



## Special Legislative Update ▪ April 4, 2020

### CMS Approves California's MCO Tax

The Centers for Medicare and Medicaid Services (CMS) [informed](#) the Department of Health Care Services (DHCS) that it has approved California's reformatted Managed Care Organization (MCO) tax, effective January 1, 2020. CMS granted a waiver of the broad-based and uniformity requirements that California had requested.

### Governor's Saturday Press Briefing: Testing and Supplies

The Governor held his daily press conference at noon today and focused on testing and supply issues in his remarks. Testing announcements include:

- California has administered 126,700 COVID-19 tests to date. Approximately 13,000 tests are awaiting results. The Governor believes California is "turning the page" on testing; California is preparing for a five-fold increase in daily tests.
- Creation of state Task Force on testing, co-chaired by Charity Dean, MD, Assistant Director at California Department of Public Health, and Paul Markovich, president and CEO of Blue Shield.
- New partnerships are in place with UC Davis and UC San Diego to increase testing capacity.
- Stanford University has developed an antibody test that is pending FDA approval. That test will help determine who may be immune. More to come from Stanford.

The Governor also unveiled a new state [website](#) to provide more information about what California is looking for in terms and supplies and regulatory challenges. The goal of the new portal is to find manufacturers and distributors of supplies to meet California's personal protective equipment (PPE) and supply needs. The website will allow individuals and companies to donate, sell, or offer to manufacture 13 of the most essential medical supplies, including ventilators, N95 respirators and testing materials.

Finally, the Governor announced that approximately 79,000 individuals have signed up for the California Health Corps since the state unveiled the website on Monday.

During the question and answer period with the press, the Governor was asked about what would happen to his robust health care agenda, specifically the Medi-Cal Rx overhaul, CalAIM, and the

Office of Affordability. He responded that all January budget proposals all being reviewed and recalibrated in relationship to the budgetary crisis that is starting to manifest. Despite the across-the-board reconsideration, the Governor also made clear he does not plan to "just walk away from reforms," implying some reforms could proceed without budgetary impacts.

The Governor was also asked about nursing homes with COVID-19 infected residents. He acknowledged that the state is seeing hot spots, including over 8,800 sites that are being monitored. California is working with the CDC to identify federal staff to assist with addressing nursing homes.

### **Friday Evening Executive Orders: Telehealth and Price Gouging**

Late yesterday, Governor Newsom issued Executive Order [N-43-20](#) to expand protections to medical providers as they increase the use of telehealth to provide routine and non-emergency medical appointments during the COVID-19 emergency. The order relaxes some state privacy and security laws for medical providers.

He also issued an Executive Order [N-44-20](#) to expand consumer protection against price gouging during the COVID-19 pandemic. The order prohibits increases on food prices, consumer goods, medical or emergency supplies, and certain other items by more than 10 percent.

### **Additional DHCS Updates**

*Emergency 1115 Waiver.* DHCS submitted a Section 1115 waiver related to the COVID-19 public health emergency. CMS had provided guidance in March for states to submit Public Health Emergency Section 1115(a) waivers. California's request is retroactive to March 1, 2020. Please note that several items include in the emergency 1115 waiver were previously requested by DHCS in the Section 1135 waiver submitted last month. In this 1115 waiver, DHCS is requesting:

- 1) Reimbursement for COVID-19 testing and treatment inside jails and prisons for Medi-Cal eligible inmates;
- 2) Waiver of the 16-bed limit for Institutions for Mental Disease;
- 3) Extend coverage of COVID-19 treatment to the optional uninsured at the 100 percent FMAP rate;
- 4) Deem any COVID-19 testing and treatment provided to Medi-Cal beneficiaries in appropriate care settings outside of hospitals emergency rooms as "emergency services" or services necessary to treat an "emergency medical condition;"
- 5) Reimbursement for temporary, emergency housing within Whole Person Care pilots and flexibility for WPC pilots to modify their budgets for the current Performance Year in response to COVID-19;
- 6) Waiver of certain utilization limits applicable to the residential treatment benefits provided in Drug Medi-Cal Organized Delivery System (DMC-ODS) pilots;
- 7) Reimbursement for retainer payments in specified Home and Community-Based Services (HCBS) programs;

- 8) Waiver of the interim rate setting methodology for DMC-ODS and temporarily provide the lower of: actual certified county costs OR DHCS-approved interim rates increased by 100 percent;
- 9) Authority for DHCS and contracted managed care plans to make incentive payments on a pay-for-reporting basis for January 1, 2020 to June 30, 2020 for: a) the Public Hospital Redesign and Incentives in Medi-Cal (PRIME) and b) the Quality Incentive Pool (QIP) directed payment program.

*HCBS Waiver.* DHCS submitted five 1915(c) Home and Community-Based Services (HCBS) waivers to allow for flexibility during the COVID-19 emergency. CMS approved the five waivers effective February 4, 2020 to June 30, 2020. The individual waiver requests and CMS approval letters are linked below:

- [Approval Letter](#)
- [Californians with Developmental Disabilities](#)
- [Home and Community-Based Alternatives](#)
- [Assisted Living Waiver](#)
- [HIV/AIDS](#)
- [Multipurpose Senior Services Program \(MSSP\)](#)

## **Assembly Health Committee Update**

Assembly Member Jim Wood, chair of Assembly Health Committee, sent a memo to Assembly Members yesterday encouraging them to “only pursue those [bills in the jurisdiction of the health committee] that are critically necessary to address the current pandemic” or to reintroduce bills that create new programs or contemplate new funding next year when “we have a clearer picture of California’s fiscal status.” Assembly Members are being asked to make decisions by April 8 about which of their bills – from among those that would normally go before the Assembly Health Committee – they plan to move.

## **Counties Issue Statement on Property Tax Deadline**

This morning, the California State Association of Counties (CSAC) and the California Association of Treasurers and Tax Collectors (CACTTC) issued a [joint statement](#) clarifying county authority to cancel penalties and interest for property tax payers that are unable to pay their property taxes caused by COVID-19 on a case-by-case basis. With the upcoming April 10 deadline for the second installment of property taxes just around the corner, the statement was issued to provide clarity to taxpayers.