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HFMA LEGISLATIVE UPDATE

Presented by

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HR 1586 – FMAP Extension

Provides a 6-month extension through June 2011 of the Medicaid temporary FMAP, bringing an estimated \$1.2 billion to California. Significant to hospital fee extension and Section 1115 Waiver under negotiation.

Signed by the President August 10, 2010

California Legislation

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Health Care Reform

AB 1602 Perez (D-Cathedral City) – Health Benefits Exchange

Creates the California Health Benefits Exchange; allows children to stay on their parents' health insurance or plan until they are 26; prohibits lifetime limits on benefits; and prohibits pre-existing condition exclusions for enrollees and insureds under 19.

On Senate Floor

SB 900 Alquist (D-Santa Clara) – Health Benefits Exchange

Establishes the statutory framework for the California Health Benefits Exchange; requires the Exchange to implement functions specified by federal health care reform law; authorizes the Exchange to enter into contracts with health plans and insurers to provide health coverage.

On Senate Floor – for Concurrence

AB 2578 Jones (D-Sacramento) – Rate Increase Applications

Requires approval by DMHC or DOI of an increase in the premium, copayment, coinsurance obligation, deductible and other charges under health care service plan contracts or health insurance policies, other than Medicare supplement contracts or policies; would require review of an application in accordance with regulations each department would adopt; would require public notification of the rate application.

On Senate Floor

Health Care Reform

SB 810 Leno (D-San Francisco) – Single Payer Insurance

Establishes the California Healthcare System to be administered by the newly created California Healthcare Agency under the control of a health care commissioner appointed by the Governor; makes all residents eligible for specified health care benefits under the California Healthcare System, which will on a single-payer basis, negotiate or set fees for health care services provided through the system and pay claims for those services.

On Assembly Floor

Health Care Reform

SB 890 Alquist (D-Santa Clara) – Insurance Market Reform

Requires health care service plans and health insurers issuing individual coverage to make certain standard benefit plan designs available to individuals with coverage choice categories; allows a subscriber or policyholder to transfer coverage on the annual renewal date; creates an insurance market reform commission. Addresses minimum amount of fees and premiums spent on benefits; addresses disclosures. Requires coverage for basic health care services and prohibits lifetime benefit limits.

On Assembly Floor

Health Care Reform

SB 1163 Leno (D-San Francisco) – Rate Reviews

Implements federal health care reform revisions regarding rate review of proposed premium rate increases by health plans and insurers; would specifically require plans and insurers to report cost increases by specific providers within a plan or insurer's network.

On Senate Floor

Health Care Facilities

AB 1503 Lieu (D- El Segundo) – Emergency Care – Uninsured Patients

Establishes eligibility by uninsured patients or patients with high medical costs to apply to the emergency physician who provides emergency medical services in a general acute care hospital for a discount payment.

Updates contents of a hospital's charity care and discount pay policies notice to patients. Specifies billing and collection procedures.

On Senate Floor

AB 1653 Jones (D-Sacramento) – Hospital Fee Program

Makes necessary changes to the hospital fee program to secure approval from CMS, and includes other amendments to implement the program upon approval.

On Senate Floor

Health Care Facilities

SB 1240 Corbett (D – San Leandro) -- Equity Transfers - Healthcare District Facilities

Restricts equity transfers from district-owned hospitals.

Requires a contract for operation of a local health care district facility by public or private entity to preclude assets, including all revenue generated by the district facility, from being used for the benefit of any person or entity other than a hospital within the district. Requires the hospital and the operating entity to undergo an independent financial audit with results made public. Precludes losses of the entity from being used as a purchase price credit upon a subsequent sale of the facility.

On Assembly Floor

Health Care Facilities

SB 1399 Leno (D-San Francisco) Skilled Nursing, Subacute Care of Prisoners

Provides for medical parole to a health facility by the Department of Corrections and Rehabilitation for prisoners eligible for skilled-nursing or sub-acute level of care who would not pose a threat to public safety; requires the warden or warden's representative to ensure the prisoners have applied for any eligible federal entitlement program and provide any necessary records.

On Assembly Floor

AB 2389 Gaines (R-Roseville) -- Contracts

Prohibits contracts between health plans/insurers and health care facilities from containing provisions that restrict the ability of health plans/insurers to furnish information concerning the cost of procedures or quality of services at the facility to subscribers, enrollees or insureds of the plan/insurer.

On Senate Floor

AB 342 Perez (D-Los Angeles); SB 208 Steinberg (D-Sacramento) – Medi-Cal Waiver

These identical bills are a replacement waiver for current waiver expiring August 31. They are devised to improve structure, delivery and financing of health care for Med-Cal beneficiaries.

AB 342 – Moved to Senate Inactive File

SB 208 – On Assembly Floor

AB 542 Feuer (D-Los Angeles) – Hospital Acquired Conditions – Nonpayment Policies

Requires DHCS to convene a technical working group to evaluate options for implementing nonpayment policies and procedures for hospital-acquired conditions consistent with federal law and regulations for the fee-for-service Medi-Cal program, as well as Medi-Cal managed care and Healthy Families.

Passed Senate, in Assembly for Concurrence

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California Budget Conference Committee Action

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Medicaid 1115 Waiver Proposals

- *Pending 1115 Medi-Cal Waiver Proposals.* Deleted three pieces of trailer bill language regarding the phase-in of certain pilot projects under this pending Waiver and referred them to policy committee to proceed with legislation.
- *State Resources for 1115 Medi-Cal Waiver.* Approved a total of \$5.7 million (\$1.6 million General Fund, \$994,000 Managed Care Fund, \$500,000 MHSA Funds and \$3.6 million federal funds) and 39 positions to begin implementation of the pending Waiver for California. Of the 39 total positions, 26 are in the Department of Health Care Services and 13 are in the Department of Managed Health Care. The focal point of these resources is for implementation of the mandatory enrollment, as noted above. Additional resources can be phased-in as warranted.

Hospital Fees

- *Hospital Rate Freeze.* Adopted the Governor's proposal to freeze Medi-Cal rates paid for hospital inpatient services for a reduction of \$84.5 million (General Fund) and adopted trailer bill language to gradually transition to a “diagnosis-related grouping” method of reimbursement.
- *Reduction to Public and Private Hospitals.* Rejected both proposals to reduce Designated Public Hospitals and Private Hospitals 10 percent under the pending 1115 Medi-Cal Waiver.

Hospital Fees

- *Offset for Hospital Quality Assurance Fee.* Conforms to the Governor's May Revision for Medi-Cal and assumes an offset of \$720 million (General Fund) in children's health care services within Medi-Cal through the use of this fee, as established in AB 1383, Statutes of 2009. Modifications to this Fee are proceeding through the policy committee process.

Managed Care

- *Medi-Cal Managed Care Rates.* Adopted May Revision adjustments to reflect February 1, 2011 implementation of phase-in of mandatory enrollment, as referenced above, and an overall 3.7 percent rate increase for the health plans participating in the Medi-Cal Managed Care Program. Also adopted trailer bill language regarding a risk-adjustment factor.
- *Extend Gross Premium Payment.* Approved trailer bill language to extend this payment by Medi-Cal Managed Care plans.

Managed Care

- *Geographic Managed Care Changes.* Adopted the Administration's proposal to shift responsibilities for negotiating Geographic Managed Care rates from the CA Medical Assistance Commission (CMAC) to the DHCS. In addition, shifted \$240,000 (\$120,000 General Fund) and two staff for this purpose.
- *Radiology Rates.* Adopted Governor's proposal to reduce certain radiology rates to 80 percent of federal Medicare rates for reduction of \$27.2 million (\$13.6 million General Fund).

Physician Administered Drug Rates

- *New Physician Administered Drug Rates.* Adopted the Governor's proposal to limit Medi-Cal reimbursement for Physician Administered drugs to the *lower* of: (1) Medi-Cal reimbursement for Pharmacy providers (AWP minus 17 percent); *or* (2) federal Medicare rate (ASP plus 6 percent), *unless* federal law requires a higher reimbursement level. This saves \$6.4 million (General Fund).

Long-term Care

Nursing Home Quality and Accountability. Adopted a comprehensive Nursing Home Quality and Accountability package which is General Fund neutral.

Community-based Programs

- *Community-Based Clinic Programs.* Provided an increase of \$10 million (General Fund), or \$2.5 million for each program, including the Seasonal and Migratory Program, American Indian Program, Rural Health Program, and the Expanded Access for Primary Care Program.
- *Expanded Access for Primary Care Clinics.* Rejected the Governor's proposal to eliminate the remaining \$10 million (Proposition 99 Funds) from this program.

Community-based Programs

- *California Children's Services (CCS) Program.*
Approved full funding for the CCS Program, with no reduction to eligibility.
- *Genetically Handicapped Persons Program (GHPP).*
Approved full funding for the GHPP.

Public Health

- *AIDS Drug Assistance Program (ADAP)*. Increased by \$10 million (General Fund) the AIDS Drug Rebate Fund reserve since the existing reserve was below the 5 percent prudent reserve margin and several of the ADAP assumptions have questionable reliability. No eligibility changes were enacted.
- *Every Woman Counts Program*. Increased by \$20.1 million (General Fund) to provide additional funds for breast cancer screenings and adopted trailer bill language.

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Recent Federal Regulatory Activity

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Federal Regulatory Action

- 8/10 Final Rule – Payment error rate management for Medicaid & CHIP
- 7/30 Final Rule – IPPS for Acute care & long-term care hospitals
- 7/26 Final Rule – Final new bundled payment PPSs for ESRD facilities
- 7/26 Proposed Rule – Proposed new Quality Incentive Program for dialysis facilities treating ESRD – 1st Medicare fee for service pay for performance rule

Federal Regulatory Activities

- 7/23 Proposed Rule – clarifying home health agency 36 month rule
- 7/16 Payment rate increases for Medicare SNFs announced
- 7/16 Final Rule – Final wage index changes for Medicare hospice benefit
- 7/13 Final Rule – Definition of meaningful use of EHR technology
- 7/13 Final Rule – Requirements for Medicaid EHR incentive program

Federal Regulatory Activity

- 7/12 Proposed Rule – PPS changes for hospital outpatient departments & ASCs
- 7/8 Proposed Rule – Modifications to HIPAA Privacy, Security & Enforcement Rule
- 7/8 Proposed Rule – Stark Law changes (ACA)
- 6/25 Obama signs *Preservation of Access to Care of Medicare Beneficiaries & Pension Relief Act* – clarifies Medicare 3 day payment window policy