

Date: July 12, 2017
To: Legislative Committee
From: Angie Buckingham Melton, The Margolin Group
Re: Federal Update

MEMORANDUM

I. ACA Repeal

The House narrowly passed the American Health Care Act (AHCA) on May 4 and sent it to the Senate before receiving the CBO Score on the final draft of the bill. The CBO Score came out on May 23, and it showed that 23 million people would lose coverage under the bill and that it would cut Medicaid by \$834 billion over 10 years. The President called the AHCA “mean” and asked the Senate to improve it.

Senate Republicans promised to draft their own bill that would address the concerns expressed by many about the impacts of the AHCA and introduced their version, the Better Care Reconciliation Act (BCRA). BCRA is structured much like the AHCA, and the Medicaid cuts are actually more severe. Over a 20-year period, the CBO estimates that the BCRA would cut Medicaid funding by 35%. The CBO Score of the original Senate draft showed a coverage loss for 22 million people and slightly lower Medicaid cuts in the first 10 years - \$770 billion. Republican Senators did not respond well to the CBO Score of the BCRA, and Majority Leader McConnell delayed action on the bill to redraft the bill in the hopes he can gain enough votes to pass it.

Senator McConnell sent a revised draft of the BCRA to CBO for scoring on June 30, and the Score is expected to be released on July 17. McConnell has said he will publicly release the revised bill language on July 13 and start consideration of the bill next week. Many Senators have expressed concerns that from what they’ve heard the redrafted bill is not substantially better than the original draft. Senator Collins of Maine said that the bill cannot be fixed with tweaks and needs a complete overhaul. Because the Senate is trying to pass the bill under the budget reconciliation rules, they only need 50 votes (with Vice-President Pence as the tiebreaker) to pass the bill. Budget Reconciliation rules also limit what types of provisions can be included, so the Senate Parliamentarian will rule just prior to floor consideration about provisions that do not comply with those rules. Provisions that could be struck from the bill include the provision prohibiting tax subsidies from being used to buy insurance plans that cover abortions, the Planned Parenthood defunding language, the 6-month penalty for insurance coverage lapses, and any state waiver provisions. If the Senate passed the BCRA, it will go quickly to the House for consideration.

If the Senate is not able to pass the BCRA, some Senators have been exploring bipartisan insurance market stabilization legislation. Other Senators want the Senate to vote on a straight ACA Repeal bill,

and Vice-President Pence has also signaled his support for straight repeal. It seems unlikely that a straight repeal, which would get rid of the Medicaid expansion on a date certain, would be supported by the Republican Senators from expansion states opposed to the BCRA. Congress would like to complete action on the ACA Repeal bill one way or the other before the August recess, which now starts on August 14 for the Senate but still on July 28 for the House.

II. Health Center Funding

Health Center Funding (330 Grants) come from both annual Discretionary Appropriations and Mandatory funding originally included in the ACA and extended for 2 years in the Medicare Doc Fix bill (H.R. 2) in 2015. The Discretionary funding (FY 2018 request is \$1.5 billion – level funding from 2017) will be determined by the Appropriations Committees, and the House Appropriations Subcommittee for Labor HHS will be considering their draft of the bill on Thursday, July 13.

The Mandatory funding request is for \$3.5 billion per year, preferably for at least 5 years. It is widely thought that the Mandatory Health Center funding, funding for the National Health Service Corps, and funding for Teaching Health Centers will be included in legislation reauthorizing and funding the CHIP program. There is bipartisan support for this legislation, and there had been hope that it would be acted on before the August recess. Because of the delay of the ACA Repeal, it looks like it will be considered during September. While there is bipartisan support for this legislation, it is in no way guaranteed to pass. It will take consistent advocacy to ensure that the legislation is completed in time.

III. Advocacy

Advocacy works! We all thought that the ACA was going to be repealed in January, and six months later the ACA is still the law of the land. Keep up all of the amazing work you have been doing collecting patient stories, calling/tweeting your Members of Congress and participating in coalition events. National Health Center Week will be a great opportunity to thank supportive Members of Congress and make sure they are advocating for health center funding.

Date: July 12, 2017
To: Legislative Committee
From: Beth Malinowski, Deputy Director of Government Affairs
Re: AB 1250 (Jones-Sawyer): Counties: contracts for personal services

MEMORANDUM

Overview

AB 1250 (Jones-Sawyer) establishes extensive contract procurement and renewal requirements for 57 of California's 58 counties which would likely present unsurmountable barriers for community health centers, and other institutions, to partner with counties to deliver critical services. These contract requirements would apply to any contracts entered into, renewed, or extended on or after January 1, 2018. This bill is authored by Assemblymember Reggie Jones-Sawyer (AD 59) and is co-authored by Assemblymember Lorena Gonzalez Fletcher (AD 80) and Assemblymember Rob Bonta (AD 18). This bill is co-sponsored by AFSCME State Council and SEIU State Council.

AB1250 prohibits a county from contracting for personal services currently or customarily performed by that county's employees unless it meets a number of requirements, including, but not limited to:

- The board of supervisors must clearly demonstrate the contract will result in actual cost savings for the duration of the contract, as compared with the county's actual costs of providing the same services.
- The contract does not cause the displacement of county employees, including layoffs, demotion, involuntary transfer to a new class, involuntary transfer to a new location requiring a change of residence, and time base reductions.
- The potential economic advantage of contracting is not outweighed by the public's interest in having a particular function performed directly by county government.

AB 1250 also places new disclosure requirements on contractors with contracts for personal services in excess of \$100,000 that includes:

- A description of all charges, claims, or complaints filed against the contractor with any federal, state, or local administrative agency during the prior 10 years.
- A description of all civil complaints filed against the contractor in any state or federal court during the prior 10 years.
- A description of all state or federal criminal complaints filed against the contractor or any of its officers or managers at any time.
- The total compensation, including salaries and benefits, the contractor provides to workers for the same work.
- Any other information the county deems necessary to comply with these requirements.

For all contractors, the bill also provides that the county is entitled to receive monthly records related to the contractor's or any subcontractor's performance, names of subcontractors, names of

employees and their hourly rates. All records provided to the county by the contractor are subject to the California Public Records Act, and that the contractors maintain performance related records that would be maintained by the county when performing the same tasks. Lastly, in addition to these contractor burdens, is a significant audit requirement. Extensions and/or renewals of contracts will not be completed until after a county has received and considered an audit by the county, or an independent auditor, that is paid for by the contractor.

While AB 1250 does include some exemption language, including an exemption for new county functions that the Legislature has authorized independent contractors to perform and an exemption for work that cannot be accomplished through county employees, the exemption language, as a whole, is incredibly vague and subject to interpretation. Of particular note, there is no explicit exemption of health services or health care delivery systems.

Engagement to Date

Upon making it out of the Assembly, county administrators began rapid engagement of county contractors, including health centers, regional clinic consortia, and other nonprofits. Statewide associations representing county governance also reached out to CaliforniaHealth+ Advocates.

Across the board, CPCA members have expressed significant concern with this bill. Currently, counties contract with health centers, and their regional clinic associations, for a variety of health and social services. AB 1250 will threaten longstanding and successful county contracts for programs and services. Based on this feedback, if this bill were to become law, the new contract environment may have a damping and destabilizing effect on contracting relationships between counties and health centers. In the end, it is health center patients and communities that will suffer as services become more restricted.

CaliforniaHealth+ Advocates staff and lobbyists, on behalf of CPCA and health centers interests, has begun significant engagement with the bills authors and sponsors to better understand their intent and express concerns. In addition, conversations with CalNonprofit and other associations that are engaging in amendment-related conversations are also occurring. While CPCA member feedback suggest a desire for broad exemptions that would support all health and human services, it is our understanding that the author and sponsors are more willing to consider specific and targeted exemptions. With this in mind, CaliforniaHealth+ Advocates staff and lobbyists have already begun expressing our strong desire to see amendments that will benefit health center and regional clinic association contracting. The author, as recently as the 7/12 Governance and Finance Committee Hearing, expressed on record his desire to not harm health centers. These comments were seconded by another committee member as well.

Staff Recommendation

With this bill already in the second house (Senate), **oppose, unless amended**, position is being recommended at this time.

In addition to being committed to working with the authors and sponsors on amendments, this position will give health centers the opportunity to more formally engage with opposition coalitions, if staff deem it to be in our interest. This will also signal to the last remaining committees and their staff – Senate Rules Committee and Senate Appropriations that health centers want to be a part of any

formal engagement they encourage the author and sponsors to have with the opposition. With state legislative recess about to begin, it is expected these critical conversations will need to occur during the recess. With the legislature reconvening on 8/21, opponents will have just over one month to participate in these critical conversations.

Bill Concerns and Outstanding Questions

Staff continue to build a list of types of service contracts community health centers and regional clinic consortia hold with their counties, or are seeking to hold. To date, staff have compiled the following list:

- Dental Services
- Medical Services
- Behavioral Health Services (including intensive case management, wellness and crisis centers, urgent services, etc)
- Outreach, Enrollment, and Retention Services (including services in county jails)
- Community Coalitions
- Women, Infants, and Children (WIC) Food and Nutrition Services
- Data Sharing Agreements (for health information exchanges and population health efforts)
- Whole Person Care Pilot
- First 5
- Public Health Services
- Probation Services
- Gang Violence and Violence Prevention
- HUD Continuum of Care
- Targeted Case Management
- Ryan White Program
- Special Education Local Plan Area (SELPA) services
- Homeless services and support, including SMART (Specialized Multiple Advocates Resource Team)

If you have additional services contracts with your county that are not captured in the categories above, please let staff know.