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February 17, 2015

The Honorable Holly Mitchell

Chair, Senate Budget Subcommittee 3 on Health and Human Services

State Capitol, Room 5080

Sacramento, CA 95814

The Honorable Tony Thurmond

Chair, Assembly Budget Subcommittee 1 on Health and Human Services

State Capitol, Room 5150

Sacramento, CA 95814

Re: Governor's Proposed 2015-16 Budget

Dear Senator Mitchell and Assemblymember Thurmond:

We are writing to offer comments on the Governor's proposed 2015-16 budget. Health Access California is the statewide health care consumer advocacy coalition, advocating for quality, affordable health care for *all* Californians. The state budget is a reflection of California's values and priorities, and Health Access seeks to ensure that it includes investments in health for all our residents.

California has led the nation in implementation of the Affordable Care Act, which has reduced the rate of uninsured Californians by half. We accomplished this feat in part by expanding Medi-Cal to low-income parents and childless adults who were previously excluded from the program and whose incomes are at or below 138 percent of the federal poverty line. The Medi-Cal expansion was entirely funded by the federal government. In addition, California has made it easier for people who were already eligible for Medi-Cal to sign up for coverage and remain enrolled by simplifying eligibility and enrollment rules.

The Medi-Cal program is the largest single program operated directly by the State of California. It is an integral part of our health care system, providing cost-effective health care coverage to twelve million Californians—about a third of California's population. These individuals would otherwise be uninsured, sicker, dying younger, and living with more financial stress and medical debt.

Health and Human Services as a whole comprises about one-third of the state's general fund, but a number of cuts were made to these programs during the Great Recession and these cuts are still in place. As a result, families that rely on Medi-Cal and other health and human services often go without needed services. California's lowest-income residents bore the brunt of difficult budget cuts made during the Great Recession. Although the economy has dramatically improved in recent years, the state still has an unconscionable number of people living in poverty and many parts of the state still have high rates of unemployment. It is imperative that we help

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struggling Californians to get back on their feet by continuing the work of health reform implementation and fully funding vital health and human service programs.

Continued Implementation of Federal Health Reform and Medi-Cal Expansion

Health Access California applauds the continued health reform implementation and Medi-Cal expansion, which results in no net cost to the State General Fund. Over the past two years, Medi-Cal enrollment increased by about 2 million newly eligible individuals who were previously excluded from the program, about 1 million previously eligible individuals who have now been enrolled, and the shift of nearly 1 million children to Medi-Cal from the now-eliminated Healthy Families program.

We note that ACA implementation and Medi-Cal expansion has been a boon, not a burden, to the state's general fund and to the health system we all rely on. Health Access notes that California is leveraging more than \$17 billion dollars in federal dollars for ACA-related enrollment in 2015-16. The Governor's budget proposes to spend \$1.1 billion on coverage for people who were previously eligible but now enrolled in Medi-Cal as a result of health reform implementation. However, the state's net cost for covering new Medi-Cal enrollees is as low as \$0 because of General Fund offsets adopted in the 2013 budget. These offsets include shifting back to the state dollars previously given to counties for indigent health care (including in AB 85 of 2013), which is projected to save the General Fund \$1.4 billion over two years, and using proceeds from the managed care organization (MCO) tax resulting in \$800 million in General Fund savings over two years. Therefore, Medi-Cal expansion is actually costing the state *nothing* in General Fund dollars in the budget year. While we recognize there will be a state share of cost for the newly eligible in Medi-Cal (starting at 5% and going up to but not exceeding 10%) in future years, even then, a 9-to-1 match provides a dramatic infusion of federal dollars. The billions in federal dollars flowing to California will substantially benefit California residents and the health system on which we all rely. *Health Access California believes continuing Medi-Cal expansion is a worthy investment in the health and well-being of the one in three Californians who rely on this critical program.*

Immigrant Health Care

Although the Affordable Care Act made health coverage possible for millions of Californians, it excludes undocumented immigrants currently living and working in the state. Under the ACA, undocumented immigrants are not eligible for any assistance, including federal subsidies to buy health insurance and Medi-Cal. President Obama's recent executive order on immigration addresses the needs of some of the remaining uninsured by allowing certain undocumented immigrants to obtain "deferred action" status, allowing them to temporarily remain in the country without fear of deportation.

Under existing California law, immigrants with “deferred action” status are eligible for state-funded Medi-Cal coverage if they otherwise meet income eligibility guidelines. The Governor’s proposed budget does not make *any* eligibility changes to Medi-Cal, and thus implicitly maintains California’s longstanding tradition of providing health coverage to certain immigrant populations who are otherwise excluded from federal programs, including recent legal immigrants who have arrived in the last five years, and DREAM Act students.

The Governor’s proposed budget references the President’s executive order, stating that deferred action status “potentially qualifies individuals for state-funded full-scope Medi-Cal.” However, the Governor’s proposed budget also states “there is a great deal of uncertainty about the scope, timing and effect of these actions” and covering eligible immigrants “could cost hundreds of millions of dollars annually.” Health Access California is disappointed the Governor’s proposed budget does not include a specific dollar amount dedicated for covering immigrants with deferred action status who meet Medi-Cal’s income eligibility requirements.

With no action by the Governor to change eligibility, we expect Californians who receive “deferred action” status through the President’s executive action, and meet income requirements, to be covered by Medi-Cal. Once granted “deferred action” later this year, these individuals will be able to go through the Medi-Cal enrollment process. There have been, and continue to be, very substantial barriers to enrollment for such individuals, caused by a combination of the CalHEERS IT challenges, lack of training of county eligibility workers, and other misinformation about eligibility. *Health Access California looks forward to working with the Legislature and the Administration to ensure low-income Californians with deferred action immigration status are able to access the Medi-Cal benefits and services for which they are eligible.*

However, more work needs to be done to achieve the vision of health care for all by extending coverage to the remaining undocumented and uninsured who are not getting immigration relief from the President’s executive action. The 2013 budget (in AB 85) shifted many dollars from the county safety-net that could have been used to provide care for the remaining uninsured including undocumented immigrants. While some counties provide some services to this population, many do not, and the state can and should fill this gap. SB 4 (Lara) proposes to expand state-funded Medi-Cal without regard for immigration status, as well as to set up a “mirror marketplace” aligned with Covered California to allow undocumented immigrants to purchase coverage. The cost of expanding Medi-Cal regardless of immigration status is modest, according to a recent academic study.ⁱ When discounting those already covered under the President’s executive action, the additional cost is even lower. *Health Access California urges, as a high priority, that the Legislature include funding for health care for the remaining undocumented and uninsured in the 2015-16 budget.*

Requests for Restorations and Policy Changes to Health Programs

Health Access California believes restoring and investing in Medi-Cal, as the Legislature proposed last year, would improve access to care, and bring in enhanced federal matching funds into our health system and economy.

Limiting Medi-Cal Estate Recovery

Health Access California urges, as a high priority, that the Legislature limit Medi-Cal estate recovery to Long Term Services and Supports (LTSS) costs only, consistent with minimum federal requirements. The Governor's proposed budget does not fix the current estate recovery policy that discourages patients from signing up for Medi-Cal coverage out of fear that their family home and assets could later be seized to recoup the cost of their benefits. Last year, the Governor vetoed Senator Hernandez's SB 1124, which would have limited Medi-Cal estate recovery to LTSS costs, the minimum required by federal law. However, in his veto message, he stated he was willing to consider such a change in the budget process.

California is one of only seven states that currently goes beyond federal requirements by seeking recovery for the cost of providing all services (not just LTSS) to Medi-Cal beneficiaries aged 55 or older. The policy unfairly penalizes low-income families that have managed to save, and it also discourages Californians from enrolling and fulfilling the mandate to get coverage. It is particularly punitive here because of the state's reliance on Medicaid managed care: literally, for every month a consumer over age 55 is enrolled in Medi-Cal managed care, the full value of the Medi-Cal managed care capitation payment is a lien on the estate. In states that rely on fee-for-service, the lien is only the amount paid for services provided. Here in California, the lien is about \$500 per month (or whatever the current per member per month rate is) regardless of whether the consumer gets care or not. The current policy is also inequitable, as it seeks such a lien for low-income families signing up for coverage in Medi-Cal, but not for those with slightly higher incomes in Covered California. At worst, the policy contributes to intergenerational poverty; even if some people find ways around it, it discourages low-income families from taking actions that can help lift them up from poverty: saving, and getting covered.

The Governor's veto message stated changes to the estate recovery policy should be considered in the budget process, and we urge the Legislature to push for changes this year. Last year such changes were estimated to cost around \$30 million. Low-income Californians should not have to make a trade-off between seeking health care coverage and keeping their family home.

Medi-Cal Benefits Eliminated in the 2009-10 Budget

Health Access California requests the Legislature restore non-federally mandated but critical Medi-Cal benefits that had been eliminated for budgetary, not policy reasons, in response to the state's fiscal crisis. They include acupuncture, audiology, chiropractic, incontinence cream and washes, optician/optical lab, podiatry, and

speech therapy. The Legislature previously estimated restoring these benefits would cost \$13 million.

Health Access California also supports full restoration of adult dental coverage. Partial restoration of adult dental in the 2013-14 budget has given Medi-Cal recipients access to preventive care, restorations, and full dentures. However, some important dental services, such as gum treatment and partial dentures or implants, are still not covered in Medi-Cal. The omission of these services is particularly important given that tooth extraction is among the most common type of service provided under Federally Required Adult Dental Services (FRADS), which offered very limited dental care for adults in Medi-Cal after California eliminated most dental services. Because most adult Medi-Cal beneficiaries have some, but not all their teeth pulled, they need partial dentures or bridgework following the extractions. California's current policy of only providing full denture replacement only leaves a large portion of Medi-Cal recipients without access to dentures and implants, which has a negative impact on their health and their efforts toward economic-self-sufficiency. The Legislature previously estimated it would cost an additional \$69.5 million to fully restore adult dental benefits in Medi-Cal.

Medi-Cal Provider Rates

Health Access California requests the Legislature rescind the 10 percent Medi-Cal provider rate cut, which will encourage more providers to participate in Medi-Cal and help increase access for those in Medi-Cal. California's Medi-Cal provider reimbursement rates are among the lowest in the nation, making access to doctors, specialists and other providers harder for some of the 12 million Californians with Medi-Cal coverage. The 2011 budget cut provider rates by 10 percent, and the proposed budget maintains this cut. Health Access California supports the Governor's inclusion of \$130 million to fund exemptions to provider rate cuts that were approved last year, including high-cost drugs, certain specialty physician services, and other particular services. The Governor's budget however, does not seek to restore the other cuts, which last year amounted to \$244 million.

The ACA provided an increase in primary care reimbursements, but those expired January 2015. This "primary care bump" pegged primary care rates to Medicare, rather than Medi-Cal, levels—nearly doubling the payment for these services. A number of states are continuing this investment in access to health care.ⁱⁱ *Health Access supports the state continuing the "primary care bump" at Medicare levels.*

Key Public Health Programs

Health Access California urges the Legislature to restore public health programs including STD Prevention, Teen Pregnancy, Dental Disease Prevention Program, School-Based Health Centers, and Syringe Access Programs. We appreciate restoration of the Black Infant Health Program and HIV prevention demonstration projects in the final 2014-15 budget. Other key public health programs that support prevention, clinic care, treatment, and other small but effective health interventions

should be restored as well. The Legislature has previously estimated restorations to these programs would cost \$16.5 million dollars.

Governor's New Policy Proposals

Encouraging or requiring those in limited benefit programs to seek enrollment in full coverage programs:

Genetically Handicapped Persons Program (GHPP): *Health Access California opposes the proposed trailer bill language, which would require individuals in GHPP to enroll in other forms of coverage, including qualified plans through Covered California, and receive specialized services in GHPP not provided by other coverage. We understand there are about 350 patients with hemophilia who are receiving "GHPP Only" coverage and they mostly consist of severe patients who need to infuse clotting factor biologic drugs, several times per week, in the home setting, in order to remain healthy members of the workforce. We are told most of the cost associated with serving this population is attributed to the cost of the biologic drugs.*

Health Access opposes requiring these patients to get coverage through Covered California because required cost-sharing for prescription drugs will be too expensive for these individuals to absorb. In addition, while we support getting people covered through comprehensive programs such as Medi-Cal, we also believe access to continuous and affordable care needs to be prioritized for the hemophilia community. Therefore, Health Access requests that GHPP continue to provide primary coverage for medication and care that is related to their hemophilia.

Every Woman Counts (EWC), Family Planning Access Care and Treatment (FPACT), and IMProving Access, Counseling, and Treatment for Californians with Prostate Cancer (IMPACT). *Health Access California supports the intent of the proposed trailer bill language to provide individuals in these programs with information on how to apply for insurance affordability programs such as Medi-Cal and Covered California. We believe these consumers should get their health care through a comprehensive coverage program if they are eligible, with the caveat that limited benefit programs should continue for individuals not eligible for comprehensive coverage and for those services not covered under comprehensive coverage such as confidential reproductive services*

Imposing an open enrollment in Medi-Cal plans. *Health Access California opposes a mandatory open enrollment policy that will restrict access and limit choice for those eligible for Medi-Cal—even as health plans are free to change their networks at any time. The Governor's budget seeks to limit Medi-Cal managed care enrollees' ability to change plans to an annual 90-day open enrollment time period. Although open enrollment exists for commercial managed care plans, we believe there are critical differences in Medi-Cal managed care that make open enrollment inappropriate in this context:*

- Mandatory open enrollment limits consumer choice and access to quality care. Medi-Cal managed care plans have lower quality ratings than their counterparts in the commercial market. Medi-Cal beneficiaries should have the option of changing plans at any time if they feel they are not getting quality and timely care.
- Individuals in Medi-Cal managed care can be enrolled in a plan by default, while individuals in the commercial market must actively select an initial plan. Those who are enrolled in a plan by default often are not aware of this action until well beyond the initial 90 days of their enrollment. As a result, access to existing providers could be disrupted or terminated if a beneficiary is unable to change plans.
- We are concerned that an annual open enrollment period will not align with other Medi-Cal processes such as annual redeterminations. Instituting this policy will lead to increased workload for resource-strained county welfare departments and create much confusion for Medi-Cal beneficiaries.
- Although the proposed trailer bill language and federal regulations allow beneficiaries to disenroll at any time for “cause,” we are concerned this mechanism places an unfair burden on the beneficiary to make an adequate showing that they have “cause” to change plans outside of open enrollment. Navigating such a process would be immensely challenging for most consumers, particularly Medi-Cal beneficiaries. As a result, beneficiaries will not be able to get the care they need when they need it.
- Finally, the trailer bill language proposes to exempt a large proportion of the Medi-Cal population from mandatory open enrollment. We are concerned that this exemption, while well-intentioned, will in fact create confusion within the program and amongst beneficiaries. Medi-Cal beneficiaries do not always know what eligibility category they are a part of, and misinformation or misunderstanding can lead to detrimental results.

In sum, Health Access California believes a mandatory open enrollment period for Medi-Cal managed care is unnecessary and ill-advised.

Revamping/broadening the managed care organization (MCO) tax that currently funds Medi-Cal to meet federal guidelines and support a restoration for In-Home Supportive Services (IHSS). *Health Access California generally supports the Governor’s proposal to broaden the MCO tax to all managed care plans and dedicating revenues raised to fund Medi-Cal and restore the 7-percent reduction in IHSS hours.* Health Access is reviewing the details of this proposal and will offer more detailed comments in the near future.

Pursuing a renewed five-year Medicaid waiver to “support ACA implementation, drive significant delivery system transformation, and provide long-term fiscal stability of the Medi-Cal program.” California’s current “Bridge to Reform” waiver ends in October 2015. *Health Access California has been an active participant in multiple workgroups currently meeting to craft this waiver proposal to the federal*

government. We will continue working with the Administration and the Legislature on California's waiver.

Require referral to a dentist participating in the Medi-Cal program for all children who are one year of age or older and are eligible for Medi-Cal. *Health Access California supports the proposed trailer bill language because it aligned with the Affordable Care Act's goal to promote access to pediatric dental services. In addition, this policy change is consistent with guidelines recommended by dental and pediatric organizations and makes California responsive to direction from the centers for Medicare and Medicaid Services (CMS) for the State to improve the rate with which young children receive dental services.*


Modification of the Major Risk Medical Insurance Program (MRMIP) and the Guaranteed Issue Pilot (GIP) Program to allow individuals ineligible for other coverage to receive health coverage through a modified program. *Health Access California supports the intent of this trailer bill because it would maintain the MRMIP program where Medicare-ESRD (end stage renal disease) individuals can purchase supplemental coverage, and maintains MRMIP as an option for non-ESRD individuals who are in MRMIP today. We also note this proposal is an improvement over the Administration's previous proposal to eliminate the MRMIP program in its entirety. Health Access is reviewing the details of this proposal and plans to offer additional comments in the near future.*

Eliminate the County Cost of Living Adjustment (COLA) as part of the annual State budget allocation for county administration. *Health Access California opposes trailer bill language proposed by DHCS to eliminate the COLA provided to counties for Medi-Cal administration. The Legislature can, and has, suspended the annual COLA as needed since 2007-08. In addition, the department has not completed the development of a new budgeting methodology, as required in the 2013-14 budget, to ensure counties have adequate funding to carry out eligibility and on-going case management for the Medi-Cal program. We believe it is premature to eliminate the COLA before the budgeting methodology is finalized.*

Eliminate the Sunset of CalHEERS Electronic MAGI Eligibility. *Health Access California supports the proposed trailer bill language that would make electronic verification of MAGI Medi-Cal eligibility permanent. We understand CalHEERS is able to grant MAGI Medi-Cal eligibility to the extent that all information can be electronically verified, and those cases that cannot be electronically verified are transferred to the applicant's county of residence for a MAGI Medi-Cal eligibility determination.*

Health Access California looks forward to working with you this session to craft a state budget that invests in the health and well-being of Californians. Please contact Tam Ma, Policy Counsel, at (916) 497-0923 x. 201 or tma@health-access.org if you have any questions about our position on the state budget.

Sincerely,


Anthony Wright
Executive Director

Cc: Members, Senate Budget Committee
Members, Assembly Budget Committee
Diana Dooley, Secretary, California Health and Human Services Agency
Jennifer Kent, Director, Department of Health Care Services
Donna Campbell, Office of the Governor
Marjorie Swartz, Office of the Senate President Pro Tempore
Agnes Lee, Office of Speaker of the Assembly
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Andrea Margolis, Assembly Budget Subcommittee No. 1

ⁱ UCLA, USC, San Diego State University (2014). Ensuring California's Future by Insuring California's Undocumented. <http://healthpolicy.ucla.edu/publications/Documents/PDF/2014/ensuringundocbrief-may2014.pdf>

ⁱⁱ Kaiser Health News (2014). *Six States Extending Medicaid Pay Raise Next Year to Primary Care Doctors*. Retrieved from <http://kaiserhealthnews.org/news/6-states-extending-medicaid-pay-raise-next-year-to-primary-care-doctors/>.