> and leaders still have not reached an agreement on proposed budget caps. Additionally, funding for the Children's Health Insurance Program (CHIP) and negotiations over the status of young immigrants in the Deferred Action for Childhood Arrivals (DACA) program, remain unresolved. Congressional Republicans continue to insist on separating any DACA solution from budget negotiations, while some members of the Democratic caucus have pledged to reject any CR or omnibus that does not address DACA.</p> <p>However, chances that Congress will reach a deal to extend funding for CHIP have been improved by a new score of the legislative proposal by the Congressional Budget Office (CBO). In the new analysis, the CBO says a five-year extension would cost \$800 million, far less than the previous estimate of \$8.2 billion; and, a longer extension would save more money, \$6 billion, over ten years. Differing proposals to pay for the CHIP extension have been the main sticking point to reaching an agreement. The new analysis comes as the Georgetown University Center for Children and Families reports that if Congress does not approve CHIP funding in January, an estimated 24 states could face shortfalls. Coverage beyond February is most at risk for approximately 1.7 million children in 21 of the 24 states with separate CHIP programs.</p>
House Report on 340B Drug Program	The House Committee on Energy and Commerce has released a report this week on the 340B Drug Discount Program, which allows hospitals serving low-income and vulnerable populations to purchase certain outpatient drugs at discounted prices from drug manufacturers. The report, which comes after two years of the committee examining the operation and oversight of the 340B program, includes a number of findings about the program, as well as 12 recommendations. The report recommends, among others, that Congress reconsider and clarify the purpose of the program; impose transparency requirements; require independent audits; and monitor charity care provided by 340B hospitals.

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