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To: CSAC Health and Human Services Policy Committee

From: Kelly Brooks, Legislative Representative
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Re: California's Next Section 1115 Medicaid Waiver

Background. California's current Section 1115 Medicaid Waiver – which funds hospitals and indigent care – expires on August 31, 2010. The State of California has begun work on the next Medicaid demonstration waiver well in advance of the current waiver expiring. The California Department of Health Care Services (DHCS) released a concept paper on October 19. DHCS is seeking public comment on its concept paper and will be engaging stakeholders in a process to assist in the development of the next Section 1115 waiver. DHCS will be negotiating with the Centers for Medicare and Medicaid Services (CMS) on final approval of California's next waiver over the next ten months.

Section 1115 of the Social Security Act provides the Secretary of Health and Human Services broad authority to authorize experimental, pilot, or demonstration projects likely to assist in promoting the objectives of the Medicaid statute. Flexibility under Section 1115 is sufficiently broad to allow states to test substantially new ideas of policy merit. These projects are intended to demonstrate and evaluate a policy or approach has not been demonstrated on a widespread basis.

Projects are generally approved to operate for a five-year period, and states may submit renewal requests to continue the project for additional periods of time. Demonstrations must be "budget neutral" over the life of the project, meaning they cannot be expected to cost the Federal government more than it would cost without the waiver.

Policy Considerations. The next Section 1115 waiver raises a number of issues.

- **Financing.** The DHCS concept paper does not identify how much in additional federal funds the state will be seeking in the next waiver. Under the current waiver, much of the financing for public hospitals relies on county funds to draw down the federal match via a certified public expenditure (CPE). The federal government limits the amount of federal funds the state can draw down, and it is unknown at this time the total amount of federal funds that will be available. There are unreimbursed costs within the hospital system that public hospitals could use to draw down more match if the federal government approved an increase in the total amount of federal funds to be included in the waiver. The current financing mechanism is very complicated. It does not appear that the next waiver will dramatically change current financing structures.

In addition, due to the scarcity of General Fund resources, it is unlikely the state will have revenues to match any new federal funds identified in the waiver. California will likely rely on county expenditures to increase the amount of federal funds available for California's Medicaid program.

- **State Budget.** California's chronic budget problems are well known. Clearly, the state has an interest in reducing General Fund exposure through the Medicaid waiver. California currently spends \$X billion on the Medi-Cal program. The concept paper identifies an interest in seeking more federal dollars for some state only programs. Under the current waiver, federalizing state programs has come at the expense of funding for public and private hospitals. However if the pool of funds (Safety Net Care Pool) were to grow, there would be more funds to federalize state programs without taking away hospital funding.
- **Uninsured Care.** The current waiver includes \$180 million a year for three years for Health Care Coverage Initiative pilot programs. The pilot programs, currently in 10 counties, serve low-income uninsured adults not otherwise eligible for Medi-Cal. The DHCS concept paper includes a proposal to expand the Coverage Initiatives to more counties as well as development of more consistent standards for all counties. It is unclear how this expansion is related to federal health reform. Under versions of health reform in both houses, Medicaid coverage would be expanded to childless adults not otherwise eligible for Medicaid. There are some limits on how much federal reimbursement would be available for the Medicaid expansion. If California significantly increases Medicaid access to this new population under the waiver, it is not clear whether the state would still qualify for the enhanced federal match contemplated under federal health reform legislation for the expanded populations.
- **Increased Care Coordination.** California's concept paper expresses a strong desire to move towards increased care coordination. The State is open to various delivery systems – from existing managed care models to newly developed enhanced medical home (EMH) models. The paper also identifies other populations for care coordination, including children with special health care needs (California Children's Services program), dual-eligible beneficiaries (Medicaid and Medicare), and adults with severe mental illness. It is not clear what kinds of system changes would result from the concept of increased care coordination.
- **Hospital Fee.** The Legislature authorized, and the Governor signed, measures in 2009 that would allow California to charge a fee on hospitals. The fee charged on hospital providers would raise additional Medicaid funds for hospitals. Approximately \$2 billion could be raised through such a fee and would be used to draw down additional federal matching funds through December 2010.

Federal law authorizes states to levy fees on health care providers if the fees are within specific parameters. Many states (including California) fund a portion of their share of Medicaid program costs through a fee on health care providers. Forty-five states have Medicaid provider fees, including 22 states with hospital provider fees. California

currently imposes provider fees on Medi-Cal Managed Care plans, skilled nursing facilities, and intermediate care facilities. To prevent states from only levying an assessment on certain providers, federal law requires provider fees to be "broad based" and uniformly imposed throughout a class of providers.

CMS will have to approve this hospital provider fee. The current hospital financing waiver prohibits hospital provider fees. It is unclear how the timing of the provider fee will interact with the waiver negotiations.

- **Federal Health Reform.** Significant changes to the Medicaid program – including changes to eligibility and to hospital funding – are currently under discussion at the federal level. It is not clear how the course of those negotiations may alter the landscape for California as it moves forward with its next financing waiver. The waiver may allow California to get a head start in implementing many of the concepts and ideas embodied in the final health reform package.