



August 17, 2016

The Honorable Diana Dooley, Chair, Board of Directors  
 Peter Lee, Executive Director  
 Covered California  
 1601 Exposition Blvd.  
 Sacramento, CA  
 Via-email to: [boardcomments@covered.ca.gov](mailto:boardcomments@covered.ca.gov)

**Re: Draft Application for Section 1332 Waiver - Support**

Dear Ms. Dooley and Mr. Lee,

Our organizations write in support of the draft application of Covered California for a Section 1332 waiver of the Affordable Care Act to permit undocumented Californians to purchase California Qualified Health Plans from Covered California. This waiver of the requirement that Covered California sell only Qualified Health Plans by allowing Covered California to sell mirrored products called “California Qualified Health Plans” will allow undocumented Californians and those eligible for Deferred Action for Childhood Arrivals (DACA) the opportunity to walk in the front door of Covered California and buy coverage in the same way as every other Californian.

California has been a national leader in not only implementing the Affordable Care Act but also improving on it. This state has implemented the active purchaser role of Covered California, expanded Medi-Cal to undocumented children and childless adult Newly Qualified Immigrants and made innumerable changes in insurance market rules beyond what was required by the Affordable Care Act. This waiver application, to waive a specific provision of the Affordable Care Act, if approved, can be another example of California's effort to improve on the provisions of federal law.

The legislation that authorized this waiver, SB 10 (Lara), was approved by bipartisan, two-thirds majorities of both houses of the California Legislature. Approval of the waiver would allow immigrant families and families with mixed immigration status to obtain coverage by purchasing it from Covered California.

### **Public Process**

Prior to the development of the current waiver application, Covered California heard public testimony at numerous public board meetings about the importance of Section 1332 waivers and specifically about the importance of a waiver to allow those who are undocumented and those granted relief under the Deferred Action for Childhood Arrivals (DACA) to obtain coverage through the exchange.

Covered California also held several additional public meetings, including one that involved both the California Medicaid agency, the Department of Health Care Services, and the California Health and Human Services Agency, to hear from experts as well as public comment about a Section 1332 waiver.

We offer this letter as part of the public record for the August 18, 2016 Covered California public board meeting.

### **Deficit Neutrality, Affordability, Comprehensiveness and Scope of Coverage**

Policy and legal experts among our organizations have reviewed the waiver application, including the appendices on deficit neutrality, affordability, comprehensiveness and scope of coverage. We concur with the conclusions of these experts that this waiver meets the criteria for a Section 1332 waiver.

Covered California, and the health policy community in California, has relied on the CalSIM model to provide California-specific modeling that meets national standards to project the possible impacts of health reform proposals as well as the projected impacts of the implementation of the Affordable Care Act. The application is further strengthened by consultation with academic experts on immigration impacts which are particularly germane to this application.

## **No Federal Funds: Californians Using Their Own Money**

This waiver application requires no federal funds. Individual Californians who are ineligible for federal subsidies by reason of immigration status will be expected to use their own funds to purchase coverage, without advanced premium tax credits or cost sharing reduction assistance. We note that the waiver application reflects the reality that some undocumented Californians and DACA recipients already purchase individual coverage in the outside market using their own funds.

This waiver application does not seek federal funds but simply gives another group of Californians the opportunity to purchase coverage, using their own dollars. This is the same opportunity that other Californians over 400% Federal Poverty Level have today.

## **Marketing and Outreach to Diverse Communities**

From its inception, Covered California has engaged in marketing and outreach to the diverse communities of California, which include immigrant families and families with mixed immigration status as well as targeted efforts to Latino, African American, Asian American, Native Hawaiian and Pacific Islander populations. Since 2013, Covered California has invested hundreds of millions of dollars communicating to Californians the importance of having health coverage and the availability of new coverage options. Many of our organizations have joined in these outreach and education efforts.

Covered California's efforts were further amplified by additional outreach to those who were potentially Medicaid eligible, which included mixed immigration status families.

## **California's Record of Immigrant Inclusiveness**

This waiver application continues California's longstanding record of inclusiveness for our immigrant communities, in both health care and other policy areas.

In health care, California has:

- Provided full-scope Medicaid coverage to newly qualified immigrants, present in this country for less than five years and who meet other Medicaid eligibility requirements such as income and categorical eligibility;
- Provided full-scope Medicaid coverage for pregnancy to undocumented women who are income eligible; and
- Recently expanded full-scope Medicaid coverage to undocumented children who are income-eligible.

In other policy areas, California has:

- Since 2002, allowed undocumented students to pay in-state tuition at public institutions of higher learning;
- Provided state financial aid and scholarship opportunities to undocumented students since 2012;

- Restored access to driver’s licenses to all Californians, regardless of immigration status; and
- Provided state funding to support education, outreach and application programs for immigrants eligible for naturalization and deferred action (One California: Immigrant Integration Services).

This waiver builds on the long record of immigrant inclusion in California and within that tradition is a modest step forward.

## **Conclusion**

Our organizations strongly support the application by Covered California for a Section 1332 waiver of the ACA provision requiring Covered California to sell only Qualified Health Plans. This will allow Covered California to sell California Qualified Health Plans so that all Californians, regardless of immigration status, are able to obtain health coverage through our state marketplace, Covered California. California has been a national leader in implementing, and improving on, the Affordable Care Act: this waiver application is another step forward.

Sincerely,

Alliance for Boys and Men of Color  
 American Academy of Pediatrics  
 Asian Americans Advancing Justice - Los Angeles  
 Asian Law Alliance  
 ASPIRE  
 CaliforniaHealth+ Advocates  
 California Black Health Network  
 California Coverage and Health Initiatives  
 Californians for Disability Rights, Inc.  
 California Health Professional Student Alliance  
 California Immigrant Policy Center  
 California Latinas for Reproductive Justice  
 California Pan-Ethnic Health Network  
 California Partnership  
 California Physicians Alliance (CaPA)  
 California Primary Care Association  
 California Rural Legal Assistance Foundation  
 Centro Binacional Para El Desarrollo Indígena Oaxaqueño  
 Children's Defense Fund-California  
 Children Now  
 Clinica Romero  
 Coalition for Humane Immigrant Rights of Los Angeles  
 Community Health Councils  
 Community Health Initiative of Orange County

Community Health Partnership  
Congress of California Seniors  
Fathers & Families of San Joaquin  
Filipino Youth Coalition  
Fresno Center for New Americans  
Having Our Say!  
Health Access California  
Healthier Kids Foundation  
KRC Korean Resource Center  
Latino Coalition for a Health California  
Law Foundation of Silicon Valley  
Long Beach Immigrant Rights Coalition  
Los Angeles Immigrant Youth Coalition  
Maternal and Child Health Access  
Multi-faith ACTION Coalition  
National Council of La Raza  
National Health Law Program  
National Immigration Law Center  
NICO Chinese Health Coalition  
One LA IAF  
PICO CA  
Pre-Health Dreamers  
Public Citizen  
Public Law Center  
Redwood Community Health Coalition  
Santa Clara Valley Health & Hospital System  
Services, Immigrant Rights, and Education Network  
SEIU  
SEIU 521  
SEIU-UHW  
Silicon Valley Council of Nonprofits  
Somos Mayfair  
South Asian Network  
Southeast Asia Resource Action Center  
The Children's Partnership  
The Wall Las Memorias  
Tongan Community Service Center  
United Farm Workers Foundation  
United Ways of California  
UPLIFT  
Vision y Compromiso  
Western Center on Law and Poverty  
Working Partnerships USA  
Young Invincibles