Established in 1991, UCC serves as the representative voice for state legislative advocacy for high-population counties in California. Initially composed of seven counties, the association has grown to 14 today. Nearly 80 percent of the state's population reside in UCC counties. Consequently, urban counties carry out critical programs and services to the state's most vulnerable populations. For more information, including details on our Board of Directors, please visit our website.

December 20, 2022

We so appreciate the opportunity to work on behalf of California's urban counties and are grateful for the services you provide in support of the communities you serve across the state. On behalf of UCC staff and the Advocacy Team, we are sending you our warmest wishes for a peaceful and restful holiday season. We will send out our next update the first week of January. Here's to a great 2023!

CARE Act Updates: Link to State Webinar Posted; Judicial Council Releases Draft Rules and Forms for Comment

Yesterday, the California Health and Human Services Agency (CalHHS) released a Community Assistance, Recovery and Empowerment (CARE) Act webinar that provides an overview of key provisions in SB 1338 (Umberg and Eggman), explains roles and responsibilities of various state entities, and discusses upcoming implementation activities. Presenters included representatives from CalHHS, the Department of Health Care Services (DHCS), and the Judicial Council of California (JCC). The pre-recorded webinar can be viewed **here**. CalHHS also provided a link to an **FAQ** that will be updated on an as-needed basis.

The Judicial Council Rules Committee met last week to approve a **draft set** of CARE Act rules and forms, clearing the way for the launch of the official Invitation to Comment. The development of the rules and forms was largely guided by statutory requirements in SB 1338 directing the courts to facilitate implementation of the CARE Act. Specifically, the rules and forms address:

- Requirement in Welfare and Institutions Code (WIC) Section 5975 that the Judicial Council adopt a petition form that includes specific information, as well as any other forms "necessary for the CARE process."
- Implementation of policies and provisions of WIC Sections 5977–5977.4, which focus on the court process post-petition filing that "promote statewide consistency." Specifically, these rules address what is included in the petition form packet, the clerk's review of the petition, and the process by which counsel will be appointed.

Additionally, the Judicial Council, in "exercis[ing] its constitutional authority to adopt rules of judicial administration, practice, and procedure" proposes procedures for carrying out various other provisions of the CARE Act.

We are aware that efforts are underway among the county counsels to review and provide comment on the draft rules and forms; the statewide county associations also will be providing feedback.

Comments are due to the Judicial Council no later than 5 p.m. (PT) on Friday, January 27, 2023; they may be submitted online or via email. Note that the deadline for comment has been extended by one week.

LAO Explores Issues that May Affect Health Care Coverage in Coming Year

The Legislative's Analyst Office (LAO) recently released a **report** exploring issues that may impact Californians' health care coverage in 2023. The document outlines various factors that could affect those enrolled in comprehensive health care coverage in 2023; those factors include federal and state policies, inflation, and potential increases in unemployment. Notably, federal policies will put substantial downward pressure on the Medi-Cal caseload while increasing Covered California caseload to a lesser degree. In addition, economic factors such as inflation and the unemployment rate could impact the number of people enrolled in health coverage through Medi-Cal, Covered California, and employer-sponsored plans.

Issues highlighted in the LAO report include:

Medi-Cal Eligibility Redeterminations Will Resume After PHE Ends.

Once the PHE ends, the continuous coverage requirement will expire and counties will have 14 months to re-determine the eligibility of all Medi-Cal enrollees. The LAO is projecting 2.8 million individuals will lose Medi-Cal coverage once eligibility redeterminations restart. However, there is considerable uncertainty around these estimates.

Federal Policy Changes Impacting Covered California.

The American Rescue Plan Act, which Congress passed in 2021, temporarily increased the level of federal support for premium subsidies for coverage purchased on health benefit exchanges like Covered California. Congress recently extended the increased federal support through 2025. Additionally, federal rules changes to address the family glitch should allow approximately 38,000 Californians who currently lack health care coverage are expected to enroll in plans purchased through Covered California. The rule change also is expected to improve affordability for many Californians who currently have health care coverage but previously were not eligible for premium subsidies through Covered California.

Additional Funding Available to Improve Covered California Affordability. The *2022-23 Budget Act* included $304 million from the Health Care Affordability Reserve Fund in 2022-23 for improving the affordability of health care coverage purchased through Covered California, with annual funding of a like amount coming from the General Fund in future years. The Administration has indicated that it intends to reserve the funding to ensure that state-only premium subsidies can be provided in the future if the increased federal support for premium subsidies expires in 2025 as currently scheduled.

Impacts of Inflation and the Unemployment Rate on Health Coverage.

The LAO is projecting a modest increase in the unemployment rate through calendar year 2023 and also that inflation will be above the historical average in 2023 (although not as high as in 2022). Potential impacts could include:

1. Higher unemployment could reduce enrollment in employer-sponsored health coverage.
2. Inflation Impacts on Employer-Sponsored Health Coverage. In addition, insurance companies could raise premiums to cover increased costs due to inflation. If this happens, employers would face higher costs to provide employer-sponsored insurance and might make changes to the benefits they provide.
3. Medi-Cal enrollment generally increases with the unemployment rate.
4. Impact of Inflation on Medi-Cal Enrollment Difficult to Quantify. Historically, during periods of high inflation, increases in household income have not kept up with inflation. As such, an increase in the level of the FPL in 2023 likely will outpace household income—which will result in an increase in the number of households eligible for Medi-Cal. On the other hand, because of wage growth for low-wage workers over the last couple years and the suspension of eligibility redeterminations since March 2020, more Medi-Cal enrollees could be at risk of losing income eligibility for Medi-Cal than in a typical year.
5. Higher Premiums in Covered California. For the 2023 plan year, premiums are expected to increase on average by 6 percent. In comparison, premiums increased by less than 2 percent on average in 2022. However, due to the structure of federal premium subsidies and the extension of the increased federal support for these subsidies through 2025, most households who purchase plans through Covered California will not see an increase in the monthly premiums that they are required to pay. Consequently, the LAO does not anticipate premium adjustments to affect enrollment.

Health Workforce Council Focusing on Behavioral Health

The **California Health Workforce Education and Training Council** – housed at the Department of Health Care Access and Information (HCAI) – is responsible for helping coordinate California's health workforce education and training to develop a health workforce that meets California's health care needs. The Council meets quarterly and held its most recent meeting December 15-16, 2022.

The Council is in the process of identifying its workload and priorities for 2023. Currently, they are focused on behavioral health, graduate medical education (GME), and nursing issues. The Council will likely add allied health and oral health to their agenda in 2023. Staff plans to draft recommendations and priorities on behavioral health to bring back at the March 1-2, 2023 meeting for discussion. At the December meeting, the Council heard from a panel of higher education representatives on behavioral health education and training. The panelists covered a variety of topics including how to support students, how to grow existing programs, innovation occurring in California and other states, and growing a diverse workforce.

Department of State Hospitals Issues Incompetent to Stand Trial Growth Cap Letter

On December 19, the Department of State Hospitals (DSH) sent a **letter** to all county administrators related to the new Incompetent to Stand Trial (IST) commitment growth cap and penalty. Recall that the final 2022-23 budget agreement includes $489.3 million in 2022-23, growing to $591.9 million in 2025-26 and ongoing, and trailer bill language to implement solutions proposed by the prior IST Workgroup to address early stabilization, care coordination, waitlist management, and increasing IST beds in community-based programs.

The accompanying trailer bill language also implemented a new cap on the number of mentally incompetent persons committed to State Hospitals in each county per year and established a process for assessing a penalty on each county for exceeding the cap. According to the new statutory structure, assessed penalty funds are to be collected and then returned to the paying county for the purpose of supporting county mental health services and activities.

The December 19 letter provides additional background on this process and a general IST growth cap program overview. County baselines were established by DSH utilizing total felony IST determinations made in 2021-22. Beginning in 2022-23, if a county's total number of annual felony IST determinations exceeds the county's baseline, the county will be subject to a penalty payment. DSH will calculate the county's penalty and a county shall pay the penalty to DSH to be deposited into the Mental Health Diversion Fund. A county may make penalty payments from any local funding source. The letter also discusses the process for allocating the funds back to the county, the eligible use of the funds, and important reporting timelines and processes.

Of significant interest, the letter also includes an attachment showing each county's 2022-23 Quarter 1 referrals compared to their baseline year averages. This year-to-date data suggests current year referrals are trending above the baseline year, putting individual counties at risk of penalty.

Federal Spending Plan Includes Medicaid and Public Health Emergency Declaration Provisions

In late breaking news, the federal omnibus bill released earlier today provides funding and requirements for state Medicaid programs to support the transition from the enhanced Medicaid funding and continuous coverage requirements of the Families First Coronavirus Response Act (FFCRA). There is a provision that would sunset FFCRA's continuous coverage requirement as of April 1, 2023 and allow states to initiate redeterminations of eligibility over at least 12 months. States would be able to receive enhanced Medicaid funding from April 1 through Dec. 31, 2023, subject to meeting certain conditions, such as updating beneficiaries' contact information and using more than one modality to contact beneficiaries in the event of returned mail. The section establishes public reporting requirements for all states during this temporary redetermination period. It also provides additional enforcement mechanisms for the Centers for Medicare & Medicaid Services (CMS). The FMAP phase down would occur as follows:

- The current 6.2 percentage point increase through 3/31/2023
- 5.0 percentage point increase 4/01/2023 through 6/30/2023
- 2.5 percentage point increase 7/01/2023 through 9/30/2023
- 1.5 percentage point increase 10/1/23 through 12/31/2023